



CHARLESTON CHARTER School for Math + Science

Title IX Policy

Effective August 14, 2020

Charleston Charter School for Math and Science (“CCSMS” or the “School”), as required by Title IX of the Education amendments of 1972 and its corresponding regulations (“Title IX”), does not discriminate on the basis of sex in its education programs or activities. Title IX prohibits gender-based harassment, which may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex even if those acts do not involve conduct of a sexual nature. CCSMS prohibits discrimination and harassment on the basis of sex or gender in all of its programs and activities by its employees, students or third parties.

CCSMS will respond promptly to actual knowledge of sexual harassment in an education program or activity of the School against a person in the United States in a manner that is not deliberately indifferent. The response will treat complainants and respondents equitably.

Any allegations of inappropriate conduct of a sexual nature that fall outside of this policy will be handled consistent with other applicable CCSMS policies, including professionalism, conduct, and disciplinary or similar policies for employees and/or students/parents.

Notice requirement

34 CFR § 106.8

In addition to providing notice of the Title IX Coordinator’s name and contact information (see below), the administration will also provide notice of the School’s nondiscrimination policy and grievance procedures under the Title IX requirements, including how to file or report sexual harassment and how the School will respond to applicants for admission and employment, students, and parents or legal guardians.

Definitions

Sexual Harassment

34 CFR § 106.30(a)

Sexual harassment is conduct on the basis of sex that satisfies one or more of the following:

- An employee of the district conditioning the provision of an aid, benefit, or service of the School on an individual's participation in unwelcome sexual conduct (i.e., "quid pro quo");
- 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 School's education program or activity (i.e., hostile environment); or
- "Sexual assault" as defined in 20 USC 1092(f)(6)(A)(v) (the Clery Act), "dating violence" as defined in 34 USC 12291(a)(10), "domestic violence" as defined in 34 USC 12291(a)(8), or "stalking" as defined in 34 USC 12291(a)(30) (Violence against Women Act).

(Note: use of email, internet or other technologies may constitute "sexual harassment" on a similar basis to use of in-person, postal mail, handwritten or other communications).

Education program or activity

34 CFR § 106.44(a)

Includes any locations, events or circumstances over which the School exercised substantial control over both the alleged harasser (respondent) and the context in which the sexual harassment occurred.

Formal complaint

34 CFR § 106.30(a)

A document filed by a complainant or signed by the School's Title IX Coordinator alleging sexual harassment against a respondent and requesting that the School investigate the allegation of sexual harassment. Only those who are "participating in or attempting to participate in" the School's education program or activity (i.e., students, employees, applicants and, in some cases, parents or legal guardians), or the Title IX Coordinator, may file a formal complaint. A formal complaint is considered "filed" whether submitted to the Title IX Coordinator in person, by mail, by e-mail, and/or online portal (if applicable). The formal complaint must contain the complainant's signature (physical or electronic).

Complainant

An individual who is alleged to be the victim of conduct that could constitute sexual harassment. While parents and legal guardians do not become complainants (or respondents), parents and legal guardians have the legal right to act on behalf of parties (including by filing formal complaints) in Title IX matters.

Respondent

An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Days

Any reference to days means a day on which the School is open.

Actual Knowledge

34 CFR § 106.30(a)

Actual knowledge of sexual harassment means notice of sexual harassment or allegations of sexual harassment to the School's Title IX Coordinator or **any** CCMS employee.

Burden of Proof

The School will use the preponderance of evidence standard to determine responsibility.

Role of Title IX Coordinator and other Title IX personnel

The designated Title IX Coordinator for CCMS is **Kelly Ferderigos**.

E-mail: kferderigos@charlestonmathscience.org

Telephone: (843) 720-3085 ext. 0001

Address: CCSMS, 1002 King Street, Charleston, SC 29403

CCSMS authorizes the Title IX Coordinator to coordinate the School's required efforts under the law. The Title IX Coordinator's contact information will be posted on the School's website and will also be included in any handbook provided to employees, students and parents or legal guardians. The Title IX Coordinator is responsible for education, notice requirements, investigations, and coordination of supportive measures, and effective implementation of any remedies under Title IX.

CCSMS designates **Johnny Orr** as the Title IX Investigator, who is charged with investigating the allegations of any formal complaint filed with the School.

CCMS will designate **Mary Carmichael** as the Decision-maker related to any Title IX formal complaint, investigation and grievance process.

CCMS will designate a CCMS Board Member to review any appeals that may be filed following the Title IX Grievance Process.

Under no circumstances will the decision-maker be the same person as the Title IX Coordinator or the investigator, and the person(s) or panel deciding an appeal cannot be the Title IX Coordinator, investigator, or decision-maker.

Any person designated as a Title IX coordinator, investigator, decision-maker, or any person designated to facilitate an informal process must not have a conflict of interest against complainants or respondents generally or against the particular complainant and respondent. The School will ensure required training (discussed below) is provided to these individuals.

Training

34 CFR § 106.45(b)

All CCSMS personnel serving in these roles will receive the necessary training pursuant to Title IX requirements. Specifically, CCSMS will ensure that Title IX coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, receive training on the definition of sexual harassment, the scope of the School's education program or activity, how to conduct an investigation and grievance process, appeals, and informal resolution processes, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. The decision makers must also receive training on issues of relevance of questions and evidence. The investigators must also receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence. The School will make training materials used to train Title IX coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process publicly available on the District's website.

Reporting Allegations

34 CFR §§ 106.44(a); 106.8(a)

Any person may report sex discrimination, including sexual harassment, regardless of whether the person is the alleged victim of the reported conduct, in person, by mail, by telephone, or by e-mail. The report can be made at any time, including during non-school hours, by using the telephone number or email address, or by mail to the office address, listed for the Title IX Coordinator.

Upon receiving a report, the Title IX Coordinator must promptly:

- Contact the complainant, i.e. the alleged victim (if that person can be identified);
- Offer the complainant supportive measures (discussed more below) and explain that such measures can be available with or without a formal complaint;
- Explain to the complainant the process of filing a formal complaint; and
- Contact the respondent, who must also be offered supportive measures (explained below).

The Schools response must treat complainants and respondents equitably under the Title IX requirements.

Supportive Measures

34 CFR §§ 106.30(a); 106.44(a)

The Title IX Coordinator must promptly contact the complainant (alleged victim) 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 the process for filing a formal complaint.

Supportive measures are non-disciplinary, non-punitive, individualized services, offered as appropriate, as reasonably available, and without charge to a complainant or a respondent before or after the filing of a formal complaint, or where no formal complaint has been filed. Confidentiality of supportive measures must be maintained to the extent that maintaining confidentiality would not impair the ability of the School to provide the supportive measures. Supportive measures may include counseling, course modification, scheduling changes, mutual restrictions on contact between the parties, changes in work locations, leaves of absence, increased monitoring or supervision, and other similar measures.

The Title IX Coordinator's prompt response (to offer supportive measures) is required regardless of whether a formal complaint is filed.

The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures. Any supportive measures offered should be documented.

Response to a Formal Complaint and Title IX Grievance Procedure

34 CFR § 106.45(b)

Filing of a formal complaint must be done in writing and be signed by either the complainant or the Title IX Coordinator. The formal complaint triggers the School's duty to initiate the grievance process, including an investigation. The School will generally respect the complainant's decision not to file a formal complaint; however, the Title IX Coordinator may sign a complaint to initiate an investigation if he/she determines that not pursuing an investigation would be deliberately indifferent or that pursuing an investigation is necessary for community safety or similar reasons.

The term "parties" as referenced in this policy may include parents and/or legal guardians, where applicable.

The Formal Grievance Procedure consists of three distinct stages: investigation; review and determination by decision-maker; and appeal. In general, the School's Title IX grievance process will:

- Treat parties equitably.
- 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.
- Require that any person designated as a Title IX coordinator, investigator, decision-maker, or any person designated to facilitate an informal process not have a conflict of interest against complainants or respondents generally or against the particular complainant and respondent. The School will ensure required training is provided to these individuals.
- Include a presumption that the respondent is not responsible for the alleged conduct until a determination has been made at the conclusion of the grievance process.
- Utilize a preponderance of the evidence standard to determine responsibility.
- Include reasonably prompt time frames for conclusion of the grievance process.
- Describe or list the possible disciplinary outcomes and remedies that may be implemented following a determination of responsibility.
- Include the procedures and permissible reasons for appeal by a respondent or a complainant.
- Describe the range of supportive measures available to complainants and respondents.
- Not require, allow or use evidence or questions that constitute or seek legally privileged information, unless the privilege is waived.

Written Notice

34 CFR § 106.45(b)(2)

Upon receipt of a formal complaint, the School must provide written notice to all known parties in sufficient time to give the respondent (and complainant) time to prepare a response before an initial interview. The written notice must include:

- Notice of the allegations, with sufficient details known at the time of the complaint, including identifies of the parties involved in the alleged incident, the conduct alleged to be sexual harassment under Title IX, and the date and location of the alleged conduct (if known);
- Description of the Formal Grievance Procedure, including any Informal Resolution Process (if available, and includes notice of any consequences from participation, such as the records that will be maintained or could be shared);
- 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 process;
- Notice of the parties' right to have an advisor (who may be, but is not required to be, an attorney); and,

- Notice of the parties' right to inspect and review evidence gathered during the investigation stage of a formal complaint; and
- Notice of any provision in the code of conduct (or other similar policy) that prohibits knowingly making false statements or providing false information in the grievance process.

If, in the course of an investigation, the School decides to investigate allegations about the complainant or respondent that are not included in the initial written notice (described above), the School must provide notice of the additional allegations to the known parties.

Informal Resolution Process Option (limited circumstances)

34 CFR § 106.45(b)(9)

As an alternative to the formal grievance procedure, the School will offer an informal resolution process, such as mediation, to the parties. This process is not available in the context of a complaint that an employee harassed a student.

The School cannot offer to facilitate an informal resolution process unless a formal complaint of sexual harassment is filed.

At any point during the formal complaint process and prior to a responsibility determination, the School may offer to facilitate an informal resolution process that does not require a full investigation, provided both parties are given the required notice of rights, and the parties voluntarily consent in writing to participate in an informal resolution process. The informal resolution process will take the form of a mediation or arbitration before a neutral third-party, which may be a CCSMS employee. The CCSMS Lead Principal will facilitate the informal resolution process and may serve as the neutral third-party in the process.

Further, the School cannot require the parties to participate in an informal resolution process, and no conditions may be placed on parties in exchange for their consent to the informal resolution process (i.e., there can be no conditional promise of continued enrollment or employment in exchange for consent to participate in informal resolution)

Additionally, at any point prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process.

Dismissal of a Formal Complaint

34 CFR § 106.45(b)(3)

CCSMS administration will investigate the allegations in a formal complaint. The complaint **must** be dismissed if the allegations:

- would not constitute sexual harassment as defined in 34 C.F.R. § 106.30, even if proved;

- did not occur in the School's education program or activity; or
- did not occur against a person in the United States.

The complaint *may* be dismissed:

- if the complainant notifies the Title IX coordinator in writing at any time that he or she wishes to withdraw the complaint or any allegations in it;
- if the respondent's enrollment or employment ends; or
- if specific circumstances prevent the School from gathering evidence sufficient to reach a determination.

CCSMS will promptly send written notice of dismissal and reasons for dismissal simultaneously to parties. Such a dismissal does not preclude action under other provisions of CCSMS' Employee Handbook, code of conduct or other similar policy for students/parents.

Investigation Process

34 CFR § 106.45(b)(5)

CCSMS must investigate the allegations in a formal complaint. During the investigation both parties will have the opportunity to present evidence, and both parties will have the opportunity to view and respond to evidence prior to the decision-maker's final review.

Specifically, when investigating a complaint, the investigator will:

- Ensure that the burden of proof and of gathering evidence rests on the School rather than the parties, except that certain treatment records cannot be obtained without voluntary, written consent from the party or parent;
- Provide an equal opportunity for the parties to present witnesses and evidence;
- Not restrict either party's ability to discuss the allegations or gather and present relevant evidence;
- Provide the parties with the same opportunities to have others present during interviews or other related proceedings or meeting, including an advisor who may, but is not required to be, an attorney (the School 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 who is invited or expected to attend, written notice of the date, time, participants, purpose and location of any investigative interview or other meeting with enough time to allow the party to prepare to participate;
- Provide both parties and advisors, if any, an equal opportunity to review all evidence that is directly related to the allegations in the formal complaint, including evidence on which the School does not intend to rely and any inculpatory or exculpatory evidence from any source; such evidence must be provided prior to the completion of the final investigation and report, and in time to give the parties at least ten (10) days to prepare a written response,

which the investigator must consider prior to completing the investigation report; and

- Prepare a written investigation report that fairly summarizes the relevant evidence and provide the report to the parties and their advisors, if any, at least ten (10) days before the decision-maker makes a determination of responsibility, and allow them to provide a written response.

Determination of Responsibility by Decision-Maker

34 CFR § 106.45(b)(6) & (7)

After the investigator has sent the investigative report to the parties and the decision-maker, and before a determination of responsibility is made, the decision-maker will:

- Provide each party ten (10) days to respond to the investigative report and the opportunity to submit written, relevant questions that the party wants asked of another party or witness, to the decision-maker;
- Provide each party with the answers to the written questions; and,
- Provide for limited follow-up questions from each party.

Importantly, and similar to rape shield protections for victims, questions and evidence about the complainant's sexual predisposition or prior sexual behavior (if applicable) are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than respondent committed the alleged conduct at-issue, 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. To the extent the decision-maker excludes any questions, the decision-maker must explain the decision to exclude a question(s) as not relevant to the party proposing the question(s).

The decision-maker, who cannot be the investigator or the Title IX Coordinator, will apply the School's preponderance of the evidence standard and issue a written determination of responsibility that:

- Identifies the allegations that potentially constitute sexual harassment;
- Describes the School's procedural steps taken from the receipt of the complaint through the determination;
- Includes findings of fact supporting the determination;
- Includes conclusions regarding the application of the School's code of conduct or other similar policy to the facts;
- Includes a statement of, and a rationale for, the result as to each allegation, including a determination of responsibility, any disciplinary sanctions, and whether remedies to restore or preserve equal access to the District's education program or activity will be provided to the complainant; and,
- Includes procedures and permissible bases for the complainant and respondent to appeal.

The written determination must be provided to the parties simultaneously.

Appeals Process

34 CFR § 106.45(b)(8)

Within ten (10) days of receipt of the determination, either party may appeal a determination of responsibility, or the School's dismissal of a formal complaint or any allegations therein, for the following reasons:

- A procedural irregularity that affected the outcome;
- New evidence that was not reasonably available at the time of determination and could affect the outcome; or,
- Conflict of interest on the part of the Title IX coordinator, investigator, or decision maker that affected the outcome.

For all appeals, the School will provide written notice to both parties of the appeal and provide both parties an equal opportunity to submit a written statement in support of, or challenging, the determination. The parties will have five (5) days to provide their written response.

The appeal must result in a written decision that must be provided to both parties simultaneously.

The decision-maker(s) for the appeal cannot be the same person as the decision-maker that reached the determination regarding responsibility or dismissal, the investigator, or the Title IX coordinator, cannot have a conflict of interest, and must receive training (outlined in 34 CFR § 106.45(b)(1)(iii)).

The determination regarding responsibility becomes final either on the date that CCSMS provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

Remedies

Remedies are required to be provided to a complainant when a respondent is found responsible, and must be designed to maintain the complainant's access to education and may include the same individualized services or other supportive measures discussed above. The Title IX Coordinator is responsible for effective implementation of any remedies.

Remedies provided to a complainant may include any of the “supportive measures” described above, and as may be appropriate and applicable, in the discretion of the School.

Responsive action following a responsibility determination under this policy may involve disciplinary sanctions or other punitive measures. Disciplinary sanctions that may be imposed on a respondent following a determination of responsibility, may include punitive measures and/or disciplinary sanctions that are consistent with those provided for in the School’s Employee Handbook and/or student code of conduct or other similar policies. Such disciplinary measures may include, but are not limited to, termination of employment, expulsion or suspension from school or specific educational programs and/or activities. Respondents may also be provided “supportive measures” as described above, including, but not limited to, training and/or counseling services.

Emergency removal/administrative leave

34 CFR § 106.44

In cases in which an employee is a respondent, the School may place that employee on administrative leave during the pendency of an investigation and grievance process.

In cases in which a student is a respondent, the School may remove, on an emergency basis, the respondent from the School’s educational program or activity provided the School: (i) undertakes an individualized safety and risk analysis and determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal and (ii) provides the respondent with notice and an opportunity to challenge the decision immediately following the removal. This provision does not modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act.

Recordkeeping

34 CFR § 106.45(b)(10)

CCSMS will maintain records related to this policy for seven (7) years. Specifically, the School will maintain records pertaining to: (i) each sexual harassment investigation and determination; (ii) any disciplinary sanctions imposed on respondent; (iii) any remedies provided to the complainant; (iv) any appeal and the result thereof; (v) any informal resolution and result; (vi) any materials used to train Title IX coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process.

CCSMS shall also create and maintain records related to any action or supportive measures taken in response to a report or complaint of sexual harassment. The records shall document the basis for the School’s conclusion that its response was not deliberately indifferent and document that it has taken measures designed to restore or preserve equal access to the School’s educational programs or activities. If no

supportive measures are provided, the School shall document why such a response was not clearly unreasonable.

Retaliation

34 CFR § 106.71

Neither the School nor any other person may intimidate, threaten, coerce or discriminate against any individual for the purpose of interfering with any right or privilege under Title IX or because the individual made a report, a complaint, testified, assisted, participated in, or refused to participate in any manner in an investigation or proceeding under this policy.

CCSMS shall keep confidential the identity of any individual who made a report or complaint of sexual discrimination or sexual harassment, any complainant, any individual reported as a perpetrator, any respondent and any witness except as permitted under FERPA, as required by law, or as required to carry out the purposes of this policy and its procedures thereunder.

In addition, retaliation against an individual for reporting sexual harassment or sex discrimination under Title IX, or for participating in the Formal Complaint Process/Procedure, including an investigation, is a serious violation of this policy and, like the harassment itself, will be subject to disciplinary action. Acts of retaliation should be reported immediately and will be promptly investigated and addressed.

Charging someone with making a materially false statement in bad faith, does not amount to retaliation, provided that a determination regarding responsibility alone is not sufficient to conclude that any party made a materially false statement in bad faith.