

Title IX Policy

PURPOSE AND DECLARATION OF POLICY

The YouthBuild Philadelphia Charter School (the “Charter School”) is committed to maintaining an education and workplace environment for all school community members that is free from all forms of discrimination, including harassment and retaliation. The members of the Charter School community include the Charter School’s students, Board of Trustees, employees, administration, faculty, staff, school volunteers, parties under contract to perform work for or with the Charter School, and family members participating in school meetings or school-sponsored activities.

The Charter School does not exclude from participation, deny the benefits of the Charter School from or otherwise discriminate against individuals on the basis of race, color, sex, sexual orientation, gender (including gender identity or expression), age, religious creed, religion, ancestry, national origin, ethnic background, marital status, pregnancy, disability, veteran/military status, or any other category protected by state or federal law in the administration of its educational and employment policies or in its programs and activities.

The Board also declares it to be the policy of this Charter School to comply with federal law and regulations under Title IX prohibiting sex-based discrimination and harassment, each of which is a form of unlawful discrimination on the basis of sex. Inquiries regarding the application of Title IX to the Charter School may be directed to the Title IX Coordinator or to the Office for Civil Rights of the United States Department of Education, or both.

Discrimination in any of its forms is inconsistent with the rights of students and the mission and educational goals of the Charter School and is prohibited at or during school-sponsored programs or activities, including transportation to or from school or school-sponsored activities. Violations of this policy, including acts of retaliation as described in this policy, or knowingly providing false information, may result in disciplinary consequences under other Board policies or the Charter School’s student or employee codes of conduct.

This declaration of policy shall be included in each student and staff handbook and shall be posted to the Charter School’s website, along with any Administrative Procedures developed hereunder.

OVERVIEW

This policy applies when a student is alleged to be a victim of Title IX sex-based discrimination or harassment (defined below).

The Charter School prohibits all forms of discrimination and harassment, including Hazing, Discrimination and Harassment Affecting Students, and Title IX Sexual Harassment (this policy).

The Charter School shall promptly review and investigate all allegations of conduct which may be a violation of the above-mentioned policies.

When the Charter School receives a report of Title IX sex-based discrimination or harassment, the Charter School shall respond promptly and effectively. Respondents are presumed to not be responsible for alleged conduct until the conclusion of grievance procedures pursuant to this policy.

Where conduct is found to constitute Title IX sex-based discrimination or harassment, the Charter School shall take corrective action in the form of sanctions.

Conduct that does not fall within the scope of Title IX or implicate this policy will be handled under the appropriate policy, such as those named above, or the Charter School's Code of Conduct.

This policy applies to all individuals participating in and attempting to participate in the Charter School's educational program or activity. This policy is limited to conduct occurring in the United States.

DELEGATION OF RESPONSIBILITY

Administrative Procedures

The Board shall adopt Administrative Procedures which provide for the resolution of complaints of Title IX sex-based discrimination or harassment. The Board directs the CEO to monitor, develop, and amend the Administrative Procedures from time to time as may be necessary to promote the efficient resolution of complaints of harassment, to the extent such change(s) are consistent with Title IX law and regulations. The Administrative Procedures shall constitute the Charter School's process for compliance with the requirements for "Grievance Procedures" as set forth in Title IX law and regulations.

Administrative Procedures shall expressly provide that the Charter School shall have the authority, in any investigation conducted pursuant to this policy, to assign one or more functions to an independent third party, such as an attorney.

Title IX Coordinator

The Board directs the CEO to designate a Title IX Coordinator (or multiple coordinators) who shall be named in the Administrative Procedures, and who shall fulfill designated responsibilities under this policy and the accompanying Administrative Procedures. The CEO may appoint him/herself to function as the Title IX Coordinator.

The Title IX Coordinator shall publish and disseminate this policy and complaint procedure at least annually to students, parents/guardians, employees and the public. Nondiscrimination statements published on the Charter School's website and in student and employee handbooks shall include the position, office address and telephone number of the Title IX Coordinator.

The Title IX Coordinator is responsible to ensure adequate nondiscrimination procedures are in place, to recommend new procedures or modifications to procedures and to monitor their implementation.

The Title IX Coordinator shall fulfill designated responsibilities to ensure adequate nondiscrimination procedures are in place, to recommend new procedures or modifications to procedures, to monitor and address barriers to reporting and to monitor the implementation of the charter school's nondiscrimination procedures in the following areas, as appropriate:

1. Curriculum and materials – review of curriculum guides, textbooks and supplemental materials for discriminatory bias.
2. Counseling and classes – review of counseling and appraisal materials and access to classes and programs for stereotyping, bias and discrimination. If the charter school identifies that particular classes or courses contain a disproportionate number of individuals of one (1) sex, the charter school shall conduct a review to determine that the disproportion is not based on discriminatory practices.
3. Training – provide training for students and staff to prevent, identify, and alleviate conduct which may constitute discrimination or harassment.
4. Resources – maintain and provide information to staff on resources available to complainants in addition to the charter school Title IX procedures, such as making reports to law enforcement, and available supportive measures such as assistance from domestic violence or rape crisis programs and community health resources, including counseling resources.
5. Student Access – review of programs, activities, facilities and practices to ensure that all students have equal access and are not segregated except when permissible by law or regulation.
6. Support- assure that like aspects of the charter school programs and activities receive like support as to staffing and compensation, facilities, equipment and related areas.
7. Student Evaluation – review of assessments, procedures and standards of measurement for stereotyping and discrimination.
8. Reports/complaints – monitor and provide technical assistance to individual involved with managing reports and complaints.

Complaint Form

The Board directs the CEO to develop a complaint form which shall be applicable to all allegations of discrimination, harassment, sexual harassment, Title IX sex-based discrimination or harassment, bullying, hazing, dating violence, and retaliation.

DEFINITIONS

Title IX law and regulations – means Title IX of the Education Amendments Act of 1972, 20 U.S.C. §§1681-1688, and its interpreting regulations, codified at 34 C.F.R. § 106.1et seq.

Complaint shall mean an oral or written request to the charter school that objectively can be understood as a request to investigate and make a determination about alleged discrimination.

Complainant shall mean a student who is alleged to have been subject to conduct that could constitute discrimination in accordance with law and this policy, or a person other than a student or employee who is alleged to have been subject to conduct that could constitute discrimination and who was

participating or attempting to participate in a charter school education program or activity at the time of the alleged discrimination.

Respondent shall mean a person who is alleged to have violated the Charter School's prohibition on sex discrimination in accordance with this policy.

Sex includes:

1. Pregnancy.
2. Sex assigned at birth.
3. Gender, including a person's gender identity or gender expression. Gender identity or expression may be demonstrated by consistent and uniform assertion of the gender identity or any other evidence that the gender identity is part of a person's core identity.
4. Affection or sexual orientation, including heterosexuality, homosexuality, bisexuality and asexuality.
5. Differences of sex development, variations of sex characteristics or other intersex characteristics.

Pregnancy shall include the use of assisted reproductive technology, the state of being in gestation, childbirth, breastfeeding, the postpartum period after childbirth and medical conditions related to pregnancy.

Pregnancy or related conditions shall mean (1) pregnancy, childbirth, termination of pregnancy, or lactation; (2) medical conditions related to pregnancy, childbirth, termination of pregnancy, lactation; or (3) recovery from pregnancy, childbirth, termination of pregnancy, lactation or related medical conditions.

Title IX sex-based discrimination or harassment – *(Note: the following definition applies only to allegations that will be subject to the procedures set forth in this policy and accompanying procedures. Claims of sex-based discrimination or harassment not falling within the scope of Title IX may be addressed by other policies.*

Title IX sex-based discrimination includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation and gender identity.

Title IX sex-based harassment is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including:

1. A Charter School employee or other person authorized to provide a charter school aid, benefit or service explicitly or impliedly conditioning the provision of a charter school aid, benefit, or service on an individual's participation in unwelcome sexual conduct, commonly referred to as *quid pro quo harassment*.
2. Hostile environment harassment - unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from a charter school education program or activity. Determination of whether a hostile environment has been created is a fact-specific inquiry that includes consideration of factors including but not limited to:
 - a. The degree to which the conduct affected the complainant's ability to access the charter school's education program or activity;
 - b. The type, frequency and duration of the conduct;

- c. The complainant's and respondent's ages, roles in the charter school education program or activity, previous interactions and other relevant factors;
 - d. The location and context in which the conduct occurred; and
 - e. Other sex-based harassment in the charter school's education program or activity.
3. Sexual assault, dating violence, domestic violence, or stalking.

- a. **Sexual assault** means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation:

This includes any sexual act directed against another person, without the consent of the complainant, including instances where the complainant is incapable of giving Consent. Sexual assault may be one of the following categories:

Sexual penetration without consent - Any penetration of the mouth, sex organs, or anus of another person, however slight by an object or any part of the body, when consent is not present. This includes performing oral sex on another person when consent is not present.

Sexual contact without consent - Knowingly touching or fondling a person's genitals, breasts, buttocks, or anus, or knowingly touching a person with one's own genitals or breasts, when consent is not present. This includes contact done directly or indirectly through clothing, bodily fluids, or with an object. It also includes causing or inducing a person, when consent is not present, to similarly touch or fondle oneself or someone else.

Statutory sexual assault – The age of consent for sexual activity in Pennsylvania is 16. Minors under the age of 13 cannot consent to sexual activity. Minors aged 13-15 years old cannot consent to sexual activity with anyone who is 4 or more years older than they are at the time of the activity. Minors aged 16 years of age or older can legally consent to sexual activity, as long as the other person does not have authority over them as defined in Pennsylvania's institutional sexual assault statute, 18 Pa C.S. § 3124.2.

- b. **Dating violence** means violence committed by a person:
 - i. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
 - ii. Where the existence of such a relationship shall be determined based on a consideration of the following factors: length of relationship, type of relationship, and frequency of interaction between the persons involved.
- c. **Domestic violence** includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is co-habiting with or has co-habited with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

- d. **Stalking** means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
 - i. Fear for their safety or the safety of others; or
 - ii. Suffer substantial emotional distress.

Stalking includes the concept of cyberstalking, in which electronic media such as the Internet, social networks, blogs, cell phones, texts, email or other similar devices or forms of contact are used to pursue, harass, or to make unwelcome contact with another person in an unsolicited fashion.

Such conduct must have taken place during a charter school education program or activity and against a person in the United States to qualify as **sex-based discrimination or harassment** under Title IX. This includes conduct that is subject to the charter school's disciplinary authority. An **education program or activity** includes, but is not limited to, academic, extracurricular, research, occupational training and other education programs and activities of the charter school. The charter school is obligated to address a sex-based hostile environment in a charter school education program or activity, even when some conduct is outside the charter school's program or activity, or outside of the United States.

Consent exists when all parties exchange mutually understandable affirmative words or actions indicating their agreement to participate voluntarily in sexual activity. Consent must be informed, voluntary, and actively given. Resistance by the complainant is not required. Consent does not exist if the sexual act was by forcible compulsion which is the use of physical, intellectual, moral, emotional or psychological force. Consent does not exist if a person is threatened, unconscious, incapacitated due to the influence of drugs and/or alcohol, or suffers from a mental disability that makes them incapable of giving consent. Consent may be withdrawn by either party at any time. Once withdrawal of consent has been expressed through words or actions, sexual activity must cease. Pennsylvania defines the age of consent as age sixteen (16) or above. Children under age thirteen (13) cannot consent to sexual activity. Children between the ages of 13-15 cannot consent to sexual intercourse with a person four (4) or more years older than them.

Deliberately indifferent – means not clearly unreasonable in light of the known circumstances.

Investigator(s) – means the individual(s) assigned by the Title IX Coordinator to conduct a prompt, fair, and impartial investigation into a complaint. An investigator must be unbiased and trained in Title IX policy and grievance procedures.

Decision-maker – means the person(s) assigned by the Title IX Coordinator to conduct a fair and impartial review of all the facts and evidence in order to make a determination regarding whether a respondent is responsible for conduct alleged in a complaint. A decision-maker(s) must be unbiased and trained in Title IX policy and grievance procedures.

Exculpatory evidence – means evidence tending to exonerate the accused or helps to establish their innocence.

Inculpatory evidence – means evidence tending to incriminate the accused or indicate their guilt.

Informal Resolution Facilitator – means the person assigned by the Title IX Coordinator to manage the Informal Resolution process. The informal resolution facilitator must be fair, impartial and trained in Title IX policy and procedures, specifically those dealing with mediation and restorative justice best practices.

Impermissible evidence means evidence, and questions seeking such evidence, that will not be accessed or considered, except by the charter school to determine whether one (1) of the exceptions listed below applies; will not be disclosed; and will not otherwise be used, regardless of relevance:

1. Evidence that is protected under a privilege as recognized by federal or state law or regulations, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality.
2. A party's or witness's records that are made or maintained by a physician, psychologist or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the charter school obtains that party's or witness's voluntary, written consent for use in the charter school's grievance procedures.
3. Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

Relevant means related to the allegations under investigation as part of the grievance procedures. Questions are relevant when they seek evidence that may aid in showing whether the alleged conduct occurred, and evidence is relevant when it may aid a decision-maker in determining whether the alleged conduct occurred.

Remedies means measures provided, as appropriate, to a complainant or any other person the charter school identifies as having had their equal access to the charter school's education program or activity limited or denied by sex-based discrimination or harassment.

Retaliation – means intimidation, threats, coercion or discrimination against any person by the charter school, a student, employee or other person authorized to provide a charter school aid, benefit or service for the purpose of interfering with any right or privilege under applicable law or board policy, or because the person has reported information, made a complaint, testified, assisted, participated or refused to participate in any manner in an investigation, proceeding or hearing, including an informal resolution process or any other actions taken by the charter school in accordance with applicable law and this policy and procedures. The term shall not include the charter school requiring an employee or other individual providing a charter school aid, benefit or service to participate or assist with an investigation, proceeding or hearing in accordance with applicable law and this policy.

Sanctions – means disciplinary actions or consequences for a respondent.

When a respondent is a student, sanctions include the entirety of disciplinary consequences listed in the Student Code of Conduct and can range from a conference with the respondent and a Charter School employee, up to through permanent expulsion from the Charter School.

When a respondent is an employee, sanctions include employee discipline consistent with Board policy, up to and including termination from employment.

Parent/Guardian for the purposes of this policy and Title IX shall mean the status of a person who with respect to another person who is under the age of eighteen (18) or who is eighteen (18) or older but is incapable or self-care because of a physical or mental disability, is:

1. A biological parent;
2. An adoptive parent;
3. A foster parent;
4. A stepparent;
5. A legal custodian or guardian;
6. In loco parentis with respect to such person; or
7. Actively seeking legal custody, guardianship, visitation or adoption of such a person.

Supportive measures shall mean nondisciplinary, nonpunitive individualized services offered as appropriate, as reasonably available, without unreasonably burdening a complainant or respondent and without fee or charge to the complainant or the respondent, in order to:

1. Restore or preserve access to the charter school's education program or activity, including measures designed to protect the safety of the individuals or the charter school's educational environment; or
2. Provide support during the grievance procedures or during an informal resolution process.

Supportive measures may include, but are not limited to:

1. Counseling.
2. Extensions of deadlines or other course-related adjustments.
3. Modifications of work or class schedules.
4. Campus escort services.
5. Restrictions on contact applied to one or more parties.
6. Changes in class, work, housing or extracurricular or other activities.
7. Leaves of absence.
8. Increased security.
9. Monitoring of certain areas of the school building or school campus.
10. Training and education programs related to sex-based harassment.
11. Assistance from domestic violence or rape crisis programs.
12. Assistance from community health resources, including counseling resources.

Supportive measures may also include assessments or evaluations to determine eligibility for special education or related services, or the need to review an Individualized Education Program ("IEP") or Section 504 Service Agreement based on a student's behavior. This could include, but is not limited to, a manifestation determination or functional behavioral assessment ("FBA"), in accordance with applicable law, regulations, and charter school policy. The Title IX Coordinator shall consult with the Director of Special Education in the implementation of supportive measures for students with an IEP or Section 504 Service Agreement.

GUIDELINES

When charter school programs and activities include separation on the basis of sex, in accordance with law and regulations, including but not limited to separate restroom or changing facilities or separate health and physical fitness activities, the charter school shall not implement such programs or activities in a manner that discriminates on the basis of sex, including an individual's gender identity.

The Board requires a notice stating that the charter school does not discriminate in any manner, including Title IX sex-based discrimination and harassment, in any charter school education program or activity, to be issued to all students, parents/guardians or other legal representatives of students, employees, and applicants for employment or admission. All discrimination notices and information shall include the name or title, office address, phone number and email address of the individual(s) designated as the Title IX Coordinator. The charter school's notice shall provide information on the location of the Board policy and complaint or grievance procedures, how to report information about conduct prohibited by this policy and how to file a complaint.

The Board directs that the notice be included in each student and staff handbook and on the public website of the charter school. An abbreviated statement of the charter school's prohibition of discrimination, that individuals may report concerns to the Title IX Coordinator and location of the full notice on the charter school website may be published when necessary due to size or format of publications.

CONFIDENTIALITY

Confidentiality of all parties, witnesses, the allegations, the filing of a complaint, and the investigation related to any form of discrimination or retaliation, including Title IX sex-based discrimination or harassment, shall be handled in accordance with applicable law, regulations, this policy, and the Charter School's legal and investigative obligations.

All incidents that are required by law to be reported to law enforcement, ChildLine, or to the Pennsylvania Department of Education (such as mandatory reporting under the Educator Discipline Act) shall be made accordingly.

RETALIATION

The Board prohibits retaliation by the Charter School or any other person against another person for:

1. Reporting or making a complaint of any form of discrimination or retaliation, including Title IX sex-based discrimination or harassment.
2. Testifying, assisting, participating, or refusing to participate in a related investigation, process, or other proceeding, or hearing.
3. Acting in opposition to practices that the person reasonably believes to be discriminatory.

The Charter School, its employees, and others are prohibited from intimidating, threatening, coercing, or discriminating against anyone for actions described above. Individuals are encouraged to contact the

Title IX Coordinator immediately if they believe retaliation has occurred. Substantiated allegations of retaliation may result in the same disciplinary action applicable to one who engages in violations of this policy.

TRAINING-RELATED REQUIREMENTS

The Charter School shall provide training annually to all school employees regarding:

1. The Charter School's obligation to address sex-based discrimination and harassment in charter school education programs and activities.
2. The scope of conduct that constitutes sex-based discrimination and harassment, as defined in the law and this policy.
3. Staff responsibility to provide the Title IX Coordinator's information to students or parents/guardians and to notify the Coordinator regarding conduct that may constitute sex-based discrimination or harassment, in accordance with this policy.

Title IX Coordinator(s), investigators, decision-makers, and any individual designated to implement grievance procedures related to Title IX sex-based discrimination or harassment and any Charter School staff member authorized to modify or terminate supportive measures shall receive the following training annually, as required or as appropriate to their specific role(s):

1. The Charter School's obligations under Title IX, including definitions of sex-based discrimination and harassment.
2. The grievance procedures used to address Title IX complaints.
3. How to conduct an investigation, including examination of evidence, drafting reports and determinations, and handling appeals, as applicable.
4. How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest and bias.
5. Issues of relevance in relation to questions and evidence, and the types of evidence that are impermissible regardless of relevance.
6. How to address complaints when the alleged conduct does not qualify as Title IX sex-based discrimination or harassment but could be address under another complaint process or policy.

Staff member(s) or other designated to facilitate the informal resolution process shall receive training annually and the rules and practices associated with the informal resolution process and how to serve impartially, including by avoiding conflicts of interest and bias.

RECORDKEEPING

The Charter School shall maintain for a period of seven (7) years after conclusion of procedures and implementation of disciplinary sanctions and/or remedies, or in the case of a complainant or respondent who is a minor, until the expiration of the longest statute of limitations for filing a civil suit applicable to any allegation, records of:

- A. Each notification the Title IX Coordinator receives of information about conduct that reasonably may constitute sex-based discrimination or harassment, including required notifications.

- B. Each investigation, including any determination regarding responsibility, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to the Charter School's education program or activity;
- C. Any appeal and the results therefrom;
- D. Any informal resolution and the results therefrom; and
- E. All materials used to provide the required training.
- F. Records of any actions, including any supportive measures, taken in response to a report or complaint.

The Charter School must create and maintain for a period of seven (7) years for each formal complaint: records of any actions, including any supportive measures, in response to a complaint of sexual harassment. In each instance, the Charter School must document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the Charter School's education program or activity.