

Student on Student Sexual Harassment Policy under Title IX

Sexual Harassment Prohibited

Sexual harassment is strictly prohibited on School grounds, property immediately adjacent to School grounds, at School sponsored or School related activities, functions or programs whether on or off School grounds, on or off School bus or other vehicles owned, leased or used by the School, or through the use of technology or an electronic device owned, leased or used by the School.

Retaliation against a student, volunteer or staff member who reports sexual harassment, provides information about any such acts, witnesses any such acts, or who testifies, assists, participates or refuses to participate in an investigation, proceeding or hearing is also prohibited.

Administrators will make expectations clear to students and staff that sexual harassment will not be tolerated and will be the grounds for disciplinary action up to and including suspension and dismissal for students. In the event that anyone designated with Title IX responsibilities under this policy is the subject of a Title IX complaint, another person will be designated.

Title IX Coordinator

The individual designated to coordinate the School's response to reports or complaints of sexual harassment and for overseeing the School's compliance with Title IX as it relates to students is:

Robert Skelton, General Counsel, Carlos Rosario International Public Charter School, 1100 Harvard St, NW, Washington, DC 20009, 202-797-4720, rskelton@carlosrosario.org

Definitions

Complainant means an individual who is alleged to be the victim of conduct that could constitute sexual harassment.

Formal complaint means a document filed by a complainant, complainant's parent/guardian (if complainant is a minor) or by the Title IX coordinator alleging sexual harassment against a respondent and requesting that the recipient investigate the allegation of sexual harassment.

Respondent means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

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

1. An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient 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 recipient's education program or activity; or

3. “Sexual assault” as defined in 20 U.S.C. 1092(f)(6)(A)(v)¹, “dating violence” as defined in 34 U.S.C. 12291(a)(10)², “domestic violence” as defined in 34 U.S.C. 12291(a)(8)³, or “stalking” as defined in 34 U.S.C. 12291(a)(30)⁴.

Sexual assault is defined as an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.

Dating violence is defined as violence committed by a person—

(A) who is or has been in a social relationship of a romantic or intimate nature with the victim;
and

(B) where the existence of such a relationship shall be determined based on a consideration of the following factors:

(i) The length of the relationship.

(ii) The type of relationship.

(iii) The frequency of interaction between the persons involved in the relationship.

Retaliation is intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX.

Supportive measures means 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 recipient’s education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the recipient’s educational environment, or deter sexual harassment. Supportive

¹ An offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.

² Violence committed by a person—

(A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(B) where the existence of such a relationship shall be determined based on a consideration of the following factors:

(i) The length of the relationship.

(ii) The type of relationship.

(iii) The frequency of interaction between the persons involved in the relationship.

³ Includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction.

⁴ Means engaging in a course of conduct directed at a specific person that would cause a reasonable person to—

(A) fear for his or her safety or the safety of others; or

(B) suffer substantial emotional distress.

measures may include, for example, counseling, extensions of deadlines 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, increased security and monitoring of certain areas of the campus, and other similar measures.

Response to Reports

Any individual may report sexual harassment, sexual assault or dating violence – reports do not have to be made by the victim. Such reports can be made in person, by mail, by telephone, or by email, using the contact information listed for the Title IX coordinator or by any other means that result in the Title IX coordinator receiving the report.

All staff members are required to report any sexual harassment, sexual assault, or dating violence they witness or are made aware of. Staff members should immediately record all such incidents in accordance with School procedures and notify the Title IX Coordinator or other administrator on duty.

Any student who believes that they have been the target of sexual harassment or who is aware of such acts is strongly encouraged to promptly report the matter orally or in writing to the Title IX Coordinator Robert Skelton (address: Carlos Rosario International Public Charter School, 1100 Harvard St, NW, Washington, DC 20009, phone: 202-797-4720, email: rskelton@carlosrosario.org), an administrator, or to any other faculty or staff member or member with whom the student is comfortable speaking. Also, any student who is subject to retaliation in violation of this policy or who knows of another student who has been subject to retaliation is urged to report it as soon as possible.

Anyone else who witnesses or becomes aware of sexual harassment, sexual assault or dating violence is also strongly urged to promptly notify the Title IX Coordinator.

When a report is made without a formal complaint, the Title IX Coordinator will:

- Promptly contact the complainant 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;
- Explain to the complainant the process for filing a formal complaint.

If the complainant does not wish to proceed with a formal complaint, the complainant's wishes will be respected unless the Title IX Coordinator determines that initiating an investigation over the wishes of the complainant is not clearly unreasonable in light of the known circumstances.

The School will maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the School's ability to provide the supportive measures. Supportive measures provided on a case-by-case basis may include, but are not limited to, the following:

- o Developing a safety plan;
- o Providing counseling or other related supports;
- o Extension of deadlines or other course-related adjustments;
- o Class/schedule changes;
- o Leaves of absence;
- o Allowing the complainant to withdraw from a class without penalty;
- o Providing increased monitoring, supervision, or security at the locations or activities where the misconduct occurred;
- o Providing an escort to ensure that the reporting student feels safe throughout the School building;
- o Requiring mutual restrictions on contact between the parties;
- o Providing academic support, such as tutoring, for the reporting student;
- o Providing referrals to community-based services;
- o Providing training and education materials for students and employees;
- o Distributing the School's policies on sexual misconduct; or
- o Conducting climate surveys regarding sexual misconduct.

The School may not impose disciplinary sanctions (or other sanctions that are not “supportive measures”) against the respondent without conducting a formal investigation. However, the School may remove a respondent on an emergency basis if:

- It undertakes an individualized safety and risk analysis;
- Determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal; and
- Provides the respondent with notice and an opportunity to challenge the decision immediately following the removal.

A formal complaint may be filed by the complainant, the complainant's parent/legal guardian (if complainant is a minor), or the Title IX coordinator if they determine that a formal investigation is needed.

Mandatory Reporting

If the School becomes aware of a report or allegation of sexual assault, sexual abuse, child abuse, or child neglect in addition to its own response, the School will also make a referral to DC Child and Family Services Agency (CFSA) (for minors) and/or DC Metropolitan Police Department (MPD) pursuant to mandatory reporting requirements.

Informal Resolution Processes

The Title IX Coordinator may offer and facilitate informal resolution, such as mediation, so long as both parties give voluntary, informed, written consent to attempt informal resolution. The School will not require participation in informal resolution as a condition of enrollment. The School will not condition informal resolution on the waiver of the right to a formal investigation and adjudication of formal complaints of sexual harassment. The School will not require the parties to participate in an informal resolution process and will not offer an informal resolution process unless a formal complaint is filed. At

any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the investigation process with respect to the formal complaint.

Training

Title IX personnel involved in the informal resolution process and/or reporting and investigation processes will receive training on the following:

- The definition of sexual harassment;
- The scope of the School's education program or activity;
- How to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes that protects the safety of complainants and promotes accountability;
- How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias; and
- Issues of relevance, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant.

Investigations of Formal Complaints

The School will promptly investigate any formal complaints received. Respondents will be presumed to be not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the investigation process.

Once an investigation is concluded, further steps will be taken as needed to interrupt or stop each specific act of sexual harassment, prevent its recurrence, and address its effects, regardless of whether the incident is the subject of a criminal investigation.

Formal complaints by students against other students⁵ will be investigated by a School Vice Principal or Assistant Principal as designated by the Principal of the campus involved in the complaint. Once the investigation is complete, a decision will be rendered based on all of the evidence available. The decision-maker will be the School Principal (Harvard Street Campus Principal Chelsea Bradford or Sonia Gutierrez Campus Principal Elani Lawrence) or designee.

Information for Complainants

Within two (2) business days of receipt of a formal complaint, the Title IX Coordinator will provide information to the complainant about:

⁵ Formal complaints by students against School employees or third parties will be investigated under the Employee Sexual Harassment Policy under Title IX. Formal complaints by School employees against students will also be investigated under the School's Employee Sexual Harassment Policy under Title IX.

- The investigation process and informal resolution process including a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of investigation process;
- The allegations including sufficient details known at the time including the identities of the parties involved in the incident, the conduct allegedly constituting sexual harassment, sexual assault and/or dating violence, and the date and location of the alleged incident, if known;
- The complainant's right to have an advisor of his/her choice who may be, but is not required to be, an attorney;
- The right to inspect and review evidence;
- The prohibition against knowingly making false statements or knowingly submitting false information during the investigation process; and

Information for Respondents

Within two (2) business days of receipt of a formal complaint, the Title IX Coordinator will provide information to the respondent about:

- The investigation process and informal resolution process including a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of investigation process;
- The allegations including sufficient details known at the time including the identities of the parties involved in the incident, the conduct allegedly constituting sexual harassment, sexual assault and/or dating violence, and the date and location of the alleged incident, if known;
- The respondent's right to have an advisor of his/her choice who may be, but is not required to be, an attorney;
- The right to inspect and review evidence; and
- The prohibition against knowingly making false statements or knowingly submitting false information during the investigation process.

Investigation

Complaints of sexual harassment covered by this Title IX Policy will be investigated in an adequate, reliable and impartial manner. (All other sexual harassment concerns will be addressed through the School's Complaint Procedure for Discrimination or Harassment.) The School will make every effort to complete the investigation within thirty (30) days of receipt of a formal complaint. Extensions of this timeline will be permitted for good cause. If such an extension is exercised, the investigator will notify each party in writing of the reason for the extension. At the conclusion of the investigation period, the investigator will prepare an investigative report to share with the parties and decision-maker as outlined below.

The School will make every effort to protect confidentiality during the course of the investigation. The individual responsible for conducting the investigation will be responsible for making determinations about confidentiality.

Each investigation will include an objective evaluation of all relevant evidence, including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a complainant, respondent, or witness. The School will bear the burden of gathering evidence to reach a determination regarding responsibility for the alleged conduct. This investigation will include, as necessary, interviewing witnesses, obtaining documents, and allowing the complainant and respondent to present any inculpatory and exculpatory evidence including witnesses.

The complainant and respondent will have the same opportunity to have others share information on their behalf during any investigative proceeding and to be supported during any proceeding by an advisor of their choice who may be, but is not required to be, an attorney. The parties will be provided written notice if they are invited to participate in any investigative proceeding in person. The notice will include the date, time, location, participants, and purpose of any such proceeding, with sufficient time for the party to prepare to participate.

Each party will have the same opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. Subject to the parties' agreeing to follow nondisclosure requirements, the evidence will be sent to each party in electronic format or hard copy at least 10 days prior to the completion of an investigative report so that the parties have an opportunity to submit a written response.

Upon its completion, the investigator will send to each party and the decision-maker an investigative report that fairly summarizes relevant evidence. The parties will be given at least ten (10) days to respond to the investigative report as outlined below.

Decision Making

At least ten (10) days prior to a decision being rendered, each party will have an opportunity to submit a written response to the investigative report which may include written, relevant questions that a party wants asked of any other party or witness. The decision maker will gather responses to those questions and provide those responses in writing to each party. The parties will have three (3) additional days to submit additional, limited follow-up questions. The decision-maker will make determinations about what questions are relevant. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

The decision-maker will review all evidence gathered through the investigative report and responses from each party and will make a determination as to responsibility for the alleged conduct. The decision-maker will use a preponderance of the evidence standard (i.e., preponderance evidence establishes that the allegation is more likely than not to have occurred) to determine responsibility. Once a determination is made, a written decision will be issued to both parties and will include the following:

- Summary of the allegations;
- Summary of the course and outcome of the investigation including any notifications to the parties, interviews with parties and witnesses, and other methods used to gather evidence;
- Findings of fact supporting the determination;
- Conclusions regarding the application of the policy and code of conduct to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions to be imposed on the respondent, and what other supportive measures will be made available to the complainant;
- Information about the procedures for appeal.

The decision-maker may notify appropriate law enforcement agencies if School staff determine that the behavior cannot be safely and appropriately handled through School-based disciplinary action. Law enforcement agencies will be notified if mandatory reporting requirements are triggered.

Appeals

Any party who not satisfied with the outcome of the investigation may appeal in writing to the CEO Allison R. Kokkoros or their designee. Appeals must be made within 30 days of the conclusion of the initial investigation. When an appeal is made, both parties will be notified of the appeal and will be given an opportunity to respond. The decision-maker for the appeal will not be the same decision-maker that reached the determination regarding responsibility, the investigator or the Title IX Coordinator.

The secondary investigation shall be completed within 30 days of receipt of an appeal, unless: (1) circumstances require additional time to complete a thorough investigation; (2) the higher-level authority sets forth those circumstances in writing; (3) the additional time is not to exceed 15 days. Upon completion of the appeal, the complainant and respondent will be notified in writing of the outcome of the appeal and the rationale for the result, any change to the result of the initial investigation and when such results become final.

Possible Responses When it is Determined that Sexual Harassment, Sexual Assault or Dating Violence Occurred

Remedies after an investigation concludes may include but are not limited to the following:

- Disciplinary responses consistent with the student code of conduct
- Restriction on student involvement in School programs and activities
- Restrictions on student movement in the building

- o Counseling or other support services for the respondent
- o Safety plan/no contact requirements