**Title IX Discrimination and Harassment Policy for**

**Students and Staff Members of Timpanogos Academy**

Title IX provides that “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”

It is the policy of Timpanogos Academy Charter School (“The School”) that students should not be subjected to forms of unlawful discrimination or harassment, while at school or school-sponsored activities.

# PROHIBITED BEHAVIORS AND CONSEQUENCES

**Discrimination or Harassment**

Students, employees, contractors, volunteers and visitors are expected to behave in a civil and respectful manner. In accordance with Title IX, the School expressly prohibits discrimination or harassment, based on sex or gender and prohibits sexual harassment (including sexual violence) and gender-based harassment including a student’s failure to conform to sex stereotypes.

**Retaliation**

The School prohibits retaliation against any individual who has been part of an investigation of a Title IX report.

The exercise of rights protected under the First Amendment does not constitute retaliation. Such a violation would be dealt with under the discipline policy of the school.

# DEFINITIONS

For purposes of this policy ONLY, the following definitions apply:

* 1. Discrimination: Discrimination means any act or failure to act that unreasonably and unfavorably differentiates treatment of others based solely on the basis of gender or sex. Discrimination may be intentional or unintentional.
  2. Harassment: Prohibited harassment, including sexual harassment, under this policy means conduct on the basis of sex/gender that satisfies one or more of the following:

1. A person soliciting a n 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 an education program, employment, or activity (i.e., hostile environment)
3. Sexual assault (as defined by Clery Act), or "dating violence," "domestic violence" and "stalking" (as defined by Violence Against Women Act).
   1. Hostile Environment: For purposes of this policy, “hostile environment” means that the harassment is severe and pervasive enough that a reasonable person would agree that it is harassment and must be based on sex or gender
   2. Examples of behavior that may constitute harassment include, but are not limited to, verbal taunts and put-downs, lewd propositions, exclusion from peer groups, extortion, threats, offensive touching, and visual insults.
   3. **Conduct Not Covered by This Policy:** Conduct that does not meet the definitions set forth above in this Title IX Policy are not subject to the School’s Title IX Policy but may still constitute a violation of other School policies.

# TO REPORT A VIOLATION OF THIS POLICY: PLEASE REFER TO THE SCHOOLS TITLE IX REPORTING AND GRIEVANCE POLICY.

This Policy as it pertains to Title IX shall remain in effect to the extent required by law.

**TITLE IX**

**COORDINATOR’S DUTIES, NOTICE, REPORTING AND GRIEVANCE POLICY**

This Policy sets forth The School’s Notice, Reporting and Grievance policy for Title IX matters and should be read in conjunction with the School’s Title IX policy. This Policy does not apply to any other type of discrimination, harassment or bullying. The principal of Timpanogos Academy has the additional duty of fulfilling the role of the Title IX Coordinator. Contact information is posted on the website.

**Duties**

# The Title IX Coordinator has the following duties:

1. Attend training on the definition of the definitions of prohibited conduct, including sexual harassment training and should include the following:
2. how to conduct an investigation
3. the grievance process including appeals, and informal resolution processes
4. how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias
5. relevance, including how to apply the rape shield protections provided only for complainants
6. Appoint investigator(s) and decision maker(s) when complaints are filed.
7. Train appointed employees on this policy and complaint procedures in accordance with Title IX requirements.
8. Make sure required information is posted on the website and available at the front office.
9. Make this policy easily accessible.
10. Monitor the overall implementation of Title IX
11. Maintain confidential records of complaints or reports of unlawful discrimination or harassment which identify the names of all individuals accused of such offenses and the resolution of such complaints or reports
12. Maintain records of training conducted and corrective action(s) or other steps taken by the School to provide an environment free of unlawful discrimination or harassment
13. Report to the Board all verified cases of unlawful discrimination or harassment under the School’s Title IX Policy

# CONFIDENTIALITY

The recipient, whether a School employee, staff member, contractor, or the Title IX Coordinator, must keep confidential the identity of any individual who has made a report or complaint of sex discrimination except as may be permitted by the FERPA or as required by law. Complaints alleging retaliation may be filed according to the Title IX grievance procedures.

# REPORTING TITLE IX VIOLATIONS

Employees are required to report any actual or suspected violations of this policy to the principal as soon as possible and within 24 hours.

If the principal is involved in the allegation, then another administrator will immediately inform the Chair of the Board of Directors.

1. To report for discrimination, harassment, and sexual harassment complaints based on sex/gender, students, parents, volunteers, visitors or others may report any actual or suspected incidents, whether or not directly involved, of discrimination or harassment based on sex/gender under this policy. Reports may be made anonymously to the Title IX coordinator at any time using the Title IX Coordinators contact information. All reports shall be investigated in accordance with the Title IX.

# DEFINITIONS

As used in this and all other Title IX related policies, the following definitions shall apply.

“Complainant” is as an individual who is alleged to be the victim of conduct that could constitute sexual harassment. This means that any third party as well as the complainant may report sexual harassment. While parents and guardians do not become complainants (or respondents), parents and guardians have a right to act on behalf of their children in Title IX matters.

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

1. “Formal complaint” is as a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment. The complaint must include the education program or activity of the School where the alleged incident took place. A formal complaint may be filed with the Title IX Coordinator by using the contact listed on the website.
2. “Document filed by a complainant” means a document or electronic submission (such as by e-mail or through an online portal provided for this purpose by the school) that contains the complainant’s physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint. 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.
3. “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’s selection of supportive measures and remedies shall be based on what is not clearly unreasonable in light of the known circumstances.

# MANDATORY RESPONSE AND PROCEDURAL OBLIGATIONS

The School is required to respond whenever any employee has notice of sexual harassment.

The School will respond promptly to Title IX sexual harassment or discrimination in a manner that is not deliberately indifferent and starts the following procedures and assurances.

1. The school will offer supportive measures to the person alleged to be the victim (referred to as the “complainant”).
2. The Title IX Coordinator will promptly contact the complainant confidentially to discuss the availability of supportive measures, consider the complainant’s wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint.
3. The School will follow the grievance process set forth herein before any disciplinary actions, are taken against a respondent.
4. The School will not restrict rights protected under the U.S. Constitution, including the First Amendment, Fifth Amendment, and Fourteenth Amendment, when complying with Title IX.
5. A complainant’s wishes with respect to whether the school investigates should be respected. The Title IX Coordinator may sign complaint even if the complainant does not file a formal complaint.
6. Remedies, which are required to be provided to a complainant when a respondent is found responsible, must be designed to maintain the complainant’s equal access to education.
7. 7.All Title IX personnel (Title IX Coordinators, investigators, decision-makers, people who facilitate any informal resolution process) shall be free from conflicts of interest or bias for or against complainants or respondents.
8. There is a presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.
9. The School’s grievance process shall 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.
10. Any provisions, rules, or practices that a school adopts as part of its grievance process for handling formal complaints of sexual harassment must apply equally to both parties (complainant and respondent).
11. The standard of evidence to determine responsibility is the preponderance of the evidence standard for all formal complaints of sexual harassment, whether the respondent is a student or an employee

# SUPPORTIVE MEASURES, REMEDIES AND DISCIPLINARY SANCTIONS

Supportive measures include: services, accommodations, and/or other assistance that the School puts in place for a complainant after receiving notice of alleged sexual misconduct but before any final outcomes – investigatory, disciplinary, or remedial – have been determined.

Upon receiving a report of sexual harassment, the School will consult with the complainant and/or their advocate – will determine which measures are appropriate to ensure the complainant’s safety and equal access to educational programs and activities

# INVESTIGATIONS

The School shall investigate the allegations in any formal complaint and send written notice to both parties (complainants and respondents) of the allegations upon receipt of a formal complaint.

The Title IX Coordinator shall designate an impartial individual to serve as the Investigator and conduct an investigation. The Investigator may be the Title IX Coordinator. During the grievance process and when investigating, the Investigator shall comply with the following:

The burden of gathering evidence and burden of proof must remain on the School, not on the parties.

The School must provide equal opportunity for the parties to present fact and expert witnesses and other evidence.

The School must not restrict the ability of the parties to discuss the allegations or gather evidence (e.g., no “gag orders”).

Parties must have the same opportunity to select an advisor of the party’s choice who may be, but need not be, an attorney.

The School shall send a written notice to the parties (complainant and respondent) of any investigative interviews, meetings, or hearings.

The School shall send the parties, and their advisors, evidence directly related to the allegations, in electronic format or hard copy, with at least **10 days** for the parties to inspect, review, and respond to the evidence.

The School shall send the parties, and their advisors, an investigative report that fairly summarizes relevant evidence, in electronic format or hard copy, with at least 10 days for the parties to respond.

The School shall dismiss allegations of conduct that do not meet the definition of sexual harassment set forth in the School’s Title IX policy or did not occur in a school’s education program or activity

The School may, in its discretion, dismiss a formal complaint or allegations complainant desires to withdraw the formal complaint if the respondent is no longer enrolled or employed by the school, or if specific circumstances prevent the school from gathering sufficient evidence to reach a determination.

The School shall give the parties written notice of a dismissal and the reasons for the dismissal.

The School may, in its discretion, consolidate formal complaints where the allegations arise out of the same facts.

The School shall protect the privacy of a party’s medical, psychological, and similar treatment records and shall not access or use such records unless the School obtains the party’s voluntary, written consent to do so.

# DECISION-MAKER

The Title IX Coordinator shall designate a Decision-maker with regard to a Title IX complaint. The Decision-maker shall not be the Title IX Coordinator or Investigator and shall comply with the following rules:

1. Start with the presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.
2. All Complainants are afforded rape shield protections, deeming questions and evidence about a complainant’s prior sexual behavior irrelevant, unless offered to prove that someone other than the respondent committed the alleged misconduct or offered to prove consent.
3. Use the preponderance of the evidence standard in reaching her/his decision.
4. Require objective evaluation of all relevant evidence and avoid credibility determinations based on a person’s status as a complainant, respondent, or witness.
5. After sending 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.
6. Issue a written determination regarding responsibility with findings of fact, conclusions about whether the alleged conduct occurred, rationale for the result as to each allegation, any disciplinary sanctions imposed on the respondent, and whether remedies will be provided to the complainant.
7. The written determination must be sent simultaneously to the parties along with information about how to file an appeal.

# GRIEVANCE PROCESS

The Complainant must file a formal complaint within a reasonable time, ideally within 10 days of the alleged incident. A complaint will not be disallowed solely because of the passage of time. The Title IX coordinator is charged with ensuring that all such complaints are timely, impartially, and appropriately investigated in accordance with applicable law.

Confidentiality

Every effort will be made to ensure the confidentiality of the complainant. There may be times where confidentiality may not be possible for The School to conduct a thorough investigation. There may also be instances where the School has a legal obligation to report certain information it receives to state or local authorities or to protect The School community.

**Timeline:** While the timeframe for completing an investigation into individual complaints may vary depending on the circumstances, the Title IX coordinator will ensure that timeframes are reasonable and endeavor to complete any investigation, including any decision, within sixty (60) days of the filing of a complaint. The timeline may be extended where appropriate at the discretion of the School.

Include reasonably prompt time frames for conclusion of the grievance process, including appeals and informal resolutions, with allowance for short-term, good cause delays or extensions of the time frames.

**Investigation:** The Title IX coordinator or other School officials shall designate an impartial Investigator to conduct the investigation. The Investigator shall have full authority to investigate, including the authority to interview witnesses. The Investigator shall follow the guidance/mandates set forth above in this policy in conducting the investigation.

**Decision-Maker:** The Decision-maker shall follow the guidance/mandates set forth above in this policy and shall use the preponderance of the evidence standard in reaching her/his decision. The Decision-maker shall timely provide written notice of the outcome of the complaint to the relevant parties.

**Appeal:** Either party may appeal the Decision-maker’s decision to the Board of Directors within 14 days after a decision is made or the School dismisses a formal complaint in a Title IX proceeding, on the following bases:

Procedural irregularity that affected the outcome of the matter,

Newly discovered evidence that could affect the outcome of the matter, and/or Title IX personnel had a conflict of interest or bias, that affected the outcome of the matter.

The Board of Directors will appoint a panel of three board members to serve as the impartial review panel. The review will be conducted in accordance with all applicable laws and the panel may, but is not required to, request information directly from the parties. The three-member review panel will make a decision and will provide written notice of the outcome of the appeal to the parties within fourteen (14) school days, unless circumstances require more time.

# INFORMAL RESOLUTION PROCESS FOR STUDENTS

After a formal Complaint is filed, the School may, in its discretion, offer and facilitate informal resolution options, such as mediation or restorative justice, so long as both parties give voluntary, informed, written consent to attempt informal resolution.

The School will not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student. Finally, the School may not offer an informal resolution process unless a formal complaint is filed.

# POLICY APPLICATION

This policy shall remain in effect as long as required by law.

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