



NOWELL

A C A D E M Y

POLICY PROHIBITING DISCRIMINATION ON THE BASIS OF SEX

Discrimination on the Basis of Sex and Sexual Harassment Prohibited

The Sheila C. Skip Nowell Leadership Academy (“Nowell Academy”) policy is to maintain an educational and work environment that is free from discrimination on the basis of sex, including any form of sexual harassment. This policy, which is adopted pursuant to Title IX of the Education Amendments of 1972 (“Title IX”) and 34 CFR § 106.45, prohibits sexual harassment of students and employees in connection with any Nowell Academy program or activity, whether on or off school grounds, including on school buses, at sports games, on field trips, and while attending or engaging in school-sponsored activities.

Definitions

Complainant – A student or employee who is alleged to be the victim of conduct that could constitute sexual harassment.

Respondent – A person who has been reported to be the perpetrator of conduct that could constitute sexual harassment. A Respondent can be another student, a teacher, an administrator, any other Nowell Academy employee, or a third party. Respondents will be presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

Sex Discrimination – Sex discrimination occurs when a person is treated less favorably because of that person’s sex, which includes sexual orientation, gender identity or expression, pregnancy or pregnancy-related condition, or a sex stereotype.

Sexual Harassment – Unwelcome conduct on the basis of sex that satisfies one or more of the following:

- An employee conditioning the provision of an aid, benefit, or service of the district on the Complainant’s participation in unwelcome sexual conduct;
- Unwelcome sexual conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a Complainant equal access to the district’s education program or activity; or
- Sexual assault, dating violence, domestic violence, or stalking.

This policy is not intended to limit Nowell Academy’s authority to address conduct that does not fit the definition of sex discrimination or sexual harassment, but that violates other district policy or the student code of conduct. For example, conduct that constitutes harassment based on a protected

category other than sex, or unlawful discrimination, hazing, or bullying, or any other violation of the student code of conduct or Nowell Academy workplace rules, will be investigated and addressed under applicable Nowell Academy policy and law.

Title IX Coordinator

Nowell Academy shall designate an employee to serve as the Title IX Coordinator. The Title IX Coordinator is responsible for coordinating the district's response to complaints of sexual harassment. All questions regarding Title IX or this policy may be referred to the Title IX Coordinator or to the U.S. Department of Education's Assistant Secretary for Civil Rights, or both.

Nowell Academy shall maintain up-to-date information about the Title IX Coordinator, including their name, title, office address, and contact information, on the district's website and in student handbooks. Nowell Academy may also designate one or more Deputy Title IX Coordinators to assist the Title IX Coordinator with their various responsibilities. In all instances herein referencing notice to the Title IX Coordinator, notice to a Deputy Title IX Coordinator shall constitute notice to the Title IX Coordinator.

Reporting Sex Discrimination/Sexual Harassment

Any person may report sex discrimination or sexual harassment under this policy, without regard to whether the person making the report is the person alleged to have been the victim of the conduct. A minor student's parent or guardian (including the parent or guardian of a minor Complainant, minor Respondent, or minor third party) may act on their child's behalf at any point in the district's reporting, investigation, and grievance processes, provided that the child is under the age of eighteen (18) years.

Any employee who becomes aware of conduct that may violate this policy must immediately notify the Title IX Coordinator, without regard to whether there is a formal or written complaint and even if a Complainant requests that the employee do nothing. **An employee's failure to notify the Title IX Coordinator of conduct that may violate this policy is its own violation of this policy and will result in discipline.**

Where to report

Students may report sex discrimination or sexual harassment to the Title IX Coordinator or to any trusted Nowell Academy employee, such as a teacher, principal, assistant principal, school nurse, guidance counselor or social worker, or coach. Employees must report sex discrimination or sexual harassment directly to the Title IX Coordinator.

When to report

All complaints should be made as soon as possible. While there is no time limit for making a complaint, Nowell Academy encourages prompt reporting of complaints so that rapid and appropriate action may be taken.

How to report

Complaints of sex discrimination or sexual harassment may be made orally or in writing. The contents of a complaint generally should include: (i) the name of the person making the report and the name of the alleged victim; (ii) the name of the alleged perpetrator; (iii) a description of the conduct, including the date, time, and location; (iv) the names of any witnesses; and (v) requested supportive measures, if any.

Initial Response to Allegations of Sex Discrimination or Sexual Harassment

Once Nowell Academy is on notice of an allegation of conduct that may violate this policy, the Title IX Coordinator will promptly contact the Complainant to discuss the availability of supportive measures. The Title IX Coordinator will consider the Complainant's requested supportive measures, if any.

The Title IX Coordinator will also explain the Complainant's option to file a formal complaint, and the process for filing a formal complaint. The Title IX Coordinator will explain that Nowell Academy has a legal obligation to investigate the allegations in a formal complaint, and that even if a formal complaint is not filed, Nowell Academy may still investigate the report pursuant to Title IX or another applicable policy.

Supportive Measures

Regardless of whether a Complainant chooses to file a formal complaint, Nowell Academy shall offer individualized services to the Complainant, which shall be designed to restore or preserve equal access to Nowell Academy's education program or activity, protect student and employee safety, and deter sex discrimination or sexual harassment. Examples of supportive measures include, but are not limited to, counseling, extensions of time or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work locations, leaves of absence, and other similar measures.

Formal Complaints

A formal complaint is a written document or electronic submission (such as an e-mail) that alleges sex discrimination or sexual harassment against a Respondent and requests that Nowell Academy investigate the allegation. A Complainant can file a formal complaint with the Title IX Coordinator in person, by mail, or by email. The Title IX Coordinator can also sign a formal complaint on behalf of a Complainant.

Formal complaints will be investigated and decided according to the procedures set forth below. These procedures are intended to ensure that all investigations and adjudications are:

1. Equitable. This means that both parties will have the same opportunities to present their side of the story to the investigator, to present evidence, and to be accompanied by a representative of the party's choosing.
2. Objective. This means that the investigator and decision-maker will be free from actual or perceived bias or conflict of interest. It also means that the investigator and decision-maker will consider both

inculpatory and exculpatory evidence; that credibility determinations will not be based on a person's status as a Complainant, Respondent, or witness; and that the district will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, legally privileged information.

3. Prompt. Temporary delays will be permitted only for good cause (such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities).

Nowell Academy will dismiss a formal complaint if the conduct alleged in the formal complaint: (i) would not constitute sex discrimination or sexual harassment even if proved; (ii) did not occur on school grounds or at a school-sponsored activity; or (iii) took place outside of the United States. Nowell Academy may also dismiss a formal complaint if the Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint.

If Nowell Academy dismisses a formal complaint, all parties will be notified. A party may appeal Nowell Academy's decision to dismiss a formal complaint by following the Appeals Process set forth below. The complaint may also be referred for investigation and possible disciplinary action pursuant to other applicable Nowell Academy policy. For example, conduct that does not fit the definition of sex discrimination or sexual harassment under this policy may constitute another form of discrimination or bullying, which Nowell Academy will investigate pursuant to the applicable policy.

Investigation and Adjudication of Formal Complaints

To facilitate the prompt and equitable resolution of any and all Title IX complaints, Nowell Academy utilizes the following grievance process. These grievance procedures apply for all complaints of Title IX violations filed by students or on their behalf and filed by employees, authorized volunteers, and other members of the Nowell Academy community. This includes all complaints of discrimination and/or harassment carried out by Nowell Academy students, employees, Board members, authorized volunteers, and any third person over whom Nowell Academy has control. Title IX prohibits Nowell Academy from excluding members of the Nowell Academy community from participating in or benefiting from any Nowell Academy program or activity on the basis of sex (including sexual harassment and sexual violence).

For the purpose of Title IX grievances/complaints and investigations, Complainants are entitled to a preponderance of the evidence standard of review. Complainants may choose to submit a written grievance to Nowell Academy's Title IX Coordinator using Nowell Academy's Title IX grievance/complaint form. Nowell Academy shall respond to all Title IX complaints promptly and in a manner that is not deliberately indifferent, that is, in a way that is not clearly unreasonable in light of the known circumstances.

- A formal grievance process is initiated when:
 - A Complainant submits a written statement alleging discrimination and/or harassment prohibited by Title IX to the Title IX Coordinator. Written statements may be submitted to the Title IX Coordinator by e-mail or standard

mail, or may be delivered in-hand.

- The Title IX Coordinator receives a report of a suspected Title IX violation from another Nowell Academy student, employee, volunteer, or other community member and initiates a formal complaint.
- A member of the Nowell Academy community knows or reasonably should know of an incident of sex discrimination, sexual misconduct and/or harassment and the Title IX Coordinator initiates a formal complaint.

When a Complainant is a student, written statements or reports should be submitted on the student's behalf to the Title IX Coordinator by that student's parent(s) or guardian(s). A written complaint is not required for the Title IX Coordinator to determine that he/she must initiate a complaint involving a student.

Upon the Title IX Coordinator's receipt of a grievance or other complaint pursuant to Title IX and this policy, an investigator, separate from the Title IX Coordinator, shall commence and conduct an investigation pursuant to the procedures required by Title IX, the Title IX regulations, and this policy.

- Depending on the nature of the alleged Title IX violation, an investigation may include, but is not limited to conducting interviews with the Complainant and the Respondent; conducting interviews with witnesses; conducting interviews with parent(s) or guardian(s) as necessary; reviewing law enforcement investigation documents, as applicable; reviewing student and personnel files; and gathering information from all other available outside sources. The investigator shall take all appropriate steps of the investigation in a prompt and equitable fashion and shall provide periodic updates concerning the status of the investigation to the Complainant and the Respondent and their respective parent(s) / guardian(s), if applicable. All investigations shall be conducted in an adequate, reliable, and impartial manner.
- An investigation shall commence once the Title IX Coordinator receives notice of an alleged Title IX violation. Therefore, it is essential that Nowell Academy employees, students, parents, and/or authorized volunteers immediately report suspected misconduct as soon as practicable once they have actual notice of such misconduct.
- Information gathered during the investigation shall be kept confidential to every extent possible.
- The parties will be able to bring an advisor, such as a parent, guardian, union representative, counselor or attorney, with them to the interview.

- Throughout the investigation, the Respondent(s) and the Complainant(s), and their respective advisors, if any, shall, if they so choose, be permitted to:
- Have equal and timely access to all witness statements and other documents/reports gathered by the investigator during the investigation;
- Present relevant witnesses and evidence;
- Request a hearing before a Decision Maker, who shall not serve as the Title IX Coordinator or the investigator, wherein, if such request is granted, Nowell Academy will make a determination using a “preponderance of the evidence” standard;

Note: Hearings are not required under Title IX, but may be arranged at the request of the Complainant or Respondent, at the discretion of the Title IX Coordinator.

Note: Under Title IX, parties are not required to attend any hearing that may be convened (they can be represented by counsel or another authorized representative). However, parties are entitled to appear as they wish, and, if a hearing is granted, Nowell Academy will take all necessary steps to ensure that it is a fair and equitable hearing, including separating the parties as necessary and practicable throughout the course of the hearing.

- If a hearing is granted, cross-examine witnesses, as necessary;

Note: In an effort to reduce any trauma or the perception of an intimidating setting, parties themselves are not permitted to conduct the cross-examination. If parties have specific questions they may submit their own questions to the decision maker who will pose those questions on their behalf.

Note: At the request of any party to the hearing, Nowell Academy will conduct the hearing in a manner so that the parties are in separate rooms with technology available to enable the parties to see and hear each other.

- Retain counsel, at each party’s own expense;
- Retain a mental health provider or other specially trained advocate, at each party’s own expense;
- Submit expert testimony, at each party’s own expense; and
- All evidence directly related to the allegations will be provided to the parties, or the parent(s) or guardian(s) of the parties and their advisors, as applicable, for inspection and review, and the parties will have ten (10) days to provide a written response to the investigator. The investigator will consider any such responses prior to issuing the Investigation Report to the Decision Maker.
- After Nowell Academy has sent the Investigation Report to the parties and before

reaching a determination regarding responsibility, the Decision Maker must afford all parties ten (10) days to submit any written, relevant questions that they may wish to have asked of any party or witness. The Decision Maker shall review the parties' written questions, and if he/she deems a question to be irrelevant, that question shall not be transmitted to the intended party, and the Decision Maker will apprise the questioning party in writing of the reason(s) the question was deemed to be irrelevant. If relevant questions are submitted, the Decision Maker will convey those to the party/ies, provide each questioning party with each responding party's answers, and may allow for additional, limited follow-up questions from each party at the Decision Maker's discretion.

- Following the 10-day period for questions, plus any additional time afforded to the parties for answering relevant questions, a final Investigation Report, including any updates, will be delivered to the parent(s) or guardian(s) of the parties concurrently and prior to the Decision Maker making a determination as to whether the Complainant was excluded from participation in, denied the benefits of, or subjected to discrimination on the basis of sex with respect to any Nowell Academy program or activity.
- The Decision Maker shall review the final Investigation Report, and shall consult with other members of the Nowell Academy administration as necessary in reaching a decision regarding the written grievance.
- The Decision Maker shall determine whether the Complainant was excluded from participation in, denied the benefits of, or subjected to discrimination on the basis of sex with respect to any Nowell Academy program or activity.
- The Decision Maker shall prepare a written determination setting forth his/her findings, the result as to each allegation, and the rationale for each such result, including a determination regarding responsibility, any disciplinary sanctions Nowell Academy imposes on the respondent, and whether remedies designed to restore or preserve equal access to Nowell Academy's education program or activity will be provided by Nowell Academy to the complainant.

All parties to any Title IX investigations shall receive written notice of the decision (regardless of the outcome) of the Decision Maker. If through the investigation/hearing, the Decision Maker finds a Title IX violation, appropriate disciplinary sanctions, subject to Nowell Academy's due process procedures as set forth in the Student or Employee Handbook, shall be imposed. The written notice of decision provided to the parties shall specify any sanction(s) imposed and provide the rationale for such sanction(s). The notice of decision shall also specify any actions/remedies that Nowell Academy will take to eliminate the hostile environment and prevent its recurrence, as appropriate. The written notice of decision shall include a statement as to whether remedies designed to restore or preserve equal access to the Nowell Academy's education program or activity will be provided to the Complainant.

Whenever conduct determined to meet the definitions of sexual violence and/or sexual harassment also may have involved conduct that that may violate state or federal criminal law, the police or other necessary agency(ies) shall be notified.

- Following his/her review, the Decision Maker shall, as necessary, take appropriate action(s) to ensure that Nowell Academy complies with Title IX in a manner that is prompt and equitable to the Complainant.
- Parties will receive notification that if they wish to appeal the decisions of the Decision Maker, they must make a written appeal to Nowell Academy's designated Appellate Decision Maker within 10 business days of receipt of the decision.

Nowell Academy strives to complete all phases of the Title IX investigation complaint process in a reasonably prompt timeframe, from date of report to final hearing and notice of outcome.

Option for Informal Resolution

Where appropriate in light of the nature of the allegations and facts involved, Nowell Academy may offer the parties the option to pursue an informal resolution process, that does not involve a full investigation and adjudication. All parties must voluntarily agree to pursue informal resolution after receiving a full written disclosure of the allegations and their options for formal resolution. Nowell Academy will not offer an informal resolution process to resolve allegations that an employee sexually harassed a student.

Appeals Process

Either party may appeal from a decision to dismiss a formal complaint or from the Decision Maker's determination of responsibility. The appealing party must submit their appeal, in writing, to the designated Appellate Decision Maker within ten (10) days of receiving the notice of dismissal or determination of responsibility.

Appeals will only be allowed for the following reasons: (i) procedural irregularity that affected the outcome of the matter; (ii) new evidence that was not reasonably available at the time the determination of responsibility or dismissal was made, that could affect the outcome of the matter; or (iii) the Title IX Coordinator, investigator, or Decision Maker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.

All parties involved will be notified of the appeal in writing and will have the opportunity to submit a written statement in support of or challenging the outcome. Appeals will be decided by the designated Appellate Decision Maker. The outcome of the appeal will be in writing and issued to both parties at the same time.

Confidentiality

Nowell Academy will strive to maintain confidentiality throughout the investigatory process to the extent practical and appropriate under the circumstances. Nowell Academy may, however, have a legal obligation to share information received during an investigation. For example, Nowell Academy is required to report known and suspected cases of child abuse to the Department of Children, Youth and Families. Nowell Academy may also have an obligation to report known or suspected violations of the law to law enforcement.

Discipline

Any student or employee who is determined to have violated this policy will be subject to discipline in accordance with applicable policy and law. The range of disciplinary consequences that may be imposed on a student for violations of this policy includes, but is not limited to, removal from extracurricular activities or other school-sponsored events, removal from athletic activities, and suspension (in-school or in an alternative setting). The range of disciplinary consequences that may be imposed on an employee for violations of this policy includes, but is not limited to, verbal or written reprimand, referral to counseling, suspension without pay, and termination from employment.

Complaints to External Agencies

Nothing in this policy is intended to discourage a Complainant from reporting acts of unlawful sexual harassment or sexual violence to local law enforcement. In the event a Complainant chooses to file a report with local law enforcement in addition to filing a complaint with Nowell Academy under this policy, the district will conduct its own investigation, independent of any law enforcement investigation.

In addition, any individual who believes they have been subjected sex discrimination may file a formal complaint with:

The United States Department of Education
Office for Civil Rights ("OCR")
5 Post Office Square
Boston, MA 02109
(617) 289-0111

Retaliation and Malicious Reporting Prohibited

Nowell Academy prohibits retaliation against any individual who makes a report of sex discrimination or sexual harassment or who cooperates in an investigation. Any student or employee who believes they have been subjected to retaliation is encouraged to report the retaliation to the Title IX Coordinator. Any individual found to have retaliated against a student or employee for reporting sex discrimination or sexual harassment or for cooperating in the investigation of a complaint is in violation of this policy and will be subject to disciplinary action.

Similarly, if an investigation results in a finding that an individual knowingly and falsely accused another person of sex discrimination or sexual harassment, that individual will be subject to disciplinary action.

Employee Training and Requirement of Impartiality

Nowell Academy shall ensure that the Title IX Coordinator and any employee acting as an investigator, decision-maker, or person facilitating an informal resolution process is adequately trained and free from conflicts of interest and bias.

[Title IX of the Education Amendments of 1972]

[34 C.F.R. § 106.30 et seq.]

APPENDIX A

**Nowell Academy
Title IX Grievance Form**

Today's Date _____

Complainant's Name(s) _____
Last Name First Name Middle Initial

Home address _____

City _____ State _____ Zip Code _____

Telephone Number _____ Email Address _____

Parent(s)/Guardian(s) _____
Last Name First Name Middle Initial

Parent(s)/Guardian(s) Contact information _____
Home Address

_____ Phone Number Email Address

Circle One: Student Parent on Behalf of Student Employee Volunteer

1. Alleged Perpetrator(s) (if more than one perpetrator include information below on back).

Name: _____

Address (if known): _____

Contact Information: _____

2. Specifics of Complaint. Describe below, including any dates of alleged discrimination, identities of alleged perpetrators, and specific circumstances of alleged discrimination. Attach extra pages if necessary.

