

MICHIGAN VIRTUAL CHARTER ACADEMY

Title IX Grievance Procedure-Effective August 14, 2020

Title IX Statement

Title IX prohibits discrimination on the basis of sex, including sexual harassment, in any program, service or activity, including but not limited to, educational programs or activities, such as, the On-Line Learning System (“OLS”), Class Connects, email, telephone, in-person or virtual conferences with ESP employees and staff members, student services, academic counseling, discipline, classroom assignment, grading, extra-curricular activities and transportation services by the Academy, including admission to these programs and activities. Title IX also prohibits sex discrimination in employment.

The Academy encourages anyone who believes a Title IX violation may have occurred to report their concerns to an ESP employee or staff member assigned to work at or on behalf of the Academy or a Title IX Compliance Officer who are identified below.

The Academy’s Title IX Compliance Officers are:

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“Complainant” means the person who is alleged to be the victim of conduct that could constitute sexual harassment.

“Respondent” means the person who has been reported to be the perpetrator of the conduct that could constitute sexual harassment.

“ESP employees or staff members” means the employees and staff members assigned to work at or on behalf of the Academy pursuant to a written agreement with an Educational Service Provider (“ESP”).

“Third parties” include, but are not limited to, guests and/or visitors, visiting speakers, parents,

guardians, learning coaches, vendors or contractors doing business with or seeking to do business

with the Academy Board and other individuals who come into contact with students or ESP employees or staff members at school-related events/activities (whether on or off Academy property), during the Academy's educational program. Academy related-events, activities or functions as more fully described within the Academy's Policy herein.

"Sexual Harassment" is defined as conduct on the basis of sex that satisfies one or more of the following:

1. An ESP employee or staff member of the Academy assigned to work at or on behalf of the Academy conditioning the provision of an aid, benefit, or service of the Academy on an individual's participation in unwelcome sexual conduct (i.e., *quid pro quo* sexual harassment);
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to the Academy's education programs or activities; or
3. Sexual assault (as defined in the Cleary Act, 20 U.S.C. 1092(f)(6)(a)(v)), dating violence, domestic violence or stalking (as defined in the Violence Against Women Act, 34 U.S.C.12291).

"Formal Complaint" is defined as a document filed by the Complainant or signed by the Title IX Compliance Officer alleging sexual harassment against a Respondent and requesting that the Academy investigate the allegation(s) of sexual harassment.

Grievance Procedures

These Grievance Procedures are intended to treat Complainants and Respondents equitably by providing remedies to a Complainant if a Respondent is found responsible, and by following the proscribed grievance process before imposing discipline on a Respondent. The Grievance Procedure seeks to ensure objective evaluation of all relevant evidence, including inculpatory and exculpatory evidence. Individuals involved in the Grievance Procedures – including Title IX Compliance Officers, investigators, decision-makers, facilitators of informal resolution efforts and those involved in the appeal process – must be trained and not have any bias or conflict of interest.

Reporting and Filing a Formal Complaint

Any student or ESP employee or staff member who believes that they have been subjected to sexual harassment by a student, Academy board member, ESP employee or staff member, vendor, volunteer, contractor, or other person doing business with the Academy, should immediately report the behavior or communication to an ESP employee or staff member or a Title IX Compliance Officer.

All ESP employees and staff members are expected to promptly report actual knowledge of sexual harassment they observe or hear about to a Title IX Compliance Officer.

Reports can be made orally or in writing and should be as specific as possible. The person making the report should identify the alleged victim/Complainant, perpetrator(s)/Respondent(s) and witness(es), and describe in detail what occurred, including date(s), time(s) and location(s). Upon receipt of a report, the Title IX Compliance Officer must promptly contact the Complainant to discuss the availability of supportive measures, consider the Complainant's wishes with respect to supportive measures, inform the Complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the Complainant the process for filing a formal complaint.

A Formal Complaint must be filed by a Complainant prior to the Academy proceeding with an investigation under its Title IX Grievance Procedure. A Title IX Compliance Officer may sign a formal complaint, with or without the Complainant's consent. A formal complaint may be filed by a Complainant in person, by mail or electronic mail.

Any incidents of sexual harassment that come to the Academy's attention through means other than a formal complaint will be promptly addressed by the Title IX Compliance Officer. Supportive measures will be considered and offered to both parties and the Title IX Compliance Officer shall provide information to the Complainant about how to file a formal complaint, or if the Title IX Compliance Officer chooses, he or she can file a formal complaint to begin the Grievance Procedure.

Mandatory and Discretionary Dismissals

The Academy must dismiss a complaint:

- That does not describe the conduct that meets the definition of sexual harassment;
- That alleges sexual harassment that did not occur in the Academy's educational program or activity; or
- That alleges the sexual harassment did not occur in the United States at all.

The Academy may dismiss a complaint:

- If the Complainant notifies the Title IX Compliance Officer in writing that the Complainant wishes to withdraw the formal complaint or some of its allegations;
- If the Respondent is no longer enrolled as a student in the Academy or employed by the ESP and assigned to work at or on behalf of the Academy; or
- If specific circumstances prevent the Academy from gathering evidence sufficient to reach a determination about the allegations.

If the Academy dismisses a complaint, or any allegations, pursuant to the above, it will send a written notice of dismissal and the reason(s) to the parties. Both parties have the right to appeal the Academy's dismissal as described in more detail below under "Right to Appeal."

Informal Resolution Process

If appropriate as determined by the Title IX Compliance Officer, the Complainant and the Respondent may voluntarily agree to participate in an informal resolution process that does not involve a full investigation and determination. Prior to the informal resolution process commencing, both parties will receive written notice of the charges and allegations and will be advised of their option to engage in a formal resolution process. The Complainant will not be required to resolve the problem directly with the Respondent, and either party has the right to end the informal process at any time and begin the formal process for investigating the complaint. The Academy prohibits the informal resolution process for complaints involving an ESP employee or staff member assigned to work at or on behalf of the Academy and a student. The informal process should be completed on or before **thirty (30) days** after the complaint is filed.

Formal Resolution Process

If the parties choose not to engage in the informal resolution process or choose to stop the informal resolution process at any time, the Academy will conduct a prompt and full investigation into any formal Title IX complaint. An investigation will afford both the Complainant and the Respondent a full and fair opportunity to be heard, submit documentation and evidence supporting or rebutting the allegation(s), and identify witnesses. All parties involved in the investigation will be provided with a copy of these Title IX Grievance Procedures.

When the Academy begins the investigation, written notice will be provided to the parties containing:

- A copy of the Academy's Policy and Grievance Procedure under Title IX;
- Whether there is an opportunity to engage in informal resolution;
- The actual allegations and facts that would constitute sexual harassment;
- A statement that the Respondent is presumed innocent;
- A statement that the parties are entitled to an advisor of their choice;
- A statement that the parties can request to inspect and review certain evidence; and
- Information regarding the Code of Conduct and false statements.

Investigations may be conducted by the appropriate Title IX Compliance Officer or designee, such as a principal or other administrator who has been trained in Title IX procedures and does not have a conflict of interest or bias towards either party. The Academy reserves the right to obtain or consult with a third-party investigator or resource at any time during the Grievance Procedures.

Prior to and during the investigation process, the Title IX Compliance Officer or designee will meet independently with the Complainant and the Respondent and discuss any supportive measures to be implemented before or during the investigation.

Retaliation Prohibited

At the beginning of the investigation, the Title IX Compliance Officer or investigator will explain that Title IX includes protections against retaliation and that the Academy will take steps to prevent retaliation and that the Academy will strongly react to any retaliatory actions, including any acts of retaliatory harassment, should they occur. No student, parent/guardian, ESP employee or staff member, or member of the public shall be retaliated against for filing a complaint or participating in the investigation of the complaint.

Respondent Presumed Innocent

During an investigation, the Respondent is presumed to be innocent.

Investigation Procedure

Investigations must begin promptly, proceed impartially, and treat all parties equitably. This includes providing both parties an opportunity to present witnesses and other evidence. The investigation will be concluded within **thirty (30) calendar days** but no more than **sixty (60) days** after a formal complaint is filed, unless there is good cause to continue the investigation beyond **sixty (60) days** (e.g. law enforcement activities, absence of a party or witness, absence of a party's advisor of choice or the need to provide language assistance or accommodations of disabilities).

Supportive Measures

Upon request of a party, or on its own initiative, the Academy may implement supportive measures prior to or during the investigation of a formal complaint. Supportive measures are free, individualized services designed to restore or preserve equal access to education, protect safety, or deter sexual harassment. Supportive measures support a student and are not punitive or disciplinary with respect to another student. They do not unreasonably burden any other person.

A party can submit requests for supportive measures, either verbally or in writing, to the investigator and/or to the Title IX Compliance Officer. (The investigator will notify the Title IX Compliance Officer of any request for supportive measures and the Title IX Compliance Officer will be responsible to implement supportive measures). Supportive measures include, but are not limited to, counseling, extensions of time, modifications of work or class schedules, appropriate emotional and/or academic support, restrictions on contact between the parties, leaves of absences, and increased monitoring and support. In fairly assessing the need for either party to receive interim measures, the Academy will not rely on fixed rules or any assumptions that favor one party over another. Supportive measures will be made available to both parties, as appropriate. In imposing supportive measures, the Title IX Compliance Officer or designee will make every effort to avoid depriving any student of his/her education. The Academy will take steps to ensure that any supportive measure minimizes the burden on the parties, and that the Title IX Compliance Officer or designee will communicate with the parties to ensure any supportive measures are necessary and effective based on the parties' needs.

Determination of Investigation

- The Academy shall take reasonable, timely, age-appropriate and effective corrective action based upon the situation and nature of the complaint. Appropriate corrective action may include classroom reassignment, increased staff supervision, counseling, academic support services, additional training for students and staff, and reporting procedures, safety plan, behavioral support plan and/or disciplinary action under the Student Code of Conduct or under the Academy's policies and procedures which include suspension up to permanent expulsion. Restorative practices will also be considered in any circumstance involving disciplinary action.
- The investigator's findings will be documented in a preliminary report and shared with the Complainant, Respondent and their advisors, if any. The parties will have at least **ten (10) calendar days** to review the preliminary report and submit a response in writing. Prior to finalizing the report, the investigator shall consider the parties' written responses to the preliminary report, if any. The investigation report will then be finalized and forwarded to the decision-maker, the parties and their advisors, if any. The decision-maker cannot be the investigator, Title IX Compliance Officer or have any conflict of interest or bias with either party.
- The decision-maker, prior to any final decision, shall afford the parties an additional **(10) calendar days** to submit relevant, written questions to the opposing party or any witnesses. The decision-maker shall ask any relevant questions, record the response(s) and provide the responses to the parties (and their advisors, if any) prior to making a final determination. If the decision-maker deems a question irrelevant, he/she shall state in writing why the question is not relevant and provide the reason(s) to the parties (and advisors, if any) before the final decision is made.
- The decision-maker shall issue a written decision and deliver it simultaneously to both parties. The written decision must include:
 - The portion of the Academy's policies that was violated;
 - A description of the procedural steps that were taken by the Academy on the way to getting to the decision;
 - A findings of fact section;
 - A section that draws conclusions after applying the facts to the portion of the Academy's policy that applies;
 - A statement and rationale for the ultimate determination of responsibility;
 - Any disciplinary sanctions that the Academy will impose on the Respondent, and state whether the Academy will provide remedies to the Complainant;
 - A statement and rationale for any remedies for the Complainant, addressing how those remedies will restore or preserve equal access; and
 - A statement of the Academy's procedures, a statement that the parties have a right to appeal the initial determination regarding responsibility and the permissible basis for the appeal.

Right to Appeal

Both parties shall be provided notice of right to appeal the final determination based on: (1) a procedural irregularity affected the outcome of the matter; (2) new evidence has been discovered that was not reasonably available at the time of the determination on responsibility or dismissal; or (3) a conflict of interest on the part of the Title IX Compliance Officer, an investigator who compiled evidence, or a decision-maker, and the conflict of interest affected the outcome.

If a party intends to file an appeal, they must submit the appeal in writing to the **Academy Board of Directors** no later than **five (5)** calendar days following the date of the final decision.

The opposing party shall be provided with a copy of the written appeal and given an opportunity to submit a response, which will be provided to the **Academy Board of Directors**.

The Academy Board of Directors, or a committee selected by the Academy Board, shall review the written appeal and any response and issue a written determination within **ten (10)** calendar days of the receipt of the appeal, which will be delivered to both parties.

The Academy Board of Director's decision shall be final.

Training

Individuals involved in the Grievance Procedure – Title IX Compliance Officers, investigators, decision-makers or facilitators of informal, voluntary resolution efforts must be trained.

The training materials cannot rely on sex stereotypes, must promote impartial investigations and adjudications and must be posted on the Academy's website.

All other ESP employees and staff members assigned to work at or on behalf of the Academy shall be trained on how to identify and report sexual harassment.

Privileges

No information protected by a legal privilege, such as the attorney-client privilege or the doctor-patient privilege, can be used during an investigation unless the person holding that privilege has waived it.

Neither a party or the Academy is allowed to seek, permit questions about, or allow the introduction of evidence that is protected by a recognized privilege.

Changes to Grievance Procedure

The Academy reserves the right to change, modify, amend or repeal all or any part of these Grievance Procedures.

Adopted August, 2020