



STRIVE Collegiate Academy Title IX Policy - (adapted from MNPS)

In order to maintain a safe, civil, and supportive learning environment, all forms of sexual harassment and discrimination on the basis of sex are prohibited. This policy shall cover employees, employees behaviors, students, and students' behaviors while on school property, at any school-sponsored activity, on school-provided equipment or transportation, or at any official school bus stop in accordance with federal law. This policy shall be disseminated annually to all school staff, students, and parent(s)/guardian(s) via the Employment Manual and the Community Handbook, and will also be posted to the "Public Information" section of STRIVE's website. The Title IX Coordinator as well as any personnel chosen to facilitate the grievance process shall not have a conflict of interest against any party of the complaint. These individuals shall receive training as to how to promptly and equitably resolve student and employee complaints.

All employees shall receive training on complying with this policy and federal law.

TITLE IX COORDINATOR

The Title IX Coordinator shall respond promptly to all general reports as well as formal complaints of sexual harassment. He/she shall be kept informed by school-level personnel of all investigations and shall provide input on an ongoing basis as appropriate.

Any individual may contact the Title IX Coordinator at any time using the information below:

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DEFINITIONS

"Complainant" is an individual who is alleged to be the victim of conduct that could constitute sexual harassment.

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

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

1. A STRIVE employee conditioning an aid, benefit, or service of an education program or activity on an individual's participation in unwelcome sexual conduct;
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the education program or activity; and/or
3. Any act defined in items A-D below:

- a. Sexual assault: An act of sexually-motivated physical contact directed towards another person when the other person does not consent or is incapable of giving consent. This includes but is not limited to rape, sodomy, sexual battery, fondling, incest, and statutory rape. See Title IX Regulations, which cite to 20 U.S.C. § 1092(f)(6)(A)(v).
- b. Dating violence: The term “dating violence” is defined in the new Title IX Regulations by reference to federal statute 34 U.S.C. § 12291(a)(10), which defines the term as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship, (ii) the type of relationship, and (iii) the frequency of interaction between the persons involved in the relationship.
- c. Domestic violence: : The term “domestic violence” is defined in the new Title IX Regulations by reference to federal statute 34 U.S.C. § 12291(a)(8), which defines the term as felony or misdemeanor crimes of violence committed between: two individuals who are current or former spouses or intimate partners, persons who share a child in common, two persons who currently live together or have formerly lived together as spouses or intimate partners, a person similarly situated to a spouse of the victim under the domestic or family violence laws of the school’s jurisdiction, or 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 school’s jurisdiction.
- d. Stalking: The term “stalking” is defined in the new Title IX Regulations by reference to federal statute 34 U.S.C. § 12291(a)(30), which defines the term as engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress. Types of stalking could include, but are not limited to:
 - Following the targeted person; Approaching or confronting that person in a public place or on private property; Persistent and unwelcome attempts to contact the person by phone, electronic communication (including via the internet and cellphones), or regular mail, either anonymously or non-anonymously; Vandalizing the person’s property or leaving unwanted items for the person; Persistently appearing at the person’s classroom, residence, or workplace without that person’s permission or other lawful purpose; Cyber-stalking, in which a person follows, observes, monitors, or surveils another person through the use of electronic media such as the Internet, digital media networks, blogs, cell phones, texts or other similar devices; and Using visual or audio recording devices or hidden or remote cameras used without the subject’s consent.

Effective Consent: Is consent that is informed and freely and actively given. Effective consent requires mutually understandable words or actions indicating a willingness to engage in mutually agreed-upon sexual activity.

- a. The person who wishes to engage in sexual activity with another bears the burden of specifically obtaining effective consent. If effective consent is in question or ambiguous, then the person who wishes to engage in sexual activity must clarify or explicitly ask for permission.
- b. There is no requirement for a person to resist, physically or otherwise, in order to demonstrate a lack of effective consent. Effective consent means communicating “yes” by word or action; the absence of saying or indicating “no” does not equate to effective consent.

- c. Effective consent must be maintained by both parties throughout the sexual interaction.
- d. Effective consent to sexual activity may be withdrawn at any time, at which point all sexual activity must cease immediately.
- e. Effective consent for one form of sexual activity does not constitute effective consent for another form of sexual activity.
- f. When “no” to a form of sexual activity is communicated by word or action, that sexual activity must cease immediately. Repeated requests to engage in a form of sexual activity may amount to coercion, as explained below.
- g. Previous sexual relationships of the complainant and the respondent with others are generally irrelevant to the existence of effective consent, but a previous, current, and/or subsequent sexual relationship between the complainant and the respondent may or may not be relevant to demonstrating or establishing, depending on the facts and circumstances, whether effective consent was sought or obtained. Relevancy of a previous, current, and/or subsequent sexual relationship between the complainant and respondent or others will be evaluated on a case-by-case basis.
- h. Effective consent expires. Effective consent lasts for a reasonable time, depending on the circumstances. Thus, effective consent on one occasion, whether on the same day or another day, may not carry over to another sexual interaction.
- i. Effective consent is never implied by a person’s attire, the person’s extension or acceptance of an invitation to dinner, a date (social function), or a person’s residence, or the person’s consensual participation in kissing or other sexual activity.
- j. Because effective consent must be informed, an individual must not engage in sexual activity with another person if the individual knows or reasonably should know the person is incapacitated.
- k. Effective consent is deemed withdrawn at any point during sexual activity when an individual has become or is incapacitated.
- l. Agreement or acquiescence obtained through the use of fraud, force (actual or implied), or other forms of coercion, as defined below, is not effective consent.
- m. Effective consent requires mutual understanding and agreement regarding the use and/or method of prophylaxis and contraception.
- n. A person’s age may be a factor in determining the ability to give effective consent. For example, under Tennessee law, a person who is under the age of 18 cannot effectively consent to sexual intercourse with a person four or more years older than the underage person.
- o. The existence of a cognitive disability or other condition that significantly limits a person’s ability to understand the nature of an action for which effective consent is requested may be a factor in determining the ability to give effective consent.
- p. The existence of a physical disability or other circumstances may prevent a person from giving effective consent
- q. The intoxication of a respondent does not excuse the failure to obtain effective consent

The Title IX Regulations’ use of federal definitions of sexual assault, dating violence, domestic violence, and stalking may differ from state law. Accordingly, any criminal proceeding brought by state or local law

enforcement authorities may use different definitions.

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

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

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

SUPPORTIVE MEASURES

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

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

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

GRIEVANCE PROCESS

Upon learning of an instance of alleged sexual harassment, even if no formal complaint is filed, the Title IX Coordinator shall:

1. Promptly contact the complainant to discuss the availability of supportive measures;
2. Consider the complainant’s wishes with respect to supportive measures;
3. Inform the complainant of the availability of supportive measures; and
4. Explain the process for filing a formal complaint.

While STRIVE will respect the confidentiality of the complainant and the respondent as much as possible, some information may need to be disclosed to appropriate individuals. All disclosures shall be consistent with the STRIVE’s’s legal obligations and the necessity to investigate allegations of harassment and take disciplinary action.

Disciplinary consequences or sanctions shall not be initiated against the respondent until the grievance process has been completed. Unless there is an immediate threat to the physical health or safety of any student arising from the allegation of sexual harassment that justifies removal, the respondent’s placement shall not be changed. If the respondent is an employee, he/she may be placed on administrative leave or suspension without pay consistent with Tenn. Code Ann. 49-5-511(a)(3) during the pendency of the grievance process. The Title IX Coordinator shall keep the appropriate parties informed of any employee respondents so that he/she can make any necessary reports to the State Board of Education in compliance with state law.

Complaints

Any individual who has knowledge of behaviors that may constitute a violation of this policy, shall report such information to the Title IX Coordinator, within 24 hours. Nothing in this policy requires a complainant to either report or file a formal complaint within a certain timeframe. If the complaint involves the Title IX Coordinator, the complaint shall be filed with the Chief of Human Resources.

If a complaint involves allegations of child abuse, including child abuse on school grounds, appropriate notification shall be made per the board policy on reporting child abuse.

Upon receipt of a formal complaint, the Title IX Coordinator shall promptly:

1. Provide written notice of the allegations, and the grievance process to all known parties to give the respondent time to prepare a response before an initial interview;
2. Inform the parties of the prohibition against making false statement or knowingly submitting false information;
3. Inform the parties that they may have an advisor present during any subsequent meetings; and
4. Offer supportive measures in an equitable manner to both parties.
5. If appropriate, at the discretion of the Title IX Coordinator, the parties may opt to pursue an Informal Resolution as an alternative to the formal grievance process. An Informal Resolution involves a remedies-based, non-judicial process designed to eliminate or address potential sexual misconduct. This process aims to assure fairness, to facilitate communication, and to maintain an equitable balance of power between the parties. STRIVE will not compel face-to-face confrontation between the parties or participation in any particular form of Informal Resolution. The Title IX Coordinator will make an initial decision about whether a case qualifies for an Informal Resolution, and if both parties then agree to pursue that path, STRIVE will halt any investigation or scheduled Resolution Hearing so that the parties can explore the possibility of Informal Resolution. Participation in an Informal Resolution is voluntary, and either party can request to end the Informal Resolution conference at any time and return the investigation or proceeding to its pre-conference status. If the parties agree to a resolution during an Informal Resolution process, the Title IX Coordinator will oversee its implementation, the Complaint will be deemed withdrawn, and the matter will be terminated. However, the resolution will be considered binding, and its breach would give rise to a new Complaint, which may restart the investigation and/or Resolution Hearing process

If the Title IX Coordinator dismisses a complaint, written notice, including the reasons for dismissal, shall be provided to both parties simultaneously.

Investigations

For complaints of student on student harassment the senior leadership for the organization or the principal, as determined by the Title IX Coordinator, shall serve as the investigator and be responsible for investigating complaints in an equitable manner that involves an objective evaluation of all relevant evidence. For complaints of employee on student or employee on employee harassment, the Human Resources Relational Committee will investigate. The burden for obtaining evidence sufficient to reach a determination regarding responsibility rests on the school district and not the complainant or respondent.

Once a complaint is received, the Investigator shall initiate an investigation within forty-eight (48) hours of receipt of the complaint. If an investigation is not initiated within forty-eight (48) hours, the investigator shall provide the Title IX Coordinator with appropriate documentation detailing the reasons why the investigation was

not initiated within the required timeframe.

All investigations shall be completed within thirty (30) calendar days from the receipt of the initial complaint. If the investigation is not complete within thirty (30) calendar days, the investigator shall provide the Title IX Coordinator with appropriate documentation detailing the reasons why the investigation has not been completed.

All investigations shall:

1. Provide an equal opportunity for the parties to present witnesses and evidence;
2. Not restrict the ability of either party to discuss the allegations under investigation or gather and present relevant evidence;
3. Refrain from requiring, allowing, relying upon, or otherwise using questions or evidence that seek disclosure of information protected under a legally recognized privilege unless such privilege has been waived;
4. Provide the parties with the same opportunities to have others present during any grievance proceeding;
5. Provide to parties whose participation is requested written notice of the date, time, location, participants, and purpose of all investigative interviews, or other meetings, with sufficient time for the party to prepare to participate;
6. Provide both parties an equal opportunity to inspect and review any evidence directly related to the allegations in the formal complaint; and
7. Result in the creation of an investigative report that fairly summarizes relevant evidence.

Prior to the completion of the investigative report, the investigator shall send to each party the evidence subject to inspection and review. All parties shall have at least ten (10) days to submit a written response which shall be taken into consideration in creating the final report.

Within the parameters of the federal Family Educational Rights and Privacy Act (FERPA), the Title IX Coordinator shall keep the complainant and the respondent informed of the status of the investigation process. At the close of the investigation, a written final report on the investigation will be delivered to the parent(s)/guardian(s) of the complainant, parent(s)/guardian(s) of the respondent, and to the Title IX Decision Maker (if applicable, also to the HR Relational Committee if employee to employee; employee to student).

Determination of Responsibility

The respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process. The preponderance of the evidence standard shall be used in making this determination.

The CEO, his or her designee, or Human Resources Legal Liaison shall act as the decision-maker. He/she shall receive the final report of the investigation and allow each party the opportunity to submit written questions that he/she wants asked of any party or witness prior to the determining responsibility.

Within 10 days of receiving answers to all written questions, the decision-maker shall make a determination regarding responsibility and provide the written determination to the parties simultaneously along with information about how to file an appeal. The following definitions will be used to make a recommendation and final determination:

- **Substantiated, Founded** - The information determined through the investigation supports a finding that the Respondent has violated the Policy.

- **Unsubstantiated, Inconclusive** - The investigation does not allow for the establishment of facts or supported conclusions necessary to render a finding that misconduct occurred (i.e., a lack of information prevents the investigator from making a conclusive finding).
- **Unsubstantiated, No Misconduct** - The investigation supports the finding that no violation of the policy occurred (i.e., sufficient information exists for the investigator to conclude that the alleged misconduct did not occur).

A substantiated charge against a student may result in corrective or disciplinary action up to and including expulsion. A substantiated charge against an employee shall result in disciplinary action up to and including termination.

After a determination of responsibility is made, the Title IX Coordinator shall work with the complainant to determine if further supportive measures are necessary. The Title IX Coordinator shall also determine whether any other actions are necessary to prevent reoccurrence of the harassment.

APPEALS

Either party may appeal from a determination of responsibility based on a procedural irregularity that affected the outcome, new evidence that was not reasonably available at the time of the determination that could affect the outcome, or an alleged conflict of interest on the part of the Title IX Coordinator or any personnel chosen to facilitate the grievance process. Appeals shall be submitted to the Title IX Coordinator within ten calendar (10) days of a determination of responsibility. The Board Chair of STRIVE's Board of Directors, or his or her designee, shall act as the appeals officer.

Upon receipt of an appeal, the Title IX Coordinator shall:

1. Inform the Title IX Appeals Officer within five (5) days of receipt of the appeal; and
2. Notify the parties in writing.

During the appeal process, the parties shall have a reasonable, equal opportunity to submit written statements. Within ten (10) calendar days, the Title IX Appeals Officer shall issue a written decision describing the result of the appeal and the rationale for the result. The written decision shall be provided simultaneously to both parties.

RETALIATION

Retaliation against any person who makes a report or complaint or assists, participates, or refuses to participate in any investigation of an act alleged in this policy is prohibited. Retaliation may result in further disciplinary action being warranted.