

1. Notice of the public charter school's grievance process, including any informal resolution process.
2. Notice of the allegations of sexual harassment potentially constituting sexual harassment, including sufficient details⁶ known at the time and with sufficient time to prepare a response before any initial interview.
3. That the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility be made at the conclusion of the grievance process.
4. That the parties may have an advisor of their choice, who may be, but is not required to be, an attorney.
5. The parties may inspect and review evidence.
6. A reference to any provision in the public charter school's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

The Title IX Coordinator will contact the complainant and the respondent to discuss supportive measures. If necessary, the Title IX Coordinator will arrange for an individualized safety and risk analysis. If necessary, a student or non-student employee may be removed or placed on leave.

Investigation

The Title IX Coordinator will coordinate the public charter school's investigation. The investigation must:

1. Include objective evaluation of all relevant evidence, including inculpatory and exculpatory evidence.
2. Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the public charter school and not on the parties.⁷
3. Provide an equal opportunity for the parties to present witnesses, and other inculpatory and exculpatory evidence.
4. Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.
5. Provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by

⁶ Sufficient details include 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.

⁷ The public charter school cannot access, consider, disclose, or otherwise use a party's records that are made of maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's capacity, and which are maintained in connection with the provision of treatment to the party, unless the public charter school obtains the party's (or eligible student's parent's) voluntary, written consent to do so.

If, in the course of an investigation, the public charter school decides to investigate allegations about the complainant or respondent that are not included in the notice previously provided, the public charter school must provide notice of the additional allegations to the parties whose identities are known.

At no point in the process will the public charter school, or anyone participating on behalf of the public charter school, require, allow, rely upon, or otherwise use questions or evidence that constitutes, or seeks disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

Determination of Responsibility

The respondent must be deemed to be not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

The standard to be used for formal complaints in determining whether a violation has occurred is the preponderance of the evidence standard.

The person deciding the question of responsibility (the “decision-maker”) must be someone other than the Title IX Coordinator or the investigator(s). The decision-maker must issue a written determination which must include:

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

The public charter school must provide the written determination to the parties simultaneously.

The determination regarding responsibility becomes final either on the date that the recipient 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

The Title IX Coordinator is responsible for effective implementation of any remedies.

The disciplinary sanctions¹¹ may include:

1. Discipline up to and including suspension and expulsion;
2. Removal from various activities, committees, extra-curricular, positions, etc.
3. Disqualification for awards and honors;
4. Discipline up to and including termination, in accordance with laws, agreements, contracts, handbooks, etc.¹²

Other remedies may include:

1. Educational programming.

Upon dismissal of a formal complaint, the public charter school must promptly send written notice of the dismissal and the reason(s) therefor simultaneously to the parties.

The dismissal of a formal complaint under Title IX does not preclude the public charter school from continuing any investigation and taking action under a different process. The public charter school may have an obligation to continue an investigation and process under a different process.

Consolidation of Complaints

The public charter school may consolidate formal complaints as to allegations of sexual harassment against more than one respondent, or by one or more complainant against one or more respondents, or by one party against another party, where the allegations of sexual harassment arise out of the same facts or circumstances.

Informal Resolution

If the public charter school receives a formal complaint, at any time prior to reaching a determination regarding responsibility, the public charter school may offer an optional informal resolution process, provided that the public charter school:

1. Provides written notice to the parties 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 complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint; and
 - c. Any consequences resulting from participating in the informal resolution process, including

Records

Records will be created and maintained in accordance with the requirements in Title 34 C.F.R. §106.45(a)(10).¹⁵

Training

Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process must receive training on the definition of sexual harassment, the scope of the public charter school's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and information resolution processes. The training must also include avoiding prejudgment of the facts at issue, conflicts of interest and bias.

Decision-makers must receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions about evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant.

Investigators must receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.

Materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, must not rely on sex stereotypes, must promote impartial investigations and adjudications of formal complaints of sexual harassment and must be made publicly available on the public charter school's website.

¹⁵ This includes creating a record for each investigation. This record must include:

- Supportive measures, or reasons why the response was not clearly unreasonable under the circumstances;
- Basis for the conclusion that the public charter school's response was not deliberately indifferent; and
- What measures were taken to restore or preserve equal access to the public charter school's educational program or activity. (Title 34 C.F.R. § 106.45(a)(10)(ii))

Most records (including training) must be retained for at least seven years.