

Title IX Sexual Harassment – Prohibited Conduct and Reporting Process

I. PURPOSE

The Board prohibits discrimination on the basis of sex, including any form of sexual harassment as that term is defined under Title IX, in any education program or activity of the School. The Board takes seriously all reports and Formal Complaints of sexual harassment. The School does not discriminate on the basis of sex in its education programs or activities, including admission and employment, in accordance with Title IX of the Education Amendments Act of 1972 and federal regulations.

Any person with questions about this policy should contact the School's Title IX Coordinator whose information is listed at: <https://magellancharterschool.org/>

II. REASON FOR POLICY

The United States Department of Education has adopted formal rules related to sexual harassment as prohibited by Title IX of the Education Amendments of 1972. These regulations require specific procedures and policies related to programs using federal funds. The law focuses on procedures for reporting, investigating and finding illegal sexual harassment as the term is defined by the rule. The Board has always prohibited discrimination based on sex and sexual harassment in educational programs and activities implemented by it. This policy is intended to comply with the mandates of 34 CFR 106 and other provisions of Title IX.

III. DEFINITIONS

A. Sexual Harassment

Sexual Harassment prohibited under Title IX and by this policy is conduct on the basis of sex occurring in a School education program or activity that satisfies one or more of the following:

1. an employee of the School conditioning the provision of an aid, benefit, or service of the School on an individual'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 person equal access to the School's education program or activities. This determination requires consideration of all the facts and circumstances, including, but not limited to, the ages and disability statuses of the harasser and the victim and the number of individuals involved and their authority;
3. sexual assault including rape, statutory rape, fondling, and incest;
4. dating violence;
5. domestic violence; or
6. stalking.

Sexual assault, dating violence, domestic violence, and stalking is defined in accordance with applicable law.

Conduct that satisfies this standard is not sexual harassment for purposes of this policy if the conduct occurred (1) outside the United States or (2) under circumstances in which the School did not have substantial control over both the harasser and the context in which the harassment occurred.

Examples of conduct on the basis of sex that would be considered sexual harassment if the conduct satisfies the criteria above include, but are not limited to: unwelcome sexual advances; requests for sexual favors; and other verbal or physical conduct of a sexual nature, such as deliberate, unwelcome touching that has sexual connotations or is of a sexual nature; suggestions or demands for sexual involvement accompanied by implied or overt promises of preferential treatment or threats; pressure for sexual activity; continued or repeated offensive sexual flirtations, advances, or propositions; continued or repeated verbal remarks about an individual's body; sexually degrading words used toward an individual or to describe an individual; sexual assault; sexual violence; the display of sexually suggestive drawings, objects, pictures, or written materials; posting sexually suggestive pictures of a person without the person's consent; and forwarding pornographic material to a classmate or other member of the School community. Acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping may also constitute sexual harassment.

Conduct that is determined not to meet the definition above may violate other Board policies or established standards of conduct and will be treated accordingly. For example, conduct that does not meet the definition of Title IX sexual harassment above may nevertheless violate other Board policies.

B. Consent

Consent is informed, freely and affirmatively given through mutually understandable words or actions that indicate a willingness to participate in the sexual activity. Consent can be withdrawn at any time. There is no consent when there is force, expressed or implied, or when coercion, intimidation, threats, or duress is used. Whether a person has taken advantage of a position of influence over another person may be a factor in determining consent. Silence or absence of resistance does not imply consent. Consent to one type of sexual activity does not amount to consent to another type of activity. Prior consent or sexual relations with the same person do not imply future consent. The fact that both people are in a relationship does not, by itself, establish consent. A person cannot consent if they are unconscious, asleep, or impaired to the extent that they do not understand what is going on. Minors under the age of 16 are incapable of giving consent to sexual activity with a person more than four years older than the minor. Consent may never be given by mentally disabled persons if their disability was reasonably knowable to a sexual partner who is not mentally disabled. Consent between parties engaging in sexual activity does not prevent the school system from taking disciplinary action against the parties for violation of any other board policy.

C. Report

A report is an oral or written notification that an individual is an alleged or suspected perpetrator or victim of sexual harassment.

Making a report initiates the interactive process with the Complainant described below. No disciplinary action will be taken against a Respondent for sexual harassment based on a report alone.

D. Formal Complaint

A Formal Complaint is a document signed and filed with the Title IX Coordinator by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that School officials investigate the allegation(s). Filing a Formal Complaint initiates the Complaint process.

E. Complainant

The Complainant is the individual(s) who is alleged to be the victim of conduct that could

constitute sexual harassment, regardless of whether a Formal Complaint is filed.

F. Respondent

The Respondent is the individual(s) who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

G. Complaint Process

Complaint process means the process for investigating and reaching a final determination of responsibility for a Formal Complaint of sexual harassment.

H. Title IX Coordinator

The Title IX Coordinator is a School official who is designated to coordinate the School's response to sexual harassment and allegations of sexual harassment. Contact information for the Title IX Coordinator is posted on the School's website.

I. Supportive Measures

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Such measures are designed to restore or preserve equal access to the School's education program and activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the School's educational environment, or deter sexual harassment.

Supportive measures available to the parties include, but are not limited to, counseling, mental health services referral, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, escort services, mutual restrictions on contact between the parties, changes in work locations, leaves of absence, increased security and monitoring, and other similar measures determined by School officials to be necessary to protect the safety or educational or employment activities of a party.

J. Days

Days are calendar days unless specified otherwise.

K. Student(s)

"Student(s)" means the Student and/or the Student's parent or legal guardian unless the context clearly indicates otherwise. When the Complainant or Respondent is a Student, references to those terms also include the Student's parent or legal guardian unless the context clearly indicates otherwise.

L. Actual Knowledge

"Actual knowledge" means a School employee has notice of sexual harassment or allegations of sexual harassment.

IV. REPORTING SEXUAL HARASSMENT

A. Students

Any student, employee, or other individual who believes he or she is a victim of sexual harassment occurring during or as part of the School's educational programs or activities may report the matter to the Title IX Coordinator or to any teacher, counselor, or other School employee. Likewise, a student or other individual who has witnessed conduct amounting to sexual harassment may report such conduct.

B. School Employees and Board Members

Any employee or member of the Board who has actual knowledge of sexual harassment or allegations of sexual harassment occurring in the education program or any activity of the School must report that information immediately to the Title IX Coordinator.

Any of the following confers “actual knowledge” and must be reported immediately:

1. a report of sexual harassment from a Student or other person;
2. the employee or Board member witnesses conduct that is or reasonably could be sexual harassment; or
3. the employee or Board member discovers evidence of sexual harassment, such as sexualized graffiti on School property, or otherwise has reliable information or reason to believe that a Student, employee, or other individual may have been sexually harassed in violation of this policy, even if no one has reported the sexual harassment.

Employees who observe an incident of harassment are expected to intervene to stop the conduct in situations in which they have supervisory control over the perpetrator and it is safe to do so. An employee with actual knowledge of possible sexual harassment in violation of this policy who does not promptly report the conduct and/or take proper action as required by this subsection, or who knowingly provides false information about the incident, will be subject to disciplinary action, up to and including dismissal.

Any doubt about whether particular conduct is possible sexual harassment must be resolved in favor of reporting the conduct.

The mandatory reporting requirements of this Policy are in addition to required reporting under other policies, under state law, and pursuant to State Board of Education Policies. In addition, School officials should report incidents to law enforcement, as appropriate.

C. Reporting By Others

All other members of the School community are strongly encouraged to report any act that may constitute an incident of sexual harassment in violation of this policy to the Title IX Coordinator.

D. Content of the Report

To the extent possible, reports should be sufficient to put School officials on notice of conduct that could constitute sexual harassment. Employees making mandatory reports should provide as much detail about the alleged sexual harassment as is known, unless such disclosure would violate law or standards of professional ethics. Reports, other than mandatory reports by employees, may be made anonymously, but anonymous reports may limit the School’s ability to respond fully if the alleged victim is not identified.

E. Time Period for Reporting

1. Students and others may make a report at any time, preferably as soon as possible after disclosure or discovery of the facts giving rise to the report.
2. School employees and Board members with actual knowledge of sexual harassment must report that information immediately.

V. RESPONSE BY SCHOOL OFFICIALS WITH ACTUAL KNOWLEDGE OF SEXUAL HARASSMENT

A. Generally

School officials must respond promptly and impartially to actual knowledge of sexual harassment and do so in a manner that is not deliberately indifferent. Such response will include an interactive process and supportive measures.

B. Interactive Process

Upon receiving a report of alleged sexual harassment, the Title IX Coordinator shall promptly contact the Complainant (and the Complainant's parent or guardian if appropriate). This contact must occur within three days, excluding weekends, absent extenuating circumstances. If an employee is the Complainant or Respondent, the Title IX Coordinator shall also notify the senior human resources official.

When contacting the Complainant, the Title IX Coordinator shall do all of the following during the contact and shall document the same:

1. Offer supportive measures;
2. Consider the Complainant's wishes with respect to supportive measures;
3. Explain that supportive measures are available with or without the filing of a Formal Complaint; and
4. Explain the process for filing a Formal Complaint with the Title IX Coordinator and the response required of the School when a Complaint is filed, including all the following:
 - (a) The filing of a Formal Complaint will initiate the Formal Complaint process;
 - (b) The Formal Complaint may be filed in person, by mail, or by electronic mail and must be filed with the Title IX Coordinator;
 - (c) The steps of the formal process include: notice to the Respondent; investigation during which both parties may present evidence and ask questions; a decision by an objective Decisionmaker; and the right to appeal the decision;
 - (d) The approximate time frame for concluding the Complaint process;
 - (e) That School officials will treat both parties equitably;
 - (f) The possibility that Formal Complaints may be consolidated; and
 - (g) The requirement that, under some circumstances, the Title IX Coordinator may be required to file a Formal Complaint should the Complainant not choose to do so.

C. Supportive Measures

After considering the Complainant's wishes, the Title IX Coordinator shall arrange the effective implementation of appropriate supportive measures unless, in the exercise of good judgment, the Title IX Coordinator determines that supportive measures should not be

provided. If supportive measures are not provided to the Complainant, the Title IX Coordinator shall document why supportive measures were not provided and why not providing supportive measures is not deliberately indifferent to known sexual harassment.

The supportive measures available to the Complainant and the Respondent are set forth above.

D. Title IX Coordinator Decision to File Formal Complaint

1. Complainant declines to file a Formal Complaint;
2. Coordinator decides on case-by-case basis;
3. Standard is based upon the obligation for School not to be deliberately indifferent;
4. Decision must not be based upon the credibility or merit of the Complaint;
5. Filing of Formal Complaint by Title IX Coordinator does not signify agreement or disagreement with the allegations; nor does the filing render the Title IX Coordinator a party to the Complaint; and
6. The Coordinator must document the decision whether to file a Formal Complaint and the reasons therefor.

E. Presumption of Non-Responsibility

A Respondent identified in any report under this Policy is presumed not responsible until responsibility has been established by a preponderance of evidence.

F. Due Process

No discipline may be imposed upon an employee or student without following applicable due process procedures, unless the individual agrees to disciplinary action pursuant to a settlement or mediation process; provided, however, that a Respondent may be subject to removal, suspension, or leave in accordance with state law and Board policy.

VI. RETALIATION PROHIBITED

Retaliation against any person for the exercise of rights under Title IX or interference with those rights in any way, is strictly prohibited and will be subject to disciplinary action. The identity of any person who has made a report or Complaint of sex discrimination or sexual harassment or who is the alleged perpetrator of sexual discrimination or sexual harassment will be confidential unless otherwise required or permitted by law.

VII. FORMAL COMPLAINT PROCESS

The Head of School will publish notice of and adopt procedures consistent with Title IX Regulations to ensure a prompt and equitable resolution of Student and employee Formal Complaints alleging sexual harassment under Title IX.

VIII. RECORDS

The Title IX Coordinator shall create and maintain for a period of seven years records of all reports and Formal Complaints of sexual harassment. For each report or Formal Complaint, the Title IX Coordinator shall document the following:

1. Any actions, including any supportive measures, taken in response to the report or Formal Complaint;
2. That School officials have taken measures that are designed to restore or preserve equal access to the School's education program and activities;
3. Why School officials believe their response to the report or Complaint was not deliberately indifferent; and
4. If supportive measures were not provided to the Complainant, why that was not clearly unreasonable in light of the known circumstances.

The Title IX Coordinator shall also maintain for seven years all materials used to train the Title IX Coordinator, Investigators, Decision-Makers, and any person who facilitates an informal resolution process. These materials will be made publicly available on the School's website.

Adopted: September 17, 2024