



## PLA Network Title IX Policy

### Policy Statement

The PLA Network strives to ensure that all PLA scholars and employees are educated and work in a positive and productive environment free from discrimination, including sexual harassment and sexual violence. This policy statement is codified in Title IX, which prohibits sex discrimination in any federally funded educational program. This prohibition applies to all institutions receiving certain federal funds, including public school districts and publicly funded charter schools, and includes all educational experiences the network offers, including academics, athletics, and extracurricular activities.

Title IX is most often associated with inequity in athletics; however more recently, the law has been applied to sex discrimination, which includes sexual harassment and sexual violence.

### Sexual Harassment

In the context of Title IX, sexual harassment covers 3 types of sexual misconduct which jeopardizes equal access to education.

1. Quid pro quo harassment occurs when a school employee conditions access to educational benefits on unwelcome sexual conduct. (Note: This provision does not cover sexual conduct by scholars or other agents.)
2. Unwelcome sexual conduct that creates an intimidating, hostile, or abusive environment that is so severe or pervasive, and objectively offensive that it prevents a person from fully participating in an educational program or activity.
3. Sexual violence which is any instance of sexual assault (as defined in the Clery Act), dating violence, domestic violence, or stalking (as defined in the Violence Against Women Act (VAWA)). It includes physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's age, use of drugs or alcohol. An individual may also be unable to consent due to an intellectual or other disability. Sexual violence includes rape, sexual assault, sexual battery, and sexual coercion.

Harassment includes unwanted verbal or written sexual statements, graffiti, name-calling, and sexual advances in person or via cellphones or the Internet. There does not need to be an intent to harm. The activity or behavior does not need to be directed at a specific person. Male and female scholars may be subject to sexual harassment. In addition, harassment based on gender stereotypes is sexual harassment.

This expansive definition covers conduct by employees against other employees, not just conduct directed at scholars.



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### PLA Network Title IX Obligations

Any Network school that knows or reasonably should have known about sexual harassment or sexual violence that creates a hostile environment, must take immediate action to end the harassment, prevent its recurrence, and remediate its effects, regardless of whether a scholar complains. The school has a duty to respond upon receiving any report of sexual harassment.

A Network school is liable when it has **actual notice** of sexual harassment or sexual violence and it displays **deliberate indifference** to the report.

- A school is considered to have actual knowledge of sexual harassment or the allegations of sexual harassment when reported to the Title IX Coordinator, or any official with authority to act on behalf of the school, or authority to institute corrective measures on behalf of the school, trigger the school's response obligation.
- Deliberate indifference is defined as actions that are "clearly unreasonable in light of the known circumstances."

### How the Network meets its obligations

When a report of sexual harassment is received by any mandated reporter it must be relayed to the Network Title IX Coordinator.

#### **A. Mandatory Reporters**

Under the new regulations, all K-12 employees have been designated mandatory reporters for Title IX purposes. This means all reports of sexual harassment, or incidents of sexual violence made to any employee must be promptly reported to the Title IX coordinator or Deputy Title IX Coordinator. This includes reports to bus drivers, cafeteria workers, school counselors, etc. This means employees may not act as a confidential resource (or confidante) for Title IX reporting.

#### **B. Title IX Coordinator**

The Title IX Coordinator has the authority to ensure Title IX compliance for the Network. The Coordinator is trained in Title IX compliance requirements and other applicable federal and state laws. The Network has appointed Nicole Scott and Michelle Reeves, as the Network Title IX Coordinators. The Coordinators may be reached via:

Office Address: 2323 N. Illinois Street, Indianapolis, IN 46208

Email Address: [nscott@phalenacademies.org](mailto:nscott@phalenacademies.org) or [mreeves@phalenacademies.org](mailto:mreeves@phalenacademies.org)

Phone Number: 323-630-1030 317-989-3314

The Title IX Coordinators are also responsible for ensuring that the appropriate designated school officials are properly trained on how to investigate and resolve Title IX complaints.

The Title IX Coordinator works with the Deputy Title IX Coordinator to create a structure of documentation and reporting which ensures that all Title IX issues in the Network are addressed and resolved.

#### **Additional Resources:**

[Title IX Training Overview](#)

[Title IX training materials](#)



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### C. Deputy Title IX Coordinator

The Deputy Title IX Coordinator is responsible for tracking and reporting to the Title IX Coordinator all incidents of sexual misconduct on their respective campus, and works with the Title IX Coordinator to ensure that the appropriate designated school officials are involved in investigating and resolving complaints according to the Network's applicable policies and procedures. Every school in the network must identify a Deputy Title IX Coordinator for their campus.

### Title IX Report/Complaint Procedures Report

A **report** (of sexual harassment or discrimination) may be filed by a scholar, their parent/guardian, an employee, or any person, at any time, and by any means (in person, phone, mail or email) that results in the Title IX Coordinator or Deputy Title IX Coordinator receiving the person's verbal or written report. Reports are not limited to a school's campus community and may come from others, such as on-campus visitors.

Upon receiving a report, the Title IX Coordinator must do the following:

1. Contact the complainant, i.e., the alleged victim (if that person can be identified) and offer the complainant supportive measures.
2. Explain the process of filing a formal complaint.
3. Explain that supportive measures are available with or without a formal complaint.
4. Consider the complainant's wishes with regard to supportive measures.
5. Contact the respondent (who must also be offered supportive measures).

### **Supportive Measures**

Supportive measures are individualized services reasonably available that are non-punitive, non-disciplinary, and not unreasonably burdensome to the other party and designed to ensure equal educational access, protect safety, or deter sexual harassment. These measures are designed to preserve the complainant's access to education without unreasonably burdening the respondent. (Examples of supportive measures include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, etc.)

Note: if supportive measures are not provided to a complainant, the school must document why it did not provide a complainant with supportive measures and why not providing such measures is not deliberately indifferent.



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### Formal Complaint

A **formal complaint** is 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. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the school's education program or activity.

- Scholars, employees, applicants and, in some cases, parents may submit the PLA Network Title IX Complaint Form that can be access via the [Title IX Policy, Process & Procedure](#) documentation to file a formal complaint.
- The formal complaint must contain the complainant's signature (physical or digital) or otherwise definitively indicate that the complainant is the person filing the formal complaint.
- Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a complainant or a party during a grievance process, and must comply with requirements for Title IX personnel to be free from conflicts and bias.

Once a formal complaint is filed, the matter will be assigned to the Title IX Coordinator or a Deputy Title IX for investigation (and/or a subsequent hearing). Filing a formal complaint triggers the school's duty to initiate the **grievance process**.

### Grievance Process

A. The Network will investigate and adjudicate all formal complaints of sexual harassment using the following grievance process:

- Both the Complainant and Respondent will be provided with written notice of the allegations.
- The notice must include the grievance procedures, information about the allegations (including details such as the identities of the parties) and the date and location of the alleged incident, if known.
- It should include a statement that the respondent is presumed not responsible.
- The written notice must be given with sufficient time to prepare for any meetings, interviews, or hearings that a party is expected to attend. (Note: This means that a party cannot be pulled out of class for questioning pertaining to a Title IX investigation unless written notice with sufficient time to prepare has been given first).
- Both complainants and respondents are entitled to select an advisor to be present with them at any meetings, interviews and hearings the party is expected to attend. Advisors can be anyone, including an attorney. The Network school may not limit who a party chooses as their advisor.
- Both parties have at least 10 days to submit and review evidence, inspect and respond to all evidence directly related to the allegations prior to the completion of the investigative report.



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- Trained Title IX personnel will be utilized to objectively investigate all reports of sexual harassment.
- The Title IX personnel will create an investigative report that summarizes the relevant evidence.
- Both parties will be provided with at least 10 days to review and provide a written response to the investigative report.
- A presumption of innocence standard will be used by the investigator during the grievance process.
- The Network uses a clear and convincing evidence standard in making findings for all formal complaints of sexual harassment.
- The burden of proof and the burden of gathering evidence lies with the Network school, not the parties.
- The grievance investigator is a different person than the final decision maker in a formal complaint.
- The investigator must provide the parties the opportunity to submit written questions to be answered by the opposite party.
- The investigator must prohibit any inappropriate questioning about prior sexual history and protect the privacy of a party's medical, psychological, or similar treatment records.
- The investigator must provide a written determination with an analysis as to how the conclusion was reached.
- Offer an opportunity to appeal a final determination.

### B. The Final Determination

Once the investigation is completed, the investigator's determination will be reviewed by a final decisionmaker ("The Decisionmaker"). The Decisionmaker will also issue a written determination summarizing the standard of evidence, the allegations, the procedural steps taken, and the findings of fact. The Decisionmaker will also issue a statement explaining his/her rationale for each allegation and their recommended discipline and remedies. This determination must also include procedures and bases for appeal.

**Note: No discipline can be imposed until completion of the grievance process.**

### Appeals

Either party (complainant or respondent) may appeal a determination of responsibility, a school's dismissal of a formal complaint or any allegations, on the following bases: procedural irregularity that affected the outcome of the matter, newly discovered evidence that could affect the outcome of the matter, and/or Title IX personnel had a conflict of interest or bias, that affected the outcome of the matter.

Once an appeal is received by the Title IX Coordinator, notice will be sent to the non-appealing party. The Notice should include the bases for the appeal. Both parties will be given the opportunity to submit a written statement.



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The Decision Maker selected for the Appeal is independent and outside of the Network's internal personnel (i.e. Title IX Coordinators, investigators, decision makers) responsible for Title IX compliance).

Note: All recommended remedies must be designed to restore or preserve equal access to educational program or activity.

### **Informal Resolution Options**

A Network school, in its discretion, may choose to offer and facilitate resolution options, such as mediation or restorative justice, in any formal investigation with the parties' voluntary, informed, written consent. Waiver of the right to a formal investigation or adjudication of a formal complaint of sexual harassment as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, is prohibited.

**Informal resolution is not available to resolve allegations where an employee sexually harasses a scholar.**

### **Dismissal**

A Network school may, in its discretion, dismiss a formal complaint or allegations therein if:

- the complainant informs the Title IX Coordinator in writing that the complainant desires to withdraw the formal complaint;
- the respondent is no longer enrolled or employed by the institution; or
- if specific circumstances prevent the school from gathering evidence sufficient to reach a determination as to the formal complaint.

A Network school must dismiss a formal complaint of sexual harassment under Title IX, if the conduct alleged in the complaint does not constitute sexual harassment under Title IX (i.e. did not occur as part of an education program or activity, or did not occur in the United States). Additionally, even if the alleged conduct does not violate Title IX, the Network school may act under its code of conduct or policies.

### **Retaliation**

Title IX also prohibits retaliation against any individual that participates in a Title IX grievance process. The retaliation prohibition includes not only the school and Network but also any scholars or employees accused of harassment. Complaints alleging retaliation may be filed according to a school's prompt and equitable grievance procedures.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a Title IX grievance proceeding does not constitute retaliation. A determination regarding responsibility, alone, is not sufficient to conclude that any party made a bad faith materially false statement.

Further, a party may prevail on a claim, if the Network does not prevent retaliation even if there was no finding of harassment in the initial reported incident.