

New Academy Charter School

Title IX

Policy on Nondiscrimination

New Academy does not discriminate in its educational programs, activities or employment practices based on race, color, national origin, sex, sexual orientation, disability, age, religion, ancestry, genetic information or any other legally-protected category. Announcement of this policy is in accordance with State Law including the Pennsylvania Human Relations Act and with Federal law, including Title VI and Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination in Employment Act of 1967 and the Americans with Disabilities Act of 1990. New Academy full Non-Discrimination Policy can be found in the New Academy Student and Family Handbook on www.theacademyschools.com

Applicable Scope

The core purpose of this policy is to prohibit sexual harassment and retaliation. When an alleged violation of this policy is reported, the allegations are subject to resolution using the process as detailed below.

This policy specifically applies, but is not limited, to allegations by or on behalf of students or employees that have been sexually harassed or sexually assaulted in or related to the school environment, whether by other adults or students. This procedure does not apply to complaints alleging violations of Title IX for equal access to athletic opportunities, nor other forms of sex discrimination, such as different treatment based on sex. Such complaints are covered under New Academy's nondiscrimination policies and procedures.

The procedures below may be applied to incidents, to patterns, and/or to the school climate, all of which may be addressed and investigated in accordance with this policy.

Title IX Coordinator

The CARF and Compliance Coordinator serves as the Title IX Coordinator and oversees implementation of this policy. The Title IX Coordinator has the primary responsibility for coordinating New Academy's efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent sexual harassment and retaliation prohibited under this policy.

Complaints or notice of alleged policy violations, or inquiries about or concerns regarding this policy and procedures, may be made internally to:

Cynthia Boyce
Title IX Coordinator
CARF and Compliance Coordinator
2500 Jonquil Way

Pittsburgh PA 15210
412-515-2280 extension 2120
boycec@theacademyschools.com
www.theacademyschools.com

New Academy has also classified all employees as Mandated Title IX Reporters of any knowledge they have that a member of the community is experiencing sexual harassment and/or retaliation.

The section below on Title IX Mandated Reporting details the responsibilities and duties that all New Academy employees have as Mandated Reporters under Title IX.

Inquiries may be made externally to:

Office for Civil Rights (OCR)
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-1100
Customer Service Hotline #: (800) 421-3481
Facsimile: (202) 453-6012
TDD#: (877) 521-2172
Email: OCR@ed.gov
Web: <http://www.ed.gov/ocr>

For complaints involving employees: [Equal Employment Opportunity Commission](#) (EEOC)

Definition of Sexual Harassment

The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the Commonwealth of Pennsylvania regard Sexual Harassment as an unlawful discriminatory practice.

New Academy has adopted the following definition of Sexual Harassment in order to address the unique environment of an educational setting.

1. "Quid Pro Quo" Sexual Harassment:

Quid pro quo harassment occurs when a school employee, such as a teacher, causes a student to believe that he or she must submit to sexual conduct, sexual advances, or grant sexual favors or that accepting or rejecting of such conduct or communications will be used as a factor in decisions affecting the student's education. For example, when a teacher threatens to fail a student unless the student agrees to date the teacher, it is quid pro quo harassment. Similarly, quid pro quo harassment can occur when an employee's supervisor makes unwelcome sexual advances or requests sexual favors and the employee reasonably believes that submitting to that conduct or communication is a condition of obtaining employment or that accepting or rejecting that conduct or communication will be used as a factor in employment decisions.

2. "Hostile Environment" Sexual Harassment:

Hostile environment sexual harassment is conduct of a sexual nature that is sufficiently serious that it interferes with, limits, or denies a person the ability to participate in or benefit from a program, education, or environment. For students, hostile environment sexual harassment means unwelcome conduct of a sexual nature that is sufficiently serious that it interferes with, limits, or denies a student the opportunity to participate in or benefit from an education program or activity. For employees, a hostile work environment is created when unwelcome conduct of a sexual nature is sufficiently serious that it interferes with, denies, or limits the employee's work performance or work environment.

(a) The term "conduct" includes, but is not limited to:

- verbal comments, including unwelcome sexual advances, requests for sexual favors, and derogatory remarks;
- nonverbal conduct, such as graffiti, text messages, or notes; and/or
- physical conduct such as sexual touching, fondling, sexual assault, rape, and other forms of sexual violence.

(b) The term "of a sexual nature" is a broad term that includes conduct or comments about sex (the physical act), based on sex (persons being male or female), or based on sex or gender based stereotyping.

(c) In determining whether conduct is "sufficiently serious" as to interfere with, deny, or limit education or employment so as to rise to the level of sexual harassment, New Academy will examine all the circumstances, including: the type of harassment (e.g., whether it was verbal or physical); the frequency and severity of the conduct; the age, sex and relationship of the parties; the setting and context in which the harassment occurred; whether other incidents have occurred at the school; and other relevant factors. The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment. For instance, a single instance of rape is sufficiently severe to create a hostile environment.

3. Other conduct defined by federal law:

(a) Sexual assault

(b) Dating violence

(c) Domestic violence

(d) Stalking

Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved.

Independence and Conflict-of-Interest

The Title IX Coordinator acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this policy and any related Title IX procedures or guidelines.

The members of the Title IX Team are vetted and trained to ensure they are not biased for or against any party in a specific case or biased for or against Complainants and/or Respondents, generally.

To raise any concern involving bias or conflict of interest by the Title IX Coordinator, contact General Counsel. Concerns of bias or a potential conflict of interest by any other Title IX Team member should be raised with the Title IX Coordinator.

Reports of misconduct committed by the Title IX Coordinator should be reported to the General Counsel. Reports of misconduct committed by any other Title IX Team member should be reported to the Title IX Coordinator.

Notice/Complaints of Sexual Harassment and/or Retaliation

Notice or complaints of sexual harassment and/or retaliation may be made using any of the following options:

1) File a complaint with, or give verbal notice to, the Title IX Coordinator [Cindy Boyce, boycec@theacademyschools.com, 412-885-5200 ext. 2120]. A report may 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 or any other official listed.

[2] Report online, using the reporting form posted at <https://theacademyschools.com/wp-content/uploads/2020/10/Title-IX-Discrimination-Complaint-Form.pdf>. Reports may be made anonymously but may result in a need to investigate. New Academy tries to provide supportive measures to all Complainants, which is often not possible with an anonymous report. Know that reporting carries no obligation to file a Formal Complaint, which would trigger a formal response. New Academy respects requests from Complainants to dismiss complaints unless there is a compelling threat to health and/or safety, criminal activity, child abuse, and/or the Respondent is an employee.

A Formal Complaint means a document submitted or signed by the Complainant or their parent/guardian or signed by the Title IX Coordinator alleging a policy violation by a Respondent and requesting that New Academy investigate the allegation(s). The school's formal complaint form can be accessed at <https://theacademyschools.com/wp-content/uploads/2020/10/Title-IX-Discrimination-Complaint-Form.pdf>.

A complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail or by using the contact information above.

Supportive Measures

New Academy will offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged sexual harassment and/or retaliation.

Online Sexual Harassment and/or Retaliation

The policies of New Academy are written and interpreted broadly to include online manifestations of any of the behaviors prohibited below, when those behaviors occur in or have an effect on the New Academy's education program and activities or use New Academy networks, technology, or equipment.

Although New Academy may not control websites, social media, and other venues in which harassing communications are made, when such communications are reported to New Academy, it will engage in a variety of means to address and mitigate the effects.

Members of the community are encouraged to be good digital citizens and to refrain from online misconduct, such as feeding anonymous gossip sites, sharing inappropriate content via social media, unwelcome sexual or sex-based messaging, distributing or threatening to distribute revenge pornography, breaches of privacy, or otherwise using the ease of transmission and/or anonymity of the Internet or other technology to harm another member of the New Academy community.

Any online posting or other electronic communication by students, including cyber-bullying, cyber-stalking, cyber-harassment, etc., occurring completely outside of New Academy's control (e.g., not on New Academy networks, websites, or between New Academy email accounts) will only be subject to this policy when such online conduct can be shown to cause a substantial in-program disruption or infringement on the rights of others.

Otherwise, such communications are considered speech protected by the First Amendment. Supportive measures for Complainants will be provided, but protected speech cannot legally be subjected to discipline.

Retaliation

Protected activity under this policy includes reporting an incident that may implicate this policy, participating in the grievance process, supporting a Complainant or Respondent, assisting in providing information relevant to an investigation, and/or acting in good faith to oppose conduct that constitutes a violation of this Policy.

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. New Academy will take all appropriate and available steps to protect individuals who fear that they may be subjected to retaliation.

New Academy and any member of New Academy's community are prohibited from intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy and related procedures and guidelines.

Filing a complaint under another school policy could be considered retaliatory if those charges could be applicable under this policy, when the charges are made for the purpose of interfering with or circumventing any right or privilege provided under this policy that is not provided under the other

school/district policy that was used. Therefore, New Academy vets all complaints carefully to ensure this does not happen, and to assure that complaints are tracked to the appropriate process.

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 grievance proceeding under this policy and procedure does not constitute retaliation, provided that a determination regarding responsibility, alone, is not sufficient to conclude that any party has made a materially false statement in bad faith.

Mandated Title IX Reporting

All New Academy employees (teachers, staff, administrators) are expected to report actual or suspected sexual harassment or retaliation to appropriate officials immediately. This includes employees who might otherwise be considered confidential resources.

In order to make informed choices, it is important to be aware of confidentiality and mandatory reporting requirements when consulting school resources. In school, some resources may maintain confidentiality and are not required to report actual or suspected sexual harassment or retaliation. They may offer options and resources without any obligation to inform an outside agency or school official unless a Complainant has requested the information be shared.

If a Complainant expects formal action in response to their allegations, reporting to any Mandated Reporter can connect them with resources to report crimes and/or policy violations, and these employees will immediately pass reports to the Title IX Coordinator (and/or police, if desired by the Complainant), who will take action when an incident is reported to them.

The following sections describe the reporting options at New Academy for a Complainant or third-party (including parents/guardians when appropriate):

a. Confidential Resources

Because all New Academy employees are required to report actual or suspected sexual harassment or retaliation, any such information a Complainant shares with any New Academy employee cannot remain confidential.

If a Complainant would like the details of an incident to be kept confidential, the Complainant may speak with a non-New Academy employee. Following are some confidential community-based resources:

- Employee Assistance Program
- Licensed professional counselors and other medical providers
- Local rape crisis counselors
- Domestic violence resources
- Local or state assistance agencies
- Clergy/Chaplains
- Attorneys

All of the above-listed individuals are not New Academy employees and may maintain confidentiality when acting under the scope of their licensure, professional ethics, and/or professional credentials,

except in extreme cases of immediacy of threat or danger or abuse of a minor, or when required to disclose by law or court order.

b. Mandated Title IX Reporters and Formal Notice/Complaints

All employees of New Academy are Mandated Title IX Reporters and must promptly share with the Title IX Coordinator all known details of a report made to them in the course of their employment.

Employees must also promptly share all details of behaviors under this policy that they observe or have knowledge of, even if not reported to them by a Complainant or third-party.

Complainants may want to carefully consider whether they share personally identifiable details with non-confidential Mandated Reporters, as those details must be shared with the Title IX Coordinator.

Failure of a Mandated Title IX Reporter to report an incident of sexual harassment or retaliation of which they become aware is a violation of New Academy policy and can be subject to disciplinary action.

Though this may seem obvious, when a Mandated Title IX Reporter is engaged in harassment or other violations of this policy, they still have a duty to report their own misconduct, though New Academy is technically not on notice when a harasser is also a Mandated Title IX Reporter unless the harasser does in fact report themselves.

Finally, it is important to clarify that a Mandated Title IX Reporter who is themselves a target of harassment or other misconduct under this policy is not required to report their own experience, though they are, of course, encouraged to do so.

When a Complainant Does Not Wish to Proceed

If a Complainant does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal complaint to be pursued, they may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the school and to comply with state or federal law.

The Title IX Coordinator has ultimate discretion over whether New Academy proceeds when the Complainant does not wish to do so.

Emergency Notifications

New Academy may issue emergency notifications for incidents that are reported and pose a serious or continuing threat of bodily harm or danger to members of the school community.

New Academy will ensure that a Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

These notifications may be issued school-wide or may be limited to those members of the community who are potentially impacted. The Title IX Coordinator will work in conjunction with the appropriate school officials in determining the scope and content of the notification that may be issued.

False Allegations and Evidence

Deliberately false and/or malicious accusations under this policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a policy violation determination.

Additionally, witnesses and parties knowingly providing false evidence, tampering with or destroying evidence, or deliberately misleading an official conducting an investigation can be subject to discipline under New Academy policy.

Amnesty for Complainants and Witnesses

The New Academy community encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to report to New Academy officials or participate in grievance processes because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons.

It is in the best interests of New Academy community that Complainants choose to report misconduct to New Academy officials, that witnesses come forward to share what they know, and that all parties be forthcoming during the process.

To encourage reporting and participation in the process, New Academy maintains a policy of offering parties and witnesses amnesty from minor policy violations related to the incident.

Amnesty does not apply to more serious allegations such as physical abuse of another or illicit drug distribution. The decision not to offer amnesty is based on neither sex nor gender, but on the fact that collateral misconduct is typically addressed for all students within a progressive discipline system, and the rationale for amnesty – the incentive to report serious misconduct – is rarely applicable to Respondent with respect to a Complainant.

In determining whether to offer amnesty, the Title IX Coordinator will consider factors such as: the nature and severity of the policy violation; the age of the individual; the impact on the health and safety of the individual and the school community; and the best interests of the school community.

Students: Sometimes, students are hesitant to assist others for fear that they may get in trouble themselves (for example, an underage student who has been drinking or using marijuana might hesitate to help take an individual who has experienced sexual assault to seek assistance.

New Academy maintains a policy of amnesty for students who offer help to others in need.

Recordkeeping

New Academy will maintain for a period of seven years records of:

1. Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation;
2. Any disciplinary sanctions imposed on the Respondent;
3. Any remedies provided to the Complainant designed to restore or preserve equal access to New Academy's education program or activity;
4. Any appeal and the result therefrom;
5. Any Informal Resolution and the result therefrom;
6. All materials used to train Title IX Coordinators, Investigators, Decision-makers, and any person who facilitates an Informal Resolution process. New Academy will make these training materials publicly available on New Academy's website.; and
7. Any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment, including:
 - a. The basis for all conclusions that the response was not deliberately indifferent;
 - b. Any measures designed to restore or preserve equal access to the New Academy's education program or activity; and
 - c. If no supportive measures were provided to the Complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

New Academy will also maintain any and all records in accordance with state and federal laws.