



## **BRIDGES PREPARATORY SCHOOL TITLE IX POLICY**

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### **PURPOSE**

The US Department of Education Office of Civil Rights has mandated new Title IX regulations with an effective date of August 14, 2020. Its purpose is to promote gender equity, prevent hostile environments based on sex, prohibit sexual harassment/violence, protection from retaliation, and to remedy other gender-based forms of discrimination in academic settings. Where this policy does not address anything in the new regulation directly, or contradicts with applicable law, the School will comply with the regulations as written.

### **LEGAL DEFINITIONS**

**Actual knowledge** means notice of sexual harassment or allegations of sexual harassment to a School's Title IX Coordinator or any official of the School who has authority to institute corrective measures on behalf of the School's, or to any employee of an elementary and secondary School.

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

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

**Formal complaint** means a document 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. In order to file a formal complaint, the complainant must be "participating in or attempting to participate in" Bridges' education program or activity at the time the formal complaint is filed.

**Sexual harassment** is broadly defined to include three types of misconduct on the basis of sex, all of which jeopardize the equal access to education:

- (1) Any instance of *quid pro quo* harassment by a School's employee;

- (2) Any unwelcome conduct that a reasonable person would find so severe, pervasive, and objectively offensive that it denies a person equal educational access; and
- (3) Any instance of sexual assault, dating violence, domestic violence, or stalking.

Misconduct under (1) or (3) are NOT evaluated for severity, pervasiveness, offensiveness, or denial of equal education access under (2), as such misconduct is sufficiently serious to deprive a person of equal access.

**Supportive Measures** means non-disciplinary, non-punitive individualized services offered as appropriate, to the complainant and/or the respondent that are not unreasonably burdensome to the other party while designed to ensure equal educational access, protect safety, or deter sexual harassment. These Supportive Measures may be instituted before or after the filing of a formal complaint or in cases where no formal complaint has been filed. Services may include:

1. Counseling, extensions of deadlines or other course-related adjustments;
2. Modifications of work or class schedules, campus escort services;
3. Mutual restrictions on contact between the parties, changes in work or housing locations and leaves of absence; and/or
4. Increased security and monitoring of certain areas of the campus.

**Jurisdiction (Education Program or Activity)** means all operations of the School (i.e., locations, events, or circumstances”) over which the School has “exercised substantial control over both the respondent and the context in which the harassment occurs”. Jurisdiction is tied to the education program or activity and not necessarily whether the incident occurred on or off campus. “All of the operations of” the School includes computer and internet networks, digital platforms, and computer hardware or software owned or operated by, or used in the operations of, the School. This would include potentially a student using a personal device to perpetrate online sexual harassment during class time or at a time when the School is exercising substantial control over the student and the context in which the harassment occurs.

**Attempting to Participate in Education Program or Activity** examples include:

1. Complainant is applying for or intends to apply for admission.
2. Complainant indicates a desire to re-enroll if the School appropriately responds to sexual harassment allegations.
3. Complainant has graduated but would like to participate in alumni events at the School.
4. Complainant is on leave of absence to seek counseling to recover from trauma.

**Non-deliberate and Indifferent manner** means not clearly unreasonable considering the known circumstances and must comply with policy regardless of whether a formal complaint is ever filed.

**Emergency Removal** is Where a respondent poses an immediate threat to the physical health or safety of the complainant (or anyone else).

**Administrative leave** is paid leave pending the outcome of an investigation; may not be interpreted to alter any rights under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act.

### **DESIGNATION OF ROLES AND RESPONSIBILITIES**

**Designation of Title IX Coordinator Requirements:**

1. Bridges shall select at least one Title IX Coordinator for the School;

2. Provide name, title, office address, electronic email address, and telephone number for Title IX Coordinator;
3. Confirm contact information is prominently displayed on Schools' website, in handbooks and in catalogs; and
4. Ensure contact information is given to applicants for admission and employment to Bridges, Bridges' students, parents and/or legal guardians; employees.

**Title IX Coordinator Responsibilities:**

1. Build a Title IX Team and coordinate training for the Title IX Team and all employees;
2. Coordinate response to all complaints involving sexual harassment;
3. Provide and track supportive measures;
4. Monitor investigations, resolutions, outcomes;
5. Implement remedies and sanctions when appropriate;
6. Monitor patterns and trends;
7. Avoid conflicts of interest and biases;
8. Update policies and procedures, as necessary; and/or
9. Ensure proper documentation and recordkeeping.

**Designate at least one Investigator, Initial Decision Maker, Appeals Decision Maker**

1. Select an Investigator who may also be the Title IX Coordinator;
2. Select an Initial Decision Maker who cannot be the Appeals Decision Maker nor the Title IX Coordinator;
3. Select an Appeals Decision Maker who cannot be the Initial Decision Maker nor the Title IX Coordinator;
4. Title IX Coordinator/Investigator **may** be an Assistant Principal/Leader;
5. Initial Decision Maker **may** be a School Principal/Leader;
6. Appeals Decision Maker **may** serve on the School Board.

**Investigator Responsibilities**

1. Ensure that the burden of proof and the burden of gathering evidence are sufficient to reach a determination regarding responsibility and that the burden of proof rests on the School and not on complaint or respondent;
2. Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory (guilty) and exculpatory (not guilty) evidence;
3. Ensure that neither party's ability to discuss the allegations under investigation or to gather and present relevant evidence is restricted;
4. Provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice;
5. Provide, to individuals whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate;
6. Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the School does not intend to rely in reaching a determination regarding responsibility and all inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can provide meaningful response to the evidence prior to the conclusion of the investigation;

7. Allow complainant, respondent, and their Advisors, if any, at least **10 days** to review, inspect and submit a written response to evidence sent to them in electronic or hard copy format prior to completion of the investigative report;
8. Consider responses to evidence provided by complainant or respondent prior to completion of the investigative report;
9. Ensure that all evidence that is subject to the parties' inspection and review is available at any hearing and to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of direct and cross-examination. [**Hearings are optional or discretionary for K-12 Schools and will not normally be allowed**]; and
10. Create an investigative report that fairly summarizes relevant evidence and, at least **10 days** prior to a hearing, if a hearing is authorized.

#### **Initial Decision Maker Responsibilities**

1. Give each party reasonable time to submit written, relevant questions that a party wants asked of any party or witness;
2. Provide each party with the answers and allow for additional, limited follow-up questions, from each party;
3. Explain as to why certain questions/evidence are not relevant, i.e., in the event that respondent/advisor is proposing questions and attempting to illicit evidence about the complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the complainant's prior sexual behavior is being 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;
4. Issue a written determination regarding responsibility;
5. Provide written determination regarding responsibility to the parties simultaneously, which becomes final either on the date that the School provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely; and
6. Offer both parties the opportunity to appeal from a determination regarding responsibility, or from dismissal of a formal complaint or dismissal of any of the allegations.

#### **Appeals Decision Maker Responsibilities**

1. Notify the other party in writing when an appeal is filed;
2. Give both parties time to submit a written statement in support of or challenging the outcome of the Initial Decision Maker; and
3. Issue a written decision on the appeal(s), simultaneously to both parties, describing the result and rationale for the findings on the appeal(s).

#### **Informal Decision Maker Responsibilities**

1. Meet with students, parents, advisors and facilitate resolutions after a formal complaint has been initiated but before determination regarding responsibility;
2. Obtain the parties' voluntary, written consent to the informal resolution process;
3. May facilitate an informal resolution process, such as mediation, at any time prior to reaching a determination of responsibility; and
4. Provides complainant and respondent written notice of informal resolution process, such as mediation disclosing:
  - a. Allegations;

- b. Requirements of the informal resolution process;
- c. Circumstances under which it precludes formal complaint;
- d. May withdraw and resume formal complaint prior to agreeing to resolution; and
- e. Consequences.

### **REQUIRED NOTIFICATION**

Ensure applicants for admission and employment, students, parents and/or legal guardians of elementary and secondary Schools; and employees, receive the following notifications via medians such as website, handbooks, catalogs, applications highlighting that the School:

1. Does not discriminate based on sex in education programs or School activities;
2. Are required by Title IX not to discriminate based on sex;
3. The requirement not to discriminate based on sex extends to admissions and employment; and
4. Refer inquiries about Title IX application to a particular situation to the School's Title IX Coordinator.

### **GRIEVANCE PROCEDURES**

#### **Sexual Harassment Notification**

1. A written notification received by the Title IX Coordinator or any official of the School who has authority to institute corrective measures on behalf of the School, or to any employee of an elementary or secondary School.
2. The person filing the grievance must have actual knowledge of the alleged incident, which may:
  - a. come from personal observation; or
  - b. have been shared by a complainant or third-party.

#### **Determine Jurisdiction**

1. Decides if education program or activity includes:
  - a. Locations, events, or circumstances over which School exercises substantial control over both the respondent and the context in which the sexual harassment occurs; and
  - b. Ensure that inquiry does not:
    - i. create or apply a geographic test
    - ii. draw a line between 'off campus' and 'on campus'
    - iii. create a distinction between sexual harassment occurring in person versus online;
2. Applies to any person, in the United States, based on sex, who is excluded from participation in, denied the benefits of, or is subjected to discrimination under any education program or activity receiving federal financial assistance;
3. Must be filed by a complainant who is participating or attempting to participate in the education program or activity or is signed by the Title IX Coordinator;
4. Covers all instances of sexual harassment on School property;
5. Includes "Off Campus" sexual harassment incidents that occur off campus if:
  - a. the off-campus incident occurs as part of the School's operations; and/or
  - b. the School exercised substantial control over the respondent and the context of alleged sexual harassment that occurred off campus.

#### **Response to Sexual Harassment Notification**

When a School has notice of sexual harassment, within 24 hours, the Title IX Coordinator must:

1. Contact the complainant to discuss the availability of supportive measures whether a formal complaint is filed or not;
2. Consider the complainant's wishes with respect to supportive measures; and

3. Explain to the complainant the process for filing a formal complaint.

### **Formal Complaint**

1. Complete Formal Complaint form via School's website or obtain hard copy from School's administrative office.
2. May be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information required to be listed for the Title IX Coordinator. Required information to include:
  - a. Provision in School's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process;
  - b. Statement that prohibits retaliation against the complainant;
  - c. Complainants Contact Information;
  - d. Statement of Complaint:
    - i. Name and relationship of alleged perpetrator;
    - ii. Names of potential witnesses, if applicable;
    - iii. Date, time, and location of alleged incident; and
    - iv. Incident details (add more pages, if needed);
  - e. Complainant's signature.
3. Upon receipt of formal complaint that meets jurisdiction requirements, the School must:
  - a. Complete the actions required upon receiving notice, if not already completed;
  - b. Evaluate jurisdiction and required/discretionary dismissal;
  - c. Assess appropriate supportive measures for both parties;
  - d. Evaluate the need for any other measures, including emergency removal/administrative leave; and/or.
  - e. Initiate a grievance process that complies with grievance procedures.
4. Formal complaints must dismiss if:
  - a. Conduct would not constitute sexual harassment even if proved; or
  - b. Conduct did not occur in the School's education program or activity; or
  - c. Conduct did not occur against a person in the United States; or
  - d. Dismissal does not preclude action under another provision of the School's code of conduct.
5. Formal Complaints Discretionary Dismissals may occur if:
  - a. A complainant notifies the Title IX Coordinator in writing within **10 days** that the complainant would like to withdraw the formal complaint or any allegations; or
  - b. The respondent is no longer enrolled or employed by the School; or
  - c. Specific circumstances prevent the School from gathering evidence sufficient to reach a determination.
6. Decision to dismiss formal complaint requires School to:
  - a. Send written notice of the dismissal and reason(s) simultaneously to the parties within **5 days**; and
  - b. Offer both parties an appeal from a School's dismissal of a formal complaint or any allegations.

### **Supportive Measures**

School must treat complainants and respondents equitably by offering supportive measures and by following a grievance process that complies with this policy before any disciplinary actions are administered.

1. The Title IX Coordinator must immediately contact the complainant to:
  - a. Discuss the availability of supportive measures;
  - b. Consider the complainant's wishes with respect to supportive measures;

- c. Inform the complainant of the availability of supportive measures with or without the filing of a formal complaint; and
  - d. Explain to the complainant the process for filing a formal complaint.
2. Supportive measures:
- a. Must be non-disciplinary, non-punitive individualized services offered as appropriate, 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;
  - b. Are designed to restore or preserve equal access to the School's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the School's educational environment, or deter sexual harassment;
  - c. May include any of the following:
    - i. Counseling;
    - ii. Extensions of deadlines or other course-related adjustments;
    - iii. Modifications of work or class schedules;
    - iv. Campus escort services;
    - v. Mutual restrictions on contact between the parties;
    - vi. Changes in work or housing locations;
    - vii. Leaves of absence; and/or
    - viii. Increased security and monitoring of certain areas of the campus, and other similar measures;
  - d. Coordination and implementation are the responsibility of the Title IX Coordinator, who must:
    - i. Maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the School to provide the supportive measures;
    - ii. Maintain records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment;
    - iii. Document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the School's education program or activity;
    - iv. Document the reasons why such a response was not clearly unreasonable considering the known circumstances, if School does not provide a complainant with supportive measures;
    - v. Undertake an individualized safety and risk analysis and determine 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/or
    - vi. Provide the respondent with notice and an opportunity to challenge the decision immediately following the removal.

### **Grievance Procedures**

1. Require an objective evaluation of all relevant evidence, including both inculpatory (guilty) and exculpatory (not guilty) evidence;
2. Ensure credibility determinations may not be based on a person's status;
3. Train Implementers and ensure they are free from conflict of interest or bias for or against complainant(s) or respondent(s);
4. Assume 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;
5. Include 5 days for conclusion of the grievance process with permissible delay for good cause;
6. Describe the range (or list) of possible disciplinary sanctions and remedies;

7. State whether the standard of evidence to be used to determine responsibility is the preponderance of the evidence standard or the clear and convincing evidence standard;
8. Apply the same standard of evidence for formal complaints against students as for formal complaints against employees, including teachers;
9. Apply the same standard of evidence to all formal complaints of sexual harassment;
10. Include the procedures and permissible bases for the complainant and respondent to appeal;
11. Describe the range of supportive measures available; and/or
12. Do not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

### **Investigation**

School must investigate allegations made in a formal complaint and provide:

1. Written notice of the School's grievance process, including any informal resolution process;
2. Written notice of the allegations;
3. **10 days** to prepare a response before any initial interview;
4. Explanation of the details known at the time;
5. Identities of the parties, if known;
6. The conduct alleged to constitute sexual harassment;
7. The date and location of the alleged incident, if known;
8. A statement that says the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;
9. Language that inform the parties they may have an advisor/attorney of their choice and that they are responsible for the payment of any advisor/attorney fees and costs;
10. Notice that parties may inspect, and review evidence gathered;
11. Statement prohibiting parties against knowingly making false statements or knowingly submitting false information;
12. Supplemental notice of additional allegations;
13. Notice that School may consolidate formal complaints as to allegations of sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances;
14. Notification of intent to give "discretion" to consolidate formal complaints that arise "out of the same facts or circumstances and involve more than one complainant, more than one respondent, or what amount to counter-complaints by one party against the other;
15. Requirement for the same facts and circumstances means that the multiple complainants' allegations are so intertwined that their allegations that directly relate to all the parties;
16. Burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the School and not on the parties;
17. Notification that School cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the School obtains that party's voluntary, written consent to do so for a grievance process under this section;
18. Notification that 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;
19. Notification not to restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence;
  20. Written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate;
  21. Both parties to have an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint so that each party can meaningfully respond to the evidence prior to conclusion of the investigation;
  22. Evidence that is "directly related to the allegations" may encompass a broader universe of evidence than evidence that is relevant;
  23. Each party and the party's advisor, if any, shall have the ability to review the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least **10 days** to submit a written response, which the investigator will consider prior to completion of the investigative report;
  24. An investigative report that fairly summarizes relevant evidence.

### **Determination of Responsibility**

The initial decision process requires the School to:

1. Afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness;
2. Provide each party with the answers, and allow for additional, limited follow-up questions; and
3. Issue a simultaneous written determination regarding responsibility, including:
  - a. identification of the allegations;
  - b. description of the procedural steps taken from the receipt of the formal complaint through the determination;
  - c. findings of fact supporting the determination;
  - d. conclusions regarding the application of the School's code of conduct to the facts; and/or
  - e. notification of Appeal procedures.

### **Appeals Process**

The appeals decision process requires the School to:

1. Notify the other party in writing within 2 days of when an appeal is filed and implement appeal procedures equally for both parties;
2. Offer both parties an appeal from a determination regarding responsibility, and from a School's dismissal of a formal complaint or any allegations when:
  - a. procedural irregularity that affected the outcome of the matter;
  - b. new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
  - c. the Title IX Coordinator, investigator(s), or decision-maker(s) 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; and/or
  - d. offer an appeal equally to both parties on additional basis;
3. Ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator;

4. Ensure that the decision-maker(s) for the appeal complies with the standards set forth in the appeals process;
5. Give both parties 5 days to submit a written statement in support of, or challenging, the outcome;
6. Issue a written decision within 5 days describing the result of the appeal and the rationale for the result; and
7. Provide the written decision simultaneously to both parties.

### **Informal Resolution (Optional)**

If an Informal resolution process is initiated by the School through an agreement of the parties, the School:

1. Shall not require waiver of right to investigation and resolution of formal complaints;
2. Shall not require parties to participate in an informal resolution process;
3. Shall not condition the offer an informal resolution process on the filing of a formal complaint;
4. Shall obtain the parties' voluntary, written consent to the informal resolution process;
5. Shall not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student;
6. May facilitate an informal resolution process, such as mediation at any time prior to reaching a determination of responsibility;
7. Shall provide parties a written notice disclosing:
  - a. allegations;
  - b. requirements of the informal resolution process;
  - c. circumstances under which it precludes formal complaint;
  - d. options to withdraw and resume formal complaint prior to agreeing to resolution; and
  - e. consequences of informal resolution.

### **Training**

School must ensure that Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, receive training on:

1. The definition of sexual harassment;
2. The scope of the School's education program or activity (jurisdiction);
3. How to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable;
4. How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias;
5. How to ensure that decision-makers receive training on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant;
6. How to ensure that investigators receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence; and
7. How to prevent sex stereotypes and promote impartial investigations and decisions of formal complaints of sexual harassment.

### **Retaliation**

School must ensure that:

1. No School or other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX because:
  - a. The individual has made a report or complaint;
  - b. The individual has testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing;

2. Parties understand that exercise of rights protected under the First Amendment does not constitute retaliation; and/or
3. Charging an individual with a code of conduct violation for making a materially false statement in bad faith during a grievance proceeding under this part does not constitute retaliation.

**Documentation**

School must:

1. Maintain records for 7 years;
2. Make training materials publicly available on website;
3. Maintain records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment;
4. Document the basis for its conclusion that its response was not deliberately indifferent;
5. Document that it has taken measures designed to restore or preserve equal access to the School's education program or activity; and/or
6. Document the reasons why not providing supportive measures was not clearly unreasonable considering the known circumstances if School does not provide a complainant with supportive measures.