



RESOLUTION PROCESS FOR ALLEGED VIOLATIONS OF THE POLICY ON SEXUAL HARASSMENT

1. Overview

EKA will act on any formal or informal notice/complaint of violation of the Policy that is received by the Title IX Coordinator or any other employee by applying these procedures.

The procedures below apply **only** to qualifying allegations of sexual harassment (including sexual assault, dating violence, domestic violence, and stalking) involving students, staff, administrator or faculty members.

If a dismissal occurs under these procedures or the allegations fall outside of the jurisdiction of these procedures, as determined by the Title IX Coordinator, the applicable procedures under the student progressive discipline plan or applicable employee handbook will be used to resolve the complaint.

The procedures below may be used to address collateral misconduct arising from the investigation of or occurring in conjunction with reported misconduct (e.g. vandalism, physical abuse of another). All other allegations of misconduct unrelated to incidents covered by the Policy will be addressed through procedures described in the student progressive discipline plan or applicable employee handbook.

2. Notice/Complaint

Upon receiving a complaint or notice, the Title IX Coordinator initiates a prompt initial assessment. The Title IX Coordinator will initiate at least one of three responses:

- 1) Offering and/or implementing supportive measures only because the Complainant does not want to file a formal complaint;
- 2) An informal resolution (upon submission of a formal complaint); and/or
- 3) A Formal Grievance Process including an investigation and a determination whether policy was violated (upon submission of a formal complaint).

EKA uses the Formal Grievance Process to determine whether or not the Policy has been violated. If so, EKA will promptly implement effective remedies designated to ensure that it is not deliberately indifferent to sexual harassment or retaliation, their potential recurrence, or their effects.

3. Initial Assessment

The Title IX Coordinator's initial assessment typically occurs within one to three school days. The steps in an initial assessment can include:



- If notice is given, the Title IX Coordinator seeks to determine if the person impacted wishes to make a formal complaint, and will assist them to do so, if desired.
 - If not, the Title IX Coordinator determines whether to initiate a complaint because a violence risk assessment indicates a compelling threat to health and/or safety.
- If a formal complaint is received, the Title IX Coordinator assesses its sufficiency and works with the Complainant to make sure it is correctly completed.
- The Title IX Coordinator reaches out to the Complainant to offer supportive measures.
- The Title IX Coordinator works with the Complainant to ensure they are aware of the right to have an Advisor.
- The Title IX Coordinator works with the Complainant to determine whether the Complainant prefers a supportive and remedial response, an informal resolution option, or a formal investigation and grievance process.
 - If a supportive and remedial response is preferred, the Title IX Coordinator works with the Complainant to identify their wishes, assess the request, and implement accordingly. No Formal Grievance Process is initiated, though the Complainant can elect to initiate one later, if desired.
 - If an informal resolution option is preferred, the Title IX Coordinator assesses whether the complaint is suitable for informal resolution and may seek to determine if the Respondent is also willing to engage in informal resolution.
 - If a Formal Grievance Process is preferred, the Title IX Coordinator determines if the misconduct alleged falls within the scope of Title IX:
 - If it does, the Title IX Coordinator will initiate the formal investigation and grievance process, directing the investigation to address:
 - An incident, and/or
 - A pattern of alleged misconduct, and/or
 - A culture/climate concern based on the nature of the complaint.
 - If it does not, the Title IX Coordinator determines that Title IX does not apply (and will “dismiss” that aspect of the complaint, if any) assesses which policies may apply. Please note that dismissing a complaint under Title IX is solely a procedural requirement under Title IX and does not limit EKA’s authority to address a complaint with an appropriate process and remedies.

a. Dismissal (Mandatory and Discretionary)¹

EKA must dismiss a formal complaint or any allegations therein if, at any time during the investigation or meeting with the Decision-maker, it is determined that:

1. The conduct alleged in the formal complaint would not constitute sexual harassment as defined in Policy, even if proved; and/or
2. The conduct did not occur in an educational program or activity controlled by EKA and/or EKA does not have control of the Respondent; and/or

¹ These dismissal requirements are mandated by the 2020 Title IX Regulations, CFR §106.4



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3. The conduct did not occur against a person in the United States; and/or
4. At the time of filing the formal complaint, a Complainant is not participating in or attempting to participate in the education program or activity of EKA.

EKA may dismiss a formal complaint or any allegations therein if, at any time during the investigation or meeting with the Decision-maker:

1. A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint in whole or in part; or
2. The Respondent is no longer enrolled in or employed by EKA; or
3. Specific circumstances prevent EKA from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon any dismissal, EKA will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties.

This dismissal decision is appealable by any party under the appeal procedures below. The decision not to dismiss is also appealable by any party claiming that a dismissal is required or appropriate. A Complainant who decides to withdraw a complaint may later request to reinstate it or refile it.

4. Counterclaims

EKA is obligated to ensure that the grievance process is not abused for retaliatory purpose. EKA permits the filing of counterclaims but uses an initial assessment, described above, to assess whether the allegations in the counterclaim are made in good faith. Counterclaims by a Respondent may be made in good faith, but are, on occasion, also made for the purposes of retaliation. Counterclaims made with retaliatory intent will not be permitted.

Counterclaims determined to have been in good faith will be processed using the grievance procedures below. Investigation of such claims may take place after resolution of the underlying initial allegation, in which case a delay may occur.

Counterclaims may also be resolved through the same investigation as the underlying investigation, at the discretion of the Title IX Coordinator. When counterclaims are not made in good faith, they will be considered retaliatory and may constitute a violation of Policy.

5. Right to an Advisor

The parties may each have an advisor² of their choice present with them for all meetings and interviews within the resolution process, if they so choose.

² This could be an attorney, advocate, or support person. The law permits one Advisor for each party (witnesses are not entitled to their own Advisor within the process, though they can be advised externally).



The parties may select whoever they wish to serve as their Advisor as long as the Advisor is eligible and available.³

For students, this Advisor can be someone in addition to their parent/guardian who may also be present with them for all meetings and interviews within the resolution process.

Choosing an Advisor who is also a witness in the process creates potential for bias and conflict-of-interest. A party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be explored by the Decision-Maker.

a. Who Can Serve as an Advisor

The Advisor may be a friend, mentor, family member, attorney, or other individual a party chooses to advise, support, and/or consult with them throughout the resolution process. The parties may choose Advisors from inside or outside the EKA community.

Parties also have the right to choose not to have an Advisor during the resolution process.

b. Advisor's Role in Meetings and Interviews

The parties may be accompanied by their Advisor in all meetings and entries at which the party is entitled to be present, including intake and investigation interviews. Advisors should help the parties prepare for each meeting and are expected to advise ethically, with integrity, and in good faith.

EKA cannot guarantee equal Advisory rights, meaning that if one party selects an Advisor who is an attorney, but the other party does not or cannot afford an attorney, EKA is not obligated to provide an attorney or financially supplement parties to equalize Advisor options.

c. Pre-Interview Meetings

Advisors may request to meet with the administrative officials conducting interviews/meetings in advance of those interviews or meetings. This pre-meeting allows Advisors to clarify and understand their role and EKA's policies and procedures.

³ "Available" means the party cannot insist on an Advisor who simply doesn't have inclination, time, or availability. Also, the Advisor cannot have institutionally conflicting roles, such as being a Title IX administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions.



d. Advisor Violations of EKA Policy

All Advisors are subject to the same EKA policies and procedures, whether they are attorneys or not. Advisors are expected to advise their advisees without disrupting proceedings or meetings.

The parties are expected to ask and respond to questions on their own behalf throughout the resolution process. In case where a party requires assistance in asking and/or responding to questions on their own behalf (e.g. due to age or disability), the Advisor will be allowed to ask and/or respond to questions on behalf of their advisee, at the discretion of the Investigator(s) or Decision-maker. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any resolution process meeting or interview. For longer or more involved discussions, the parties and their Advisors should ask for breaks to allow for private consultation.

Any advisor who oversteps their role as defined by this policy will be warned only once. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting will be ended, or other appropriate measures implemented. Subsequently, the Title IX Coordinator will determine how to address the Advisor's non-compliance and future role.

e. Sharing Information with the Advisor

EKA expects that the parties may wish to have EKA share documentation and evidence related to the allegations with their Advisors. Parties may share this information directly with their Advisor or other individuals if they wish. Doing so may help the parties participate more meaningfully in the resolution process.

EKA also provides a consent form that authorizes EKA to share such information directly with their Advisor. The parties must submit this completed form to the Title IX Coordinator or provide similar documentation demonstrating consent to a release of information to the Advisor before EKA is able to share records with an Advisor.

If a person requests that all communication be made through their attorney Advisor, EKA will comply with that request at the discretion of the Title IX Coordinator.

f. Privacy of Records Shared with Advisor

Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by EKA. EKA may be able to seek to restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by EKA's privacy expectations.



g. Expectations of an Advisor

EKA generally expects an Advisor to adjust their schedule to ensure attendance at EKA meetings when planned but may change scheduled meetings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay.

EKA may also make reasonable provisions to allow an Advisor who cannot attend in person to attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and available.

h. Expectations of the Parties with Respect to Advisors

A party may elect to charge Advisors during the process and is not obligated to use the same Advisor throughout. The parties are expected to inform the investigator(s) and Decision-maker of the identity of their Advisor at least two (2) school days before the date of their first meeting with Investigators and Decision-makers (or as soon as possible if a more expeditious meeting is necessary or desired).

The parties are expected to provide timely notice to the Title IX Coordinator if they change Advisors. If a party changes Advisors, consent to share information with the previous Advisor is terminated, and a release for the new Advisor must be secured.

6. Resolution Processes

Resolution proceedings are private. All persons present at any time during the resolution processes are expected to maintain the privacy of the proceedings in accordance with EKA policy. Although there is an expectation of privacy around what investigators share with parties during interviews, the parties have discretion to share their own knowledge and evidence with others if they so choose, with the exception of information the parties agree not to disclose related to Informal Resolution, discussed below. EKA encourages parties to discuss any sharing of information with their Advisors before doing so.

a. Informal Resolution

Informal Resolution can include three different approaches:

- When the Title IX Coordinator can resolve the matter informally by providing supportive measures (only) to remedy the situation.
- When the parties agree to resolve the matter through an alternative resolution mechanism as described below, usually before a formal investigation takes place; see discussion in b., below.
- When EKA accepts statement from Respondent acknowledging responsibility for violating policy, and desires to accept a sanction and end the resolution process (similar to above, but usually occurs post-investigation); see discussion in c., below.



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To initiate Informal Resolution, a Complainant must submit a formal complaint, as described above. A Respondent who wishes to initiate Informal Resolution should contact the Title IX Coordinator.

It is not necessary to pursue Informal Resolution first in order to pursue a Formal Grievance Process, and any party participating in Information Resolution can stop the process at any time and begin or resume the Formal Grievance Process.

Prior to Implementing Informal Resolution, EKA will provide the parties with written notice of the reported misconduct and any sanctions or measures that may result from participating in such a process, including information regarding any records that will be maintained or shared by EKA.

EKA will obtain voluntary, written confirmation that all parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the parties to participate in Informal Resolution.

Informal Resolution will not be used to resolve allegations of complaints where the Complainant is a student and the Respondent is an employee. Nevada Revised Statutes 201.540 will govern incidents involving student and employee relations.

b. Alternative Resolution Mechanism

Alternative Resolution is an informal mechanism by which the parties mutually agree to resolve an allegation. All parties must consent to the use of an Alternate Resolution mechanism.

The Title IX Coordinator may look to the following factors to assess whether Alternate Resolution is appropriate, or which form of Alternate Resolution may be most successful for the parties:

- The parties' preference for Alternate Resolution;
- Likelihood of potential resolution, considering any power dynamics between the parties;
- The parties' motivation to participate;
- Civility of the parties;
- Results of a violence risk assessment/ongoing risk analysis;
- Disciplinary history;
- Whether an emergency removal is needed;
- Complaint complexity;
- Capacity of parties to understand the process and fully participate in the process;
- Goals of the parties;
- Adequate resources to invest in Alternate Resolution (time, staff, etc.)



The ultimate determination of whether Alternate Resolution is available or successful is to be made by the Title IX Coordinator. The Title IX Coordinator maintains records of any resolution that is reached, and failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions. Results of complaints resolved by Informal Resolution or Alternate Resolution are not appealable.

c. Respondent Accepts Responsibility for Alleged Violations

The Respondent may accept responsibility for all or part of the alleged policy violations at any point during the resolution process. If the Respondent indicates an intent to accept responsibility for all of the alleged misconduct, the formal process will be paused, and the Title IX Coordinator will determine whether Informal Resolution can be used according to the criteria above. If so, the Title IX Coordinator will determine whether all parties and EKA are able to agree on responsibility, sanctions, and/or remedies. If so, the Title IX Coordinator implements the accepted finding that the Respondent is in violation of EKA policy and implements agreed-upon sanctions and/or remedies, in coordination with other appropriate administrator(s), as necessary.

The result is not subject to appeal once all parties indicate their written assent to all agreed upon terms of resolution. When the parties cannot agree on all terms of resolution, the Formal Grievance Process will resume at the same point where it was paused.

When a resolution is accomplished, the appropriate sanction or responsive actions are promptly implemented in order to effectively stop the sexual harassment or retaliation, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

d. Negotiated Resolution

The Title IX Coordinator, with the consent of the parties, may negotiate and implement an agreement to resolve the allegations that satisfy all parties and EKA. Negotiated Resolutions are not appealable.

7. Formal Grievance Process: Notice of Investigation and Allegations

The Title IX Coordinator will provide written notice of the investigation and allegations (the "NOIA") to the Respondent upon commencement of the Formal Grievance Process. This facilitates the Respondent's ability to prepare for the interview and to identify and choose an Advisor to accompany them. The NOIA is also copied to the Complainant, who is to be given advance notice of when the NOIA will be delivered to the Respondent.



The NOIA will include:

- A meaningful summary of all of the allegations,
- The identity of the involved parties (if known),
- The precise misconduct being alleged,
- The date and location of the alleged incident(s) (if known),
- The specific policies implicated,
- A description of the application procedures,
- A statement of the potential sanctions/responsive actions that could result,
- A statement that EKA presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination,
- A statement that determinations of responsibility are made at the conclusion of the process and that the parties will be given an opportunity to inspect and review all directly related and/or relevant evidence obtained during the review and comment period,
- A statement about EKA's policy on retaliation,
- Information about the privacy of the process,
- Information on the need for each part to have an Advisor of their choosing and suggestions for ways to identify and Advisor,
- A statement informing the parties that EKA Policy prohibits knowingly making false statements, including knowingly submitting false information during the resolution process,
- Detail on how the party may request disability accommodations during the resolution process,
- The name(s) of the Investigator(s), along with a process to identify, in advance of the interview process, to the Title IX Coordinator any conflict of interest that the Investigator(s) may have, and
- An instruction to preserve any evidence that is directly related to the allegations.

Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of any allegations.

Notice will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address(es) of the parties as indicated in the official EKA records, or emailed to the parties' EKA-issued email or designated accounts. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

8. Resolution Timeline

EKA will make a good faith effort to complete the resolution process within thirty to sixty school days, including appeal. This time frame can be extended as necessary by the Title IX Coordinator, who will provide notice and rationale for any extensions or delays to the parties as appropriate, as well as an estimate of how much additional time will be needed to complete the process.



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9. Appointment of Investigators

Once the Title IX Coordinator decides to begin a formal investigation, the Title IX Coordinator appoints EKA team members to conduct the investigation, usually within two (2) school days of determining that an investigation should proceed.

10. Ensuring Impartiality

Any individual materially involved in the administration of the resolution process including the Title IX Coordinator, Investigator(s) and Decision-maker, may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

The Title IX Coordinator will vet the assigned Investigator(s) to ensure impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. The parties may, at any time during the resolution process, raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another EKA member will be assigned and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX Coordinator, concerns should be raised with EKA's Superintendent, Ms. Mattson.

The Formal Grievance Process involves an objective evaluation of all relevant evidence obtained, including evidence that supports that the Respondent engaged in a policy violation and evidence that supports that the Respondent did not engage in a policy violation. Credibility determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness.

EKA presumes that the Respondent is not responsible for the reported misconduct unless and until a final determination is made that this Policy has been violated.

11. Investigation Timeline

Investigations are completed promptly, normally within 30 school days, though some investigations may take longer, depending on the nature, extent and complexity of the allegations, availability of witnesses, police involvement, etc.

EKA will make a good faith effort to complete investigations as promptly as possible and will communicate regularly with the parties to update them on the progress and timing of the investigation.

12. Delays in the Investigation Process and Interactions with Law Enforcement

EKA may undertake a short delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include but are not limited to a request from law enforcement to temporarily delay the investigation, the need for language assistance, the



absence of parties and/or witnesses, and/or accommodations for disabilities or health conditions.

EKA will communicate in writing the anticipated duration of the delay and reason to the parties and provide the parties with status updates if necessary. EKA will promptly resume its investigation and resolution process as soon as feasible. During such a delay, EKA will implement supportive measures as deemed appropriate.

EKA action(s) or processes may be delayed, but are not stopped by, civil or criminal charges involving the underlying incident(s). Dismissal or reduction of those criminal charges may or may not impact on EKA's action(s) or processes.

13. Steps in the Investigation Process

All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with all relevant parties and witnesses; obtaining available, relevant evidence; and identifying sources of expert information, as necessary.

All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence and expert witnesses, and to fully review and respond to all evidence on the record.

The investigator(s) typically take(s) the following steps, if not already completed (not necessarily in this order):

- Determine the identity and contact information of the Complainant
- In coordination with school partners (e.g., the Title IX Coordinator), initiate or assist with any necessary supportive measures
- Identify all policies implicated by the alleged misconduct and notify the Complainant and Respondent of all of the specific policies implicated
- Assist the Title IX Coordinator with conducting a prompt initial assessment to determine if the allegations indicate a potential policy violation
- Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for all witnesses and the parties
- Meet with the Complainant to finalize their interview/statement, if necessary
- Prepare the initial Notice of Investigation and Allegation (NOIA). The NOIA may be amended with any additional or dismissed allegations.
 - Notice should inform the parties of their right to have the assistance of an Advisor of their choosing present for all meetings attended by the party
- Provide each interviewed party and witness an opportunity to review and verify the Investigator's summary notes (or transcript) of the relevant evidence from their respective interviews and meetings
- Make good faith efforts to notify the parties of any meeting or interview involving the other party, in advance when possible



- When participation of a party is expected, provide that party with written notice of the date, time, and location of the meeting, as well as the expected participants and purpose
- Interview all available, relevant witnesses and conduct follow-up interviews as necessary
- Allow each party the opportunity to suggest witnesses and questions they wish the Investigator(s) to ask of the other party and witnesses, and document in the investigation report which questions were asked, with a rationale for any changes or omissions
- Complete the investigation promptly and without unreasonable deviation from the intended timeline
- Provide regular status updates to the parties throughout the investigation
- Prior to the conclusion of the investigation, provide the parties and their respective Advisors with a list of witnesses whose information will be used to render a finding
- Write a comprehensive investigation report fully summarizing the investigation, all witness interviews, and addressing all relevant evidence. Appendices including relevant physical or documentary evidence will be included
- Prior to the conclusion of the investigation, provide the parties and their respective Advisors a secured electronic or hard copy of the draft investigation report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the reported misconduct, including evidence upon which EKA does not intend to rely in reaching a determination, for a 10 school day review and comment period so that each party may meaningfully respond to the evidence. The parties may elect to waive the full ten days.
- The Investigator(s) may elect to respond in writing in the investigation report to the parties' submitted responses and/or to share the responses between the parties for additional responses
- The Investigator(s) will incorporate relevant elements of the parties' written responses into the final investigation report, include any additional relevant evidence, make any necessary revisions, and finalize the report. The Investigator(s) should document all rationales for any changes made following the review and comment period.
- The Investigator(s) shares the report with the Title IX Coordinator and/or legal counsel for their review and feedback
- The Investigator will incorporate any relevant feedback, and the final investigation report is then shared with all parties and their Advisors through secure electronic transmission or hard copy at least 10 school days prior to a meeting with the Decision-maker. The parties are also provided with a file of any directly related evidence that was not included in the report.

13. Role and Participation of Witnesses in the Investigation

Witnesses (as distinguished from the parties) who are employees of EKA are expected to cooperate with and participate in EKA's investigation and resolution process. Failure of such witnesses to cooperate with and/or participate in the investigation or resolution process constitutes a violation of policy and may warrant discipline. Student witnesses and witnesses



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from outside the school community are encouraged to share what they know about the complaint.

Although in-person interviews for parties and all potential witnesses are ideal, circumstances may require individuals to be interviewed remotely. Skype, Zoom, FaceTime, WebEx, or similar technologies may be used for interviews if the Investigator(s) determine that timeliness of efficiency dictate a need for remote interviewing. EKA will take appropriate steps to reasonably ensure the security/privacy of the remote interviews.

Witnesses may also provide written statements in lieu of interviews or choose to respond to written questions, if deemed appropriate by the investigator(s), though not preferred.

15. Recording of Interviews

No unauthorized audio or video recording of any kind is permitted during investigation meetings. If Investigator(s) elect to audio and/or video record interviews, all involved parties must be made aware and consent to audio and/or video recording.

16. Evidentiary Considerations in the Investigation

The investigation does not consider; 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, 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, 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.

While respecting the limitations above, character witnesses or evidence may be offered. The investigation and hearing will determine if the character evidence is relevant. If so, it may be considered. If not, it will be excluded.

17. Referral to a Decision-maker

If the complaint is not resolved through Informal Resolution, and after the final investigation report is shared with the parties, the Title IX Coordinator will refer the matter to a Decision-maker to make a determination regarding responsibility.

The Decision-maker cannot make a determination regarding responsibility prior to ten (10) school days from the conclusion of investigation - when the final investigation report is transmitted to the parties and the Decision-maker - unless all parties and the Decision-maker agree to an expedited timeline.



18. Decision-maker Designation

EKA will designate a single Decision-maker and inform the parties/advisors.

The Decision-maker(s) will not have had any previous involvement with the investigation. Those who have served as Investigators in this investigation may not serve as Decision-makers. Those who are serving as Advisors for any party may not serve as Decision-makers in that matter. The Title IX Coordinator may not serve as a Decision maker in the matter.

All objections to any Decision-maker must be written, detailing the rationale for the objection, and must be submitted to the Title IX Coordinator no later than two (2) school days after being notified of the identity of the Decision-maker. Decision-makers will only be removed if the Title IX Coordinator concludes that their bias or conflict of interest precludes an impartial consideration of the evidence.

The Title IX Coordinator will give the Decision-maker a list of the name of all parties, witnesses, and Advisors. Any Decision-maker who cannot make an objective determination must recuse themselves from the proceedings when notified of the identity of the parties, witnesses, and Advisors. If a Decision-maker is unsure of whether a bias or conflict of interest exists, they must raise the concern to the Title IX Coordinator as soon as possible.

19. Evidentiary Consideration by the Decision-Maker

Any evidence that the Decision-maker determines is relevant and credible may be considered. The Decision-maker will not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, 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, 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.

Previous disciplinary action of any kind involving the Respondent may be considered in determining an appropriate sanction upon a determination of responsibility. This information is only considered at the sanction stage of the process and is not shared with the Decision-maker until then.

The parties may each submit a written impact statement for the consideration of the Decision-maker at the sanction stage of the process when a determination of responsibility is reached.

20. Exchange of Questions

The Decision-maker will facilitate the exchange of written questions between the parties and direct any written questions to any witnesses before a final determination is made.



The Decision-maker will invite each party to submit proposed written questions for other parties/witnesses. Upon receipt of the proposed questions, the Decision-maker will review the proposed questions and determine which questions will be permitted, disallowed, or rephrased. The Decision-maker will limit or disallow questions on the basis that they are irrelevant, repetitive, or abusive. The Decision-maker has full authority to decide all issues related to questioning and determinations of relevance. The Decision-maker may ask a party to explain why a question is or is not relevant from their perspective. The Decision-maker will explain any decision to exclude a question as not relevant, or to reframe it for relevance.

The Decision-maker after any necessary consultation with the parties, Investigator(s) and/or Title IX Coordinator, will provide the parties and witnesses with the relevant written questions to be answered and allow for a period of time whereby the parties and witnesses are to submit written responses to the questions and any appropriate follow-up questions or comments by the parties.

- A copy of all the materials provided to the Decision-maker about the matter.
- An invitation for the parties to review and submit a written response to the final investigation report within 3 business days of the date of the notice.
- An invitation to each party to submit to the Decision-maker any written, relevant questions they want the Decision-maker to ask of any other party or witness within 3 school days of the date of the notice.
- An invitation to each party to submit to the Decision-maker an impact statement pre-meeting date the Decision-maker will review during any sanction determination.
- An invitation to contact the Title IX Coordinator to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at any meeting or in the decision-making process, at least 7 school days prior to the meeting/final determination.
- Whether parties can/cannot bring mobile phones/devices into the meeting.

Meetings for possible violations that occur near or after the end of a school year (assuming the Respondent is still subject to this Policy) and are unable to be resolved prior to the end of the school year will typically be held as soon as possible given the availability of the parties, but no later than immediately upon the start of the following school year. EKA will implement appropriate supportive measures intended to correct and remediate any hostile environment while the resolution is delayed.

21. Decision-Maker Meeting Procedures

Participants at a meeting may include the Decision-maker, the Investigator(s) who conducted the investigation, the party/witness, the party's advisor, the Title IX Coordinator, the parent/guardian, and anyone providing authorized accommodations or assistive services.

At a meeting, the Decision-maker has the authority to hear and make determinations on all allegations of sexual harassment and/or retaliation and may also hear and make determinations on any additional alleged policy violations that have occurred in concert with



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the sexual harassment and/or retaliation, even though those collateral allegations may not specifically fall within the Policy.

Any witness scheduled to meet with the Decision-maker must have been first interviewed by the Investigator(s), unless all parties and the Decision-maker assent to the witness's participation.

If the parties and Decision-maker do not assent to the admission of evidence newly offered at the meeting, the Decision-maker may delay the meeting and instruct that the investigation needs to be re-opened to consider that evidence.

If the parties raise an issue of bias or conflict of interest of an Investigator or Decision-maker at the meeting, the Decision-maker may elect to address those issues, consult with legal counsel, and/or refer them to the Title IX Coordinator, and/or preserve them for appeal. If bias is not an issue at the meeting, the Decision-maker should not permit irrelevant questions that probe for bias.

22. Deliberation, Decision-making, and Standard of Proof

The Decision-maker will then deliberate to determine whether the Respondent is responsible or not responsible for the policy violation(s) in question. The preponderance of the evidence will be used for Standard of Proof.

Then there is a finding of responsibility on one or more of the allegations, the Decision-maker may then consider the previously submitted party impact statements in determining appropriate sanction(s).

The Decision-maker will ensure that each of the parties has an opportunity to review any impact statement submitted by the other party(ies). The Decision-maker may - at their discretion - consider the statements, but they are not binding.

The Decision-maker will review the statements and any pertinent conduct history provided and will determine the appropriate sanctions.

The Decision-maker will then prepare a written deliberation statement and deliver it to the Title IX Coordinator.

This statement must be submitted to the Title IX Coordinator within two (2) school days after the Decision-maker held their final meeting with the parties/witnesses or concluded the paper evidence exchange/questioning process, unless the Title IX Coordinator grants an extension. If an extension is granted, the Title IX Coordinator will notify the parties.



23. Notice of Outcome

Using the deliberation statement, the Decision-maker will work in conjunction with the Title IX Coordinator as needed to prepare the Notice of Outcome. The Title IX Coordinator will then share the letter, including the final determination, rationale, and any applicable sanction(s) with the parties and their Advisors within 5 school days of receiving the Decision-maker's deliberation statement.

The Notice of Outcome will then be shared with the parties simultaneously. Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official EKA records, or emailed to the parties' EKA-issued email or otherwise approved account. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The Notice of Outcome will articulate the specific policy(ies) reported to have been violated including the relevant policy section, and will contain a description of the procedural steps taken by EKA from the receipt of the misconduct report to the determination, including any and all notifications to the parties, interviews with the parties and witnesses, site visits, and methods used to obtain evidence.

The Notice of Outcome will specify the finding on each alleged policy violation; the findings of fact that support the determination; conclusions regarding the application of relevant policy to the facts at issue; a statement of, and rationale for, the result of each allegation to the extent EKA is permitted to share such information under state or federal law; and any remedies provided to the Complainant designed to ensure access to EKA's educational or employment program or activity, to the extent EKA is permitted to share such information under state or federal law.

The Notice of Outcome will also include the relevant procedures and bases for any available appeal options.

24. Sanctions

Factors considered when determining a sanction/responsive action may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- Previous allegations or allegations involving similar conduct
- The need for sanctions/responsive actions to bring an end to the sexual Harassment and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of sexual harassment and/or retaliation
- The need to remedy the effects of the sexual harassment and/or retaliation on the Complainant and the community



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- The impact on the parties
- Any other information deemed relevant by the Decision-maker

The sanctions will be implemented as soon as feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested.

The sanctions described in this policy are not exclusive of, and may be added in addition to, other actions taken, or sanctions imposed by external authorities.

a. Student Sanction Options

The following are the usual sanctions that may be imposed upon students singly or in combination:

- Warning
- Required Counseling
- Required substance abuse treatment program
- Exclusion from participating in extracurricular activities or other school programs/activities
- Suspension
- Expulsion
- Other Actions: In addition to or in place of the above sanctions, EKA may assign any other sanctions as deemed appropriate.

b. Employee Sanctions/Responsive Actions

Responsive actions for an employee who has engaged in harassment and/or retaliation include:

- Warning - Verbal or Written
- Improvement Plan
- Enhanced supervision, observation or review
- Required counseling
- Required Training or Education
- Probation
- Denial of Pay Increase/Pay Grade
- Loss of Oversight or Supervisory Responsibility
- Demotion
- Reassignment
- Assignment to new supervisor
- Restriction of stipends
- Suspension with pay
- Suspension without pay
- Termination



- Other actions: In addition to or in place of the above sanctions/responsive actions, EKA may assign any other responsible actions as deemed appropriate.

25. Withdrawal of Resignation While Charges Pending

Students:

Should a student decide to not participate in the resolution process, the process proceeds absent their participation to a reasonable resolution. Should a student Respondent permanently withdraw from EKA, the resolution process ends as EKA no longer has disciplinary jurisdiction over the withdrawn student.

However, EKA will continue to address and remedy any systemic issues, variables that may have contributed to the alleged violation(s), and any ongoing effects of the alleged sexual harassment and/or retaliation.

The student who withdraws or leaves while the process is pending may not return to EKA. A hold will be placed on their ability to be readmitted. They may also be barred from EKA property and/or events.

If the student Respondent only withdraws or takes a leave for a specified period of time (e.g., one semester), the resolution process may continue remotely, and that student is not permitted to return to EKA unless and until all sanctions have been satisfied.

Employees:

Should an employee Respondent resign with unresolved allegations pending, the resolution process ends, as EKA no longer has disciplinary jurisdiction over the resigned employee.

However, EKA will continue to address and remedy any systemic issues, variables that may have contributed to the alleged violation(s), and any ongoing effects of the alleged sexual harassment and/or retaliation.

The employee who resigns with unresolved allegations pending is not eligible for rehire with EKA, and the records retained by the Title IX Coordinator will reflect that status. Any state mandates for reporting of this resignation with respect to licensure or certification will be met.

All EKA responses to future inquiries regarding employment references for that individual will include that the former employee resigned during a pending disciplinary matter.

26. Appeals

Any party may file a request for appeal ("Request for Appeal") in writing to the Title IX Coordinator within 5 school days of the delivery of the Notice of Outcome.

No appeal panelists will have been involved in the process previously, including any dismissal appeal that may have been heard earlier in the process.



The Request for Appeal will be forwarded to the Appeal Chair for consideration to determine if the request meets the grounds for appeal.

This review is not a review of the merits of the appeal, but solely a determination as to whether the request meets the grounds and is timely filed.

a. Grounds for Appeal

Appeals are limited to the following grounds:

- (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; and
- (C) The Title XI Coordinator, Investigator(s), or Decision-maker had a conflict of interest or bias for or against Complainants and Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter.

If any grounds in the Request for Appeal do not meet the grounds in this Policy, that request will be denied by the Appeal Chair and the parties and their Advisors will be notified in writing of the denial and the rationale.

If any of the grounds in the Request for Appeal meet the grounds in this Policy, then the Appeal Chair will notify the other party(ies) and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigators and/or the original Decision-maker.

The other party(ies) and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigators and/or the original Decision-maker will be mailed, emailed and/or provided a hard copy of the request with the approved grounds and then be given 5 school days to submit a response to the portion of the appeal that was approved and involves them. All responses will be forwarded by the Chair for all parties to review and comment.

The non-appealing party (if any) may also choose to raise a new ground for appeal at this time. If so, that will be reviewed to determine if it meets the grounds in this Policy by the Appeal Chair and either denied or approved. If approved, it will be forwarded to the party who initially requested an appeal, the Investigator(s) and/or original Decision-maker, as necessary, who will submit their responses in 5 school days, which will be circulated for review and comment by all parties.

Neither party may submit any new requests for appeal after this time period. The Appeal Chair will collect any additional information needed and all documentation regarding the approved grounds and the subsequent responses will be shared with the Appeal Panel and the Chair will render a decision in no more than 7 school days, barring unusual circumstances. All decisions are made by majority vote and apply the preponderance of evidence will be used for Standard of Proof.



A Notice of Appeal Outcome will be sent to all parties simultaneously including the decision on each approved ground and rationale for each decision. The Notice of Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanctions that may result which EKA is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent EKA is permitted to share under state or federal law.

Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official institutional records, or emailed to the parties' EKA-issued email or otherwise approved account. Once mailed, emailed and/or received in-person, notice will be presumptively delivered.

b. Sanctions Status During the Appeal

Any sanctions imposed by the Decision-maker take effect following the appeal process. Supportive measures may remain in effect during an appeal process, subject to the same supportive measure procedures above.

c. Appeal Considerations

- Appeal decisions defer to the original decision, making changes to the determination only when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so.
- Appeals are not intended to provide for a full reconsideration of the allegation(s) and evidence. In most cases, appeals are confined to a review of the written documentation and pertinent documentation regarding the specific grounds for appeal.
- An appeal is not an opportunity for Appeal Decision-makers to substitute their judgement for that of the original Decision-maker merely because they disagree with the determination and/or sanction(s).
- The Appeal Chair/Decision-maker may consult with the Title IX Coordinator on questions of procedure or rationale, for clarification, if needed. Documentation of all such consultation will be maintained.
- Appeals granted based on new evidence should normally be remanded (returned) to the original Investigator(s) and/or Decision-maker for reconsideration. Other appeals may be remanded at the discretion of the Title IX Coordinator or, in limited circumstances, decided on appeal.
- Once an appeal is decided, the outcome is final: further appeals are not permitted, even if a decision or sanction is changed on remand.
- In rare cases where a procedural error cannot be cured by the original Decision-maker, the appeal may order a new hearing with a new Decision-maker.
- The results of a new hearing can be appealed, once, on any of the three available appeal grounds.



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- In cases in which the appeal results in reinstatement to EKA or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities may be irreparable in the short term.

27. Long-Term Remedies/Other Actions

Following the conclusion of the resolution process, and in addition to any sanctions implemented, the Title IX Coordinator may implement additional long-term remedies or actions with respect to the parties and/or the school community that are intended to stop the sexual harassment and/or retaliation, remedy the effects, and prevent re-occurrence.

These remedies/actions may include, but are not limited to:

- Referral to counseling and health services
- Education to the individual and/or the community
- Permanent alteration of work arrangements for employees
- Provision of school safety escorts
- Climate surveys
- Policy modification and/or training
- Implementation of long-term contact limitations between the parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator, certain long-term support or measures may also be provided to the parties even if no policy violation is found.

When no policy violation is found, the Title IX Coordinator will address any remedies owed by EKA to the Respondent to ensure no effective denial of educational access.

EKA will maintain the privacy of any long-term remedies/actions/measures, provided privacy does not impair EKA's ability to provide these services.

28. Failure to Comply with Sanctions and/or Interim and Long-Term Remedies and/or Responsive Actions

All Respondents are expected to comply with the assigned sanctions, responsive actions, and/or corrective actions within the timeframe specified by the final Decision-maker, including the Appeal Chair.

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from EKA.



29. Recordkeeping

EKA will maintain for a period of at least seven years records of:

1. Each sexual harassment investigation including any determination regarding responsibility and any audio or audio-visual recording or transcript required under federal regulation;
2. Any disciplinary sanctions imposed on the Respondent;
3. Any remedies provided to the Complainant designed to restore or preserve equal access to EKA's education program or activity;
4. Any appeal and the result therefrom;
5. Any Informal Resolution and the result therefrom;
6. All materials used to train Title IX Coordinators, Investigators, Decision-makers, and any person who facilitates an Informal Resolution process. EKA will make these training materials publicly available on EKA's website.
7. Any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment, including:
 1. The basis for all conclusions that the response was not deliberately indifferent;
 2. Any measures designed to restore or preserve equal access to EKA's education program or activity; and
 3. If no supportive measures were provided to the Complainant, document the reasons why such a response was not clearly reasonable in light of the known circumstances.

EKA will also maintain any and all records in accordance with state and federal laws.

30. Disabilities Accommodations in the Resolution Process

EKA is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to EKA's resolution process.

Anyone needing such accommodations or support would contact the Superintendent who will review the request and, in consultation with the person requesting the accommodation and the Title IX Coordinator, determine which accommodations are appropriate and necessary for full participation in the process.

31. Revision of this Policy and Procedures

This Policy and procedures supersede any previous policy(ies) addressing harassment, sexual misconduct and/or retaliation under Title IX and will be reviewed and updated annually by the Title IX Coordinator. EKA reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

During the resolution process, the Title IX Coordinator may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party. The Title IX Coordinator may also vary procedures materially with notice (on the school website, with the



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appropriate effective date identified) upon determining that changes to law or regulation require policy or procedural alternations not reflected in this Policy and procedures.

If government laws or regulations change the requirements in a way that impacts this document, this document will be construed to comply with the most recent government regulations and holdings.

This document does not create legally enforceable protections beyond the protections of the background state and federal laws which frame such policies and codes, generally.

This Policy and procedures are effective November 27, 2020