



TITLE IX HARASSMENT POLICY

Oakland School for the Arts (“OSA”) has adopted this Title IX Harassment Policy for complaints regarding sexual harassment, sexual violence, and gender-based harassment (collectively “Sexual Harassment”). For complaints regarding unlawful discrimination, other forms of harassment, intimidation or bullying, unlawful pupil fees, or other specific violations of state or federal law, please refer to the Charter School’s Uniform Complaint Policy and Procedures. For all other complaints please refer to the General Complaint Policy. For any questions regarding the application of this Policy or OSA’s other policies, please contact the Executive Director.

The OSA Board of Directors (the “Board”) understands sexual harassment, including sexual violence, interferes with students’ ability to learn, negatively affects student engagement, diminishes school safety, and contributes to a hostile school environment. As such, OSA prohibits any acts of sexual harassment altogether. This policy is inclusive of instances that occur on any area of the school campus, at school-sponsored events and activities, regardless of location, through school-owned technology, and through other electronic means.

All staff are expected to provide appropriate supervision to enforce standards of conduct. All supervisors of staff will receive sexual harassment training within six (6) months of their assumption of a supervisory position and will receive further training once every two (2) years thereafter. All staff, and any individual designated as a coordinator, investigator or decision-maker will receive sexual harassment training and/or instruction concerning sexual harassment as required by law.

Prohibited Unlawful Sexual Harassment under Title IX

Title IX (20 U.S.C. § 1681 *et seq.*; 34 C.F.R. § 106.1 *et seq.*) and California state law prohibit discrimination on the basis of sex and sexual or gender-based harassment. In accordance with these existing laws, discrimination on the basis of sex and sexual or gender-based harassment in education institutions, including in the education institution’s admissions and employment practices, is prohibited. All persons, regardless of sex, are afforded equal rights and opportunities and freedom from unlawful discrimination and harassment in education programs or activities conducted by OSA.

OSA is committed to providing a work and educational environment free of sexual or gender-based harassment and considers such harassment to be a major offense, which may result in disciplinary action. Inquiries about the application of Title IX and 34 C.F.R. Part 106 may be referred to either the Coordinator, the Assistant Secretary for Civil Rights of the U.S. Department of Education, or both.

Sexual harassment consists of conduct on the basis of sex, including but not limited to unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct on the basis of sex, regardless of whether or not the conduct is motivated by sexual desire, when:

- a. submission to the conduct is explicitly or implicitly made a term or a condition of an individual's employment, education, academic status, or progress;
- b. submission to, or rejection of, the conduct by the individual is used as the basis of employment, educational or academic decisions affecting the individual;
- c. the conduct has the purpose or effect of having a negative impact upon the individual's work or academic performance, or of creating an intimidating, hostile, or offensive work or educational environment; and/or
- d. submission to, or rejection of, the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through the educational institution.

Sexual harassment may include, but is not limited to:

- Physical assaults of a sexual nature, such as:
 - Rape, sexual battery, molestation or attempts to commit these assaults.
 - Intentional physical conduct that is sexual in nature, such as touching, pinching, patting, grabbing, brushing against another's body, or poking another's body.
- Unwanted sexual advances, propositions or other sexual comments, such as:
 - Sexually oriented gestures, notices, remarks, jokes, or comments about a person's sexuality or sexual experience.
 - Preferential treatment or promises of preferential treatment to an individual for submitting to sexual conduct, including soliciting or attempting to solicit any individual to engage in sexual activity for compensation or reward or deferential treatment for rejecting sexual conduct.
 - Subjecting or threats of subjecting a student or employee to unwelcome sexual attention or conduct or intentionally making the student's or employee's performance more difficult because of the student's or the employee's sex.
- Sexual or discriminatory displays or publications anywhere in the work or educational environment, such as:
 - Displaying pictures, cartoons, posters, calendars, graffiti, objections, promotional materials, reading materials, or other materials that are sexually suggestive, sexually demeaning or pornographic or bringing or possessing any such material to read, display or view in the work or educational environment.

- Reading publicly or otherwise publicizing in the work or educational environment materials that are in any way sexually revealing, sexually suggestive, sexually demeaning or pornographic.
- Displaying signs or other materials purporting to segregate an individual by sex in an area of the work or educational environment (other than restrooms or similar rooms).

The illustrations of harassment and sexual harassment above are not to be construed as an all-inclusive list of prohibited acts under this Policy.

Grievance Procedures

1. Reporting

Any student who believes they have been subject to misconduct prohibited by this Policy or has witnessed such prohibited misconduct is encouraged to immediately report such misconduct to the Title IX Coordinator (the “Coordinator”):

Corbrae Smith
JEDI Coordinator
530 18th Street
Oakland, CA 94612
(510) 873-8815
csmith@oakarts.org

Complaints regarding such misconduct may also be made to the U.S. Department of Education, Office for Civil Rights. Civil law remedies, including, but not limited to, injunctions, restraining orders, or other remedies or orders may also be available to complainants.

Any employee who receives actual notice of any allegation that may constitute sexual harassment shall promptly report the allegation to the Coordinator.

When the Coordinator receives a report of sexual harassment, the Coordinator or designee will:

- a. confidentially contact the reporting student to offer supportive measures, consider the reporting student’s wishes with respect to supportive measures, and inform them of the availability of supportive measures with or without filing a formal complaint;
- b. explain the process for how to file a formal complaint;
- c. inform the reporting student that any report made in good faith will not result in discipline; and
- d. respect the reporting student’s wishes with respect to whether to investigate unless the Coordinator determines it is necessary to pursue the complaint in light of a health or safety concern for the community.

A Formal Complaint of Sexual Harassment is a document filed by an individual (the “Complainant”) or signed by the Coordinator alleging sexual harassment against another individual (the “Respondent”) and requesting that the recipient investigate the allegation of sexual

harassment. A formal complaint may be filed with the Coordinator in person, by mail, or by electronic mail, by using the contact information for the Coordinator listed above, and by any additional method designated by the Coordinator. As used in this paragraph, the phrase “document filed by a complainant” means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the recipient) that contains the complainant's physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint.

Choosing to make a report, file a formal complaint, and/or meet with the Coordinator after a report or formal complaint has been made, and deciding how to proceed, can be a process that unfolds over time. A student does not have to decide whether to pursue a formal complaint or to name the other party/ies at the time of the report. Reporting does not mean the student wishes to pursue a formal complaint—it may mean the student would like help accessing resources and supportive measures. A student does not have to pursue a formal complaint to take advantage of the supportive measures available to the student.

OSA prohibits any form of retaliation against any individual who reports sexual harassment, files a formal complaint, or testifies, assists, participates, or refuses to participate in any investigation or proceeding related to sexual harassment. Such participation or lack of participation shall not in any way affect the status, grades, or work assignments of the individual. Individuals alleging retaliation in violation of this Policy may file a grievance using the procedures set forth in this Policy. Knowingly making false statements or knowingly submitting false information during the grievance process is prohibited and may result in disciplinary action.

2. Supportive Measures

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint of sexual harassment or where no formal complaint of sexual harassment has been filed. Such measures are designed to restore or preserve equal access to OSA’s education program or activity without unreasonably burdening the other party. These include measures designed to protect the safety of all parties, preserve or restore access to OSA’s educational environment, and deter future acts of sexual harassment.

Supportive measures available to complainants and respondents may include, but are not limited to, counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. OSA will maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of OSA to provide the supportive measures.

3. Investigation and Response

The following grievance procedures will apply:

- Notice of the Allegations

- Upon receipt of a formal complaint of sexual harassment, the Coordinator shall give all known parties written notice of its grievance process, including any voluntary informal resolution process. The notice will include:
 - A description of the allegations of sexual harassment at issue and to the extent known, the identities of the parties involved in the incident, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident. If, in the course of an investigation, OSA determines it needs to investigate allegations about the complainant or respondent that are not included in this notice, the Charter School must provide notice of the additional allegations to the parties whose identities are known.
 - A statement that the respondent is presumed not responsible for the alleged conduct until a final decision is reached;
 - A statement that the parties may have an advisor of their choice, who may be an attorney, and may inspect and review evidence; and
 - A statement that OSA prohibits an individual from knowingly making false statements or knowingly submitting false information during the grievance process.

- Emergency Removal

- OSA may place a non-student employee respondent on administrative leave during the pendency of a formal complaint of sexual harassment grievance process in accordance with the Charter School's policies.
- OSA may remove a respondent from OSA's educational program or activity on an emergency basis, in accordance with OSA's policies, provided that OSA undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal.
- This provision may not be construed to modify any rights under the Individuals with Disabilities Education Act ("IDEA"), Section 504 of the Rehabilitation Act of 1973 ("Section 504"), or the Americans with Disabilities Act ("ADA").

- Informal Resolution

- When a formal complaint of sexual harassment is filed, OSA may offer a voluntary informal resolution process, such as mediation, to the parties at any time prior to reaching a determination regarding responsibility. If the Charter School offers such a process, it shall:
 - Provide the parties with advance written notice of:

- The allegations;
 - The requirements of the voluntary informal resolution process including the circumstances under which the parties are precluded from resuming a formal complaint of sexual harassment arising from the same allegations;
 - The parties' right to withdraw from the voluntary informal resolution process and resume the grievance process at any time prior to agreeing to a resolution; and
 - Any consequences resulting from participating in the voluntary informal resolution process, including the records that will be maintained or could be shared; and
 - Obtain the parties' advance voluntary, written consent to the informal resolution process.
- OSA shall not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.
- Dismissal of a Formal Complaint of Sexual Harassment
 - If the investigation reveals that the alleged harassment did not occur in OSA's educational program in the United States or would not constitute sexual harassment even if proved, the formal complaint with regard to that conduct must be dismissed. However, such a dismissal does not preclude action under another applicable OSA policy.
 - OSA may dismiss a formal complaint of sexual harassment if:
 - The complainant provides a written withdrawal of the complaint to the Coordinator;
 - The respondent is no longer employed or enrolled at OSA; or
 - The specific circumstances prevent OSA from gathering evidence sufficient to reach a decision on the formal complaint or the allegations therein.
 - If a formal complaint of sexual harassment or any of the claims therein are dismissed, OSA will promptly send written notice of the dismissal and the reason(s) for the dismissal simultaneously to the parties.]
- Investigation Process
 - Upon receipt of a formal Title IX complaint, the Title IX Coordinator will appoint an investigator (the "Investigator") to investigate the allegations subject to the formal grievance process. The investigation may include, among other things, interviewing the complainant, the respondent, and any witnesses; reviewing law enforcement investigation documents if applicable; reviewing relevant student or employment files (preserving confidentiality wherever necessary); and gathering and examining other relevant documents, social media, and evidence.
 - In most cases, a thorough investigation will take no more than twenty-five (25) school days. If the Investigator determines that an investigation will take longer than twenty-five (25) school days and needs to be delayed or extended due to good cause, the Investigator will inform the complainant and any respondents in writing

of the reasons for the delay or extension and provide an approximate date when the investigation will be complete.

- The parties will be provided with an equal opportunity to present witnesses, to inspect and review any evidence obtained that is directly related to the allegations raised, and to have an advisor present during any investigative meeting or interview.
 - The parties will not be prohibited from discussing the allegations under investigation or to gather and present relevant evidence.
 - A party whose participation is invited or expected at an investigative meeting or interview will receive written notice of the date, time, location, participants, and purpose of the meeting or interview with sufficient time for the party to prepare to participate.
 - Prior to completion of the investigative report, OSA will send to each party and the party's advisor, if any, a copy of the evidence subject to inspection and review, and the parties will have at least ten (10) days to submit a written response for the Investigator's consideration prior to the completion of the investigation report.
 - The Investigator will complete an investigation report that fairly summarizes all relevant evidence and send a copy of the report to each party and the party's advisor, if any, at least ten (10) days prior to the determination of responsibility.
- Determination of Responsibility
 - OSA will review the evidence provided by all parties and will make a final determination of responsibility after the investigation. The individual making this determination (the "Decision-Maker") will not be the Coordinator, the Investigator, or any other individual who may have a conflict of interest.
 - The standard of evidence used to determine responsibility is the preponderance of proof evidence standard.
 - Determinations will be based on an objective evaluation of all relevant evidence and credibility determinations will not be based on a person's status as a complainant, respondent, or witness.
 - OSA shall send a written decision on the formal complaint to the complainant and respondent simultaneously that describes:
 - The allegations in the formal complaint of sexual harassment;
 - All procedural steps taken including any notifications to the parties, interviews with parties and witnesses, site visits, and methods used to gather other evidence;
 - The findings of facts supporting the determination;
 - The conclusions about the application of OSA's code of conduct or discipline policy to the facts;
 - The decision and rationale for each allegation;
 - Any disciplinary sanctions the recipient imposes on the respondent, and whether remedies designed to restore or preserve equal access to the education program or activity will be provided to the complainant; and
 - The procedures and permissible bases for appeals.

4. Consequences

Students or employees who engage in misconduct prohibited by this Policy, knowingly make false statements or knowingly submit false information during the grievance process may be subject to disciplinary action up to and including expulsion from OSA or termination of employment. The Coordinator is responsible for effective implementation of any remedies ordered by OSA in response to a formal complaint of sexual harassment.

5. Right of Appeal

Should either the complainant or the respondent find OSA's resolution unsatisfactory, the individual may, within five (5) business days of notice of OSA's decision or resolution, submit a written appeal to the President of the Board, who will review the investigation and render a final decision.

The complainant and the respondent shall have the same appeal rights and OSA shall implement appeal procedures equally for both parties. OSA shall notify the other party in writing when an appeal is filed. The President of the Board shall give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome; issue a written decision describing the result of the appeal and the rationale for the result; and provide the written decision simultaneously to both parties.

6. Recordkeeping

All records related to any investigation of complaints under this Policy are maintained in a secure location.

OSA will maintain the following records for at least seven (7) years:

- Records of each sexual harassment investigation, including any determination of responsibility; any audio or audiovisual recording or transcript; any disciplinary sanctions imposed on the respondent; and any remedies provided to the complainant.
- Records of any appeal of a formal sexual harassment complaint and the results of that appeal.
- Records of any informal resolution of a sexual harassment complaint and the results of that informal resolution.
- All materials, which shall also be maintained on OSA's website, used to train Title IX coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process.
- Records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment.



TITLE IX HARASSMENT COMPLAINT FORM

Your Name: _____

Date: _____

Date of Alleged Incident(s): _____

Name of Person(s) you have a complaint against: _____

List any witnesses that were present: _____

Where did the incident(s) occur? _____

Please describe the events or conduct that are the basis of your complaint by providing as much factual detail as possible (e.g., specific statements; what, if any, physical contact was involved; any verbal statements; what did you do to avoid the situation, etc.) (Attach additional pages, if needed):

I hereby authorize OSA to disclose the information I have provided as it finds necessary in pursuing its investigation. I hereby certify that the information I have provided in this complaint is true and correct and complete to the best of my knowledge and belief. I further understand that providing false information in this regard could result in disciplinary action up to and including expulsion or termination.

Signature of Complainant

Date: _____

Print Name

To be completed by the Charter School:

Received by: _____ Date: _____

Follow up Meeting with Complainant held on: _____