

## **Title IX Non-Discrimination Policy** **& Grievance Procedures**

Youngstown Preparatory Academy (YPA) shall not discriminate on the basis of sex, race, color, national origin, disability or age in its programs and activities and will provide equal access to all individuals.

Pursuant to Title IX of the Education Amendment Acts of 1972, no person shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program, activity, or employment on the basis of sex.

Complaints of sexual harassment will be addressed in compliance with Title IX of the Education Amendments of 1972 and the U.S. Department of Education's regulations related thereto.

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

1. An employee of YPA conditioning the provision of an aid, benefit, or service of the school on an individual's participation in unwelcome sexual conduct. (quid pro quo)
2. Unwelcome conduct determined by a reasonable person to be so severe, and pervasive, and objectively offensive that it effectively denies a person equal access to the school's education program or activity.
3. Sexual assault as defined in the Clery Act 20 U.S.C. 1092(f)(6)(A)(v), dating violence 34 U.S.C. 12291 (a)(10), domestic violence 34 U.S.C. 12291(a)(8), or stalking as defined in the Violence Against Women Act 34 U.S.C. 12291(a)(30).

### **Title IX Coordinator**

YPA's Title IX Coordinator shall coordinate the school's efforts to comply with Title IX responsibilities. For any reports or inquiries regarding Title IX concerns, contact the designated Title IX Coordinator as follows:

Lila Almond  
810 Oak Street  
Youngstown, Ohio 44506  
330-402-1372

### **Notification**

YPA shall provide notification of non-discrimination and the name and contact information of the Title IX Coordinator on YPA website and in handbooks and shall make the same available to all applicants for admission and/or employment, students, parents/guardians of students, employees and any unions, if applicable.

### **Definitions:**

*"Complainant"* is an individual who is alleged to be the victim of conduct that could constitute sexual harassment. Any person, as well as the Complainant, may report sexual harassment. While parents and guardians do not become Complainants, parents and guardians do have the

rights to act on behalf of minor children (including by filing Formal Complaints) in Title IX matters.

“*Respondent*” is an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

“*Informal Complaint*” is any notification, regardless of method, alleging sexual harassment that is not signed by either a Complainant or the Title IX Coordinator.

“*Formal Complaint*” is a complaint filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the school investigate the allegation of sexual harassment. At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in the education program or activity of the school with which the Formal Complaint is filed. A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information listed for the Title IX Coordinator. Where the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a Complainant or a party during a grievance process, and must comply with requirements for Title IX personnel to be free from conflicts and bias.

“*Supportive Measures*” are individualized services reasonably available that are non-punitive, non-disciplinary, and not unreasonably burdensome to the other party while designed to ensure equal educational access, protect safety, or deter sexual harassment. The school shall provide non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, free of charge to the Complainant or the Respondent before or after the filing of a Formal Complaint, as well as, instances where no Formal Complaint has been filed (“*Supportive Measures*”). These Supportive Measures are designed to restore or preserve equal access to the School’s education programs and sanctioned events and activities. Supportive Measures are designed to protect the safety of all parties, the education environment, and ultimately deter sexual harassment.

Supportive Measures may include:

- Counseling
- Deadline extensions or other course related adjustments
- Modification of class schedules
- Restricted contact between parties

Supportive measures provided to the Complainant and/or Respondent will remain confidential to the extent that confidentiality would not impair the ability of the school to provide such measures. Effective implementation of Supportive Measures is the responsibility of the Title IX Coordinator.

### **Grievance Reporting**

At any time any student, parent/guardian, current or prospective employee, or other individual may report any incidences of sex discrimination or sexual harassment whether the individual has experienced, observed, and/or is aware of the incidence of sex discrimination or sexual harassment. Reports may also be anonymous. However, Formal Complaints can only be filed by the Complainant or the Title IX Coordinator.

### **Initial Response and Investigation**

1. Promptly upon receipt of a Formal Complaint, Informal Complaint, or actual knowledge of an alleged incident, the Title IX Coordinator shall contact the Complainant to discuss the availability of supportive measures and consider the Complainant's wishes with respect to the use of such supportive measures, inform the Complainant of the availability of supportive measures regardless of filing a Formal Complaint, and explain the process for filing a complaint. If a Formal Complaint has not been filed, the Title IX Coordinator shall offer the opportunity to file a Formal Complaint.

Depending on circumstances and the age of the student, the parent/guardian or school personnel may be permitted to submit the Formal Complaint on the student's behalf. If the student is a minor, the Title IX Coordinator should consider whether a child abuse report should be completed in accordance with the Child Abuse and Neglect Reporting Policy.

2. Within seven days of the filing of a Formal Complaint, YPA will initiate a formal investigation conducted by a designated investigator. All investigations will be conducted in a thorough, impartial and in a confidential manner as reasonably possible. The investigator shall complete the following:

Provide written notice of allegations and facts to all parties. This notice shall include: notification that the presumption is that the accused did not engage in any prohibited conduct, all parties are entitled to an advisor, all parties can request to inspect and review evidence, a copy of the code of conduct, the opportunity to engage in informal resolution, the range of remedies and disciplinary sanctions, the standard of evidence, and the right to appeal.

3. The burden of gathering evidence and the burden of proof is YPA's, not the parties. The investigator shall communicate with all individuals reasonably believed to have relevant information, including but not limited to the Complainant and Respondent. YPA will not use, rely on, or seek disclosure of information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege. The investigator shall objectively evaluate all relevant evidence and make credibility determinations as necessary and not based on an individual's status as Complainant, Respondent, or witness. The investigator will provide all parties a copy of the evidence gathered and allow ten (10) days for all parties to review and provide comments. All parties shall be provided the opportunity to submit questions to any party or witness.

4. Within five days after the completion of the review of evidence, the investigator shall prepare a formal report summarizing relevant information and provide a copy of the report to all parties.

All parties shall be provided ten (10) days to review and provide comments on the investigative report.

### **Resolution, Hearing, and Standard of Review**

YPA will designate a final decision-maker. The decision-maker cannot be the Title IX Coordinator or the investigator.

YPA may decide to hold a hearing if YPA determines a hearing to be appropriate, but a hearing is not required. With or without a hearing, after YPA has sent the investigative report to the parties and before reaching a determination regarding responsibility, the decision maker(s) must afford

each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party

Questions and evidence relating to the Complainant's sexual predisposition or prior sexual history are not considered relevant to the final determination. The exceptions to this rule are if the pertinent information proves that someone other than the Respondent committed the alleged sexual harassment, or if the evidence offered relates to specific incidents and prove consent between the Complainant and Respondent.

The decision-maker shall use preponderance of the evidence as the standard of review when reviewing evidence. Under preponderance of evidence, the burden of proof is met when the fact finder finds that there is a greater than fifty percent chance the claim is true.

### **Dismissal**

If the allegations in a Formal Complaint do not meet the definition of sexual harassment or did not occur in YPA's education program or activity against a person in the United States, the school must dismiss such allegations. However, even if dismissed for purposes of Title IX, the school may still address the allegations in any manner YPA deems appropriate under the School's Code of Conduct

YPA may, in its discretion, dismiss a Formal Complaint or allegations therein if the Complainant informs the Title IX Coordinator in writing that the Complainant desires to withdraw the Formal Complaint or allegations therein, if the Respondent is no longer enrolled or employed by YPA, or if specific circumstances prevent YPA from gathering sufficient evidence to reach a determination. YPA will give the parties written notice of a dismissal (mandatory or discretionary) and the reasons for the dismissal. YPA may, in its discretion, consolidate formal complaints where the allegations arise out of the same facts.

### **Final Determination**

The decision-maker shall issue a written determination within five days from the completion of the questions and answers from all parties or after the hearing was held. The written determination shall be sent simultaneously to the parties and shall include the following:

1. Identification of the allegations
2. A description of all procedural steps
3. A listing of findings of facts that support the determination
4. Determination of the responsibility, including rationale, any disciplinary sanctions, and remedies
5. A listing of all appeal procedures

### **Disciplinary Sanctions**

The potential sanctions and remedies may include, but are not limited to, the following:

1. Support services that may include no contact orders, academic accommodations, health and mental health services, disability services, confidential counseling, or training.
2. Verbal or written warnings

3. Altered schedules to eliminate interaction opportunities
4. Exclusions from certain school activities
5. Access to recorded class sessions in lieu of live participation
6. Suspension or expulsion

### **Appeal Procedures**

Within thirty days of receiving the final determination, any party may appeal the final determination regarding responsibility based on the following:

1. Procedural irregularity that affected the outcome,
2. New evidence that was not reasonably available at the time the determination of responsibility was made and the new evidence could affect the outcome, or
3. The Title IX Coordinator, investigator, or decision-maker had a conflict of interest or bias that affected the outcome.

Upon receipt of a written appeal request, the Title IX Coordinator shall:

1. Notify all parties in writing;
2. Provide all parties the opportunity to submit a written statement in support of opposition of the appeal;
3. Identify a new, impartial decision-maker to review the original and any newly submitted evidence; and
4. Issue a written decision to all parties within twenty school days.

### **Informal Resolution**

Once a Formal Complaint is filed YPA may choose to offer and facilitate information resolution options. These may include mediation or restorative justice. Both parties must provide voluntary, informed written consent to proceed with informal resolution. At any time during the informal resolution, either party may choose to withdraw from informal resolution.

YPA will not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to a formal investigation and adjudication of Formal Complaints of sexual harassment. 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.

Informal resolution cannot be used if the Complainant is a student and the Respondent is an employee.

### **Retaliation**

Retaliation (intimidating, threatening, coercing, or discriminating) against an individual for filing a complaint or cooperating or refusing to cooperate in an investigation or hearing is prohibited.

Charging an individual with code of conduct violations that do not involve sexual harassment, but arise out of the same facts or circumstances as a report or Formal Complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX constitutes retaliation.

Complaints alleging retaliation may be filed according to YPA's grievance procedures. The exercise of rights protected under the First Amendment does not constitute retaliation.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a Title IX grievance proceeding does not constitute retaliation; however, a determination regarding responsibility, alone, is not sufficient to conclude that any party made a bad faith materially false statement.

### **Time Frames**

The time frames in these procedures are included to provide reasonable promptness. Unless otherwise prohibited by law or regulations, YPA will make allowance for short-term, good cause delays or extensions of the time frames.

### **Confidentiality**

YPA will keep confidential the identity of Complainants, Respondents, and witnesses, except as may be permitted by FERPA, as required by law, or as necessary to carry out a Title IX proceeding.

### **Training**

YPA will ensure that the applicable Title IX personnel will be trained on the definition of sexual harassment, the scope of YPA's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.