



<i>The Classical Academy</i>	<i>Policies and Procedures</i>
Policy Name:	Sexual Harassment Investigation Procedure
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Author:	Compliance Officer/Title IX Coordinator
Cabinet Level Owner:	President

## INTRODUCTION

The Classical Academy (TCA) is committed to maintaining a learning environment that is free from sex-based discrimination, including sexual harassment. It is a violation of policy for any staff member to harass students or for students to harass other students through conduct or communications of a sexual nature, or to retaliate against anyone that reports sex-based discrimination or harassment or participates in a harassment investigation.

## DEFINITIONS

For purposes of this procedure, these terms have the following meanings:

- **"Complainant"** means an individual who is alleged to be the target of conduct that could constitute sex-based discrimination or sexual harassment.
- **"Decision Maker"** means an individual(s) who assess the relevant evidence, including party and witness credibility, to decide if the school has met the burden of proof showing the respondent to be responsible for the alleged sex-based discrimination or sexual harassment. The decision maker may not be the Title IX Coordinator or the investigator. A principal, assistant principal, Cabinet member, or designee may serve as the decision maker.
- **"Education Program or Activity"** means locations, events, or circumstances over which the school exercises substantial control over both the complainant and respondent and the context in which the sex-based discrimination or sexual harassment occurs.
- **"Investigator"** means an individual trained to objectively evaluate the credibility of parties and witnesses, synthesize all available evidence - including both inculpatory and exculpatory evidence - and take into account the unique and complex circumstances of each situation. The investigator may be the Title IX Coordinator but cannot be the decision maker. Generally, the Title IX Coordinator will serve as the investigator.
- **"Respondent"** means an individual who has been reported to be the alleged perpetrator of conduct that could constitute sex-based discrimination or sexual harassment.
- **"Sexual Harassment"** means conduct on the basis of sex that satisfies one or more of the following:
  - A school staff member conditioning education benefits on participation in unwelcome sexual conduct (i.e., quid pro quo);
  - Unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school's education program or activity; or
  - Sexual assault, dating violence, domestic violence, or stalking.
- **"Supportive Measures"** mean non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, without fee or charge, to the complainant or

respondent, before or after the filing of a formal complaint or where no formal complaint has been filed.

- **"Title IX Coordinator"** means the staff member designated by the president to coordinate TCA's efforts to comply with Title IX responsibilities. TCA's Compliance Officer will serve as the Title IX Coordinator.

### **FILING A COMPLAINT**

A complainant, or a parent or guardian with the legal right to act on the complainant's behalf, may file a complaint. Complaints must be filed in writing and signed by the complainant. Forms for this purpose are available at the school website and school counseling or administrative offices. Completed forms must be filed with the Title IX Coordinator. If a complaint form is given to a TCA staff member, the TCA staff member will promptly forward the complaint to the Title IX Coordinator. An alternate will be designated in the event it is claimed that the respondent is the one who committed the alleged discrimination, or some other conflict of interest exists. Complaints must be filed within 180 days of the event giving rise to the complaint or from the date the complainant could reasonably become aware of such occurrence. The complainant will receive assistance as needed in filing a complaint.

Retaliation against the complainant, respondent, or any person who filed a complaint or participated in an investigation, is prohibited. Individuals found to have engaged in retaliatory behavior will be subject to disciplinary measures.

### **INVESTIGATION**

Once a complaint is received, the Title IX Coordinator or "investigator" will first determine if the alleged conduct occurred in the school's education program or activity. If the alleged conduct is not part of the education program or activity, the complaint must be dismissed under these procedures. A dismissal does not prohibit the complainant from pursuing other remedies under state or federal law or local board or administrative policy, nor does it prohibit the school from addressing the allegations in any manner the school deems appropriate.

Following this determination, the investigator will begin the investigation in a reasonably prompt manner and adhere to the following:

- The investigator must apply the "presumption of innocence" standard during the course of the investigation.
- The investigator must adhere to all timeframes. If a timeframe cannot be met, the investigator will notify the complainant, respondent, and decision maker.
- The investigator will protect the complainant from inappropriate questions and evidence about the complainant's prior sexual history.
- The investigator must provide written notice of the allegations to the parties involved.
- The investigation may also include, but is not limited to, the following:
  - Implementation of supportive measures for both the complainant and the respondent;
  - A request for the complainant to provide a written statement regarding the nature of the complaint;
  - A request for respondent to provide a written statement;
  - A request for witnesses identified during the course of the investigation to provide a written statement;
  - Interviews of the complainant, respondent, or witnesses; and

- Review and collection of documentation or information deemed relevant to the investigation.
- Within a reasonably prompt timeframe, the investigator must issue a report to the decision maker. After finalizing the report, the investigator will provide a copy to the complainant and respondent and will wait ten days prior to providing the report to the decision maker. The investigator's report must be advisory and must not bind the decision maker to any particular course of action or remedial measure.

## **DECISION**

The decision maker will apply the preponderance of the evidence standard when making a decision and must notify the complainant and respondent of the decision. The decision must include a written determination regarding responsibility, explain how and why the decision maker reached the conclusions outlined in the report, and detail any disciplinary measures taken in response to the conduct. The decision of the decision maker in no way prejudices either the complainant or the respondent from seeking redress through state or federal agencies, as provided in law.

## **APPEAL**

The investigation is closed after the decision maker issues a decision, unless either party appeals. If either party is not satisfied with the response, he or she may seek relief from the president or designee within ten working days of receiving the response from the school administrator by submitting Form AC-TCA-F2 to the president.

The president or designee shall review the information submitted, including the findings of the investigators, and shall have the option of meeting with the affected persons, either separately or as a group. Within ten working days of receipt of the complaint, the president or designee shall issue a written report indicating the findings of his or her investigation.

The president must be the final determining body and shall decide the merits of the case based on the information contained in the formal complaint and results of the investigation at the previous level.

To the extent permitted by federal and state law, all parties, including the parents/guardians of all students involved, must be notified in writing of the final outcome of the investigation and steps taken by the school within 10 working days following a determination.

## **NOTICE AND TRAINING**

To reduce unlawful discrimination and harassment and ensure a respectful school environment, the administration is responsible for providing notice of these procedures to all TCA schools and departments. The policy and complaint procedures must be prominently posted on the TCA website, referenced in student and staff member handbooks and otherwise be made available to all students, staff, and members of the public through electronic or hard-copy distribution.

All TCA students and staff members will receive periodic training related to recognizing and preventing sex-based discrimination and sexual harassment. TCA staff members must receive additional periodic training related to handling reports of sex-based discrimination and sexual harassment. Training materials are available to the public on the TCA website.

This TCA policy replaces ASD20 Policy AC-R-2.

**Cross References**

- AC-TCA Nondiscrimination/Equal Opportunity
- AC-TCA-E1 Nondiscrimination/Equal Opportunity Notice
- AC-TCA-F1 Report of Discrimination or Harassment
- AC-TCA-F2 Discrimination/Harassment President Level Appeal Form
- AC-TCA-R1 Nondiscrimination/Equal Opportunity Procedure
- GBA-TCA Equal Employment Opportunity
- GBAA-TCA Sexual Harassment of Staff
- GBAA-TCA-P1 Sexual Harassment of Staff Procedure
- JB-TCA Equal Educational Opportunity
- JBB-TCA Sexual Harassment of Students

**Policy Revision History**

<b>Date</b>	<b>Revision Details</b>	<b>Revised By</b>
12/02/2020	Creation of policy	Compliance Officer/Title IX Coordinator