

TENNESSEE PUBLIC CHARTER SCHOOL COMMISSION		
Title IX & Sexual Harassment		630 <u>54.0</u>
ADOPTED: April 9, 2021	REVISED:	MONITORING: Review: Annually

In order to maintain a safe, civil, and supportive learning environment, all forms of sexual harassment and discrimination on the basis of sex are prohibited.¹ This policy shall cover authorized charter school employees, employees' behaviors, students, and students' behaviors while on school property, at any school-sponsored activity, on school-provided equipment or transportation, or at any official school bus stop in accordance with federal law. This policy shall be disseminated annually to all authorized charter school staff, students, and parent(s)/guardian(s).²

Each authorized charter school shall adopt a policy in compliance with state and federal laws, rules, and regulations, that, at a minimum, identifies a Title IX Coordinator³ and corresponding duties, includes applicable definitions as outlined in this policy, sets forth the grievance and appeal process, and contains a clear prohibition on retaliation. The authorized charter school's Title IX Coordinator as well as any personnel chosen to facilitate the grievance process shall not have a conflict of interest against any party of the complaint.⁴ These individuals shall receive training as to how to promptly and equitably resolve student and employee complaints.³ All authorized charter school employees shall receive training on complying with this policy and federal law.⁵

DEFINITIONS⁴

"Complainant" is ~~an individual~~ a student or employee who is alleged to be the victim of conduct that could constitute ~~sexual harassment~~ sex discrimination under Title IX or its regulations or an individual other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations and who was participating or attempting to participate in the authorized charter school's education program or activity at the time of the alleged sex discrimination.

"Respondent" is an individual who is reported to be the perpetrator of conduct that could constitute sexual harassment.

"Sexual harassment" is conduct on the basis of sex that satisfies one or more of the following:³

1. A school district or authorized charter school employee conditioning an aid, benefit, or service of an education program or activity 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 education program or activity⁶; or

3. Sexual assault,⁷ dating violence,⁸ domestic violence,⁹ or stalking¹⁰ as defined in state and federal law.

Behaviors that constitute sexual harassment may include, but are not limited to:

1. Sexually suggestive remarks;
2. Verbal harassment or abuse;
3. Sexually suggestive pictures;
4. Sexually suggestive gesturing;
5. Harassing or sexually suggestive or offensive messages that are written or electronic;
6. Subtle or direct propositions for sexual favors; and
7. Touching of a sexual nature.

Sexual harassment may be directed against a particular person or persons, or a group, whether of the opposite sex or the same sex.

“Supportive measures¹¹” are non-disciplinary, non-punitive, individualized services and shall be offered to the complainant and the respondent, as appropriate. These measures may include, but are not limited to, the following:

1. Counseling;
2. Course modifications;
3. Schedule changes; and
4. Increased monitoring or supervision.

The measures offered to the complainant and the respondent shall remain confidential to the extent that maintaining such confidentiality would not impair the ability of the authorized charter school or district to provide the supportive measures.

Sexual Harassment as Sexual Abuse. Under certain circumstances, sexual harassment of a student may constitute sexual abuse as defined under state law. In such situations, authorized charter schools shall comply with state laws as well as Commission and school policies regarding the reporting of suspected abuse to appropriate authorities.¹²

[Notice of Nondiscrimination.](#) Each authorized charter school shall provide a notice of nondiscrimination to students, parents, guardians, or other authorized legal representative of students, employees, and applicants for admission and employment. Each authorized charter school shall include all elements of its notice of nondiscrimination on its website and in each handbook, catalog, announcement, bulletin, and application form that it makes available to people entitled to notice, or which are otherwise used in connection with the of student recruitments or employees.

[Grievance Procedures.](#)¹³ Each authorized charter school shall adopt, publish, and implement grievance procedures for the prompt and equitable resolution of complaints of sex discrimination, in accordance with 35 CFR 106.45. The grievance procedures shall, at a minimum:

1. Treat complainants and respondents equitably;
2. Require that any person designated as a Title IX Coordinator, investigator, or decisionmaker, not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent;
3. Include a presumption that the respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of the recipient's grievance procedures for complaints of sex discrimination;
4. Establish reasonably prompt timeframes for the major stages of the grievance procedures, including a process for the reasonable extension of timeframes on a case-by-case basis for good cause with notice to the parties that includes the reason for delay.:
 - a. Major stages include, as an example, evaluation, investigation, determination, and appeal
5. Require the recipient to take reasonable steps to protect the privacy of the parties and witnesses during the pendency of the authorized charter school's grievance procedures, so long as the steps does not restrict the ability of the parties to obtain and present evidence, consult with family members, confidential resources or advisors, or prepare for or participate in the grievance procedures;
6. Require an objective evaluation of all evidence that is relevant and provide that credibility determinations must not be based on a person's status as a complainant, respondent, or witness;
7. Exclude inadmissible evidence, as defined by 34 C.F.R. § 106.45(a)(7); and
8. Inform all parties of the right to appeal if a grievance is dismissed, on the bases set forth in 34 C.F.R. § 106.46.

Each authorized charter school may participate in an informal resolution process in lieu of resolving a complaint through the Title IX grievance procedures.¹⁴

Each authorized charter shall offer and coordinate supportive measures as appropriate for the complainant and/or respondent to restore or preserve that person's access to the charter school's education program or activity during the Title IX grievance procedures or during the informal resolution process.¹⁵

Legal References

¹ 34 CFR § 106.1

² 34 CFR § 106.8(b),(c)

³ 34 CFR § 106.8(a)

⁴ 34 CFR § 106.45(b)(1)(iii); 34 CFR § 106.45(b)(10)(D)

⁵ 34 CFR § 106.30(a)

⁶ [34 C.F.R. § 106.2](#)

⁷ 20 USCA 1092(f)(6)(A)(v); TCA 36-3-601(10); TCA 71-6-302

⁸ 34 USCA 12291(a)(10)

⁹ 34 USCA 12291(a)(8); TCA 40-14-109

¹⁰ 34 USCA 12291(a)(30); TCA 39-17-315; TCA 36-3-601(11)

¹¹ [34 C.F.R. § 106.44\(g\)](#).

¹² T.C.A. § 37-1-605; T.C.A. § 49-6-1601; T.C.A. § 37-1-403

¹³ [34 C.F.R. §§ 106.45-.46](#)

¹⁴ [34 C.F.R. 106.45\(k\)](#)

¹⁵ [34 C.F.R. § 106.45\(l\)](#).