

# *Ascent Classical Academy of Northern Denver*

## Title IX Procedures

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Ascent Classical Academy of Northern Denver (“School”) is committed to providing a safe and inclusive learning and working environment for its community members. Sexual Harassment is strictly prohibited in all of the School’s Educational Programs and Activities. The following policy and procedure is designed to ensure an adequate and appropriate response to allegations of Sexual Harassment in the School’s Educational Program and Activities, as described herein.

The Title IX Coordinator for the School is: Christopher Scott

The Title IX Coordinator may be contacted at the following: 4690 Table Mountain Dr. Suite 100, Golden, CO 80403, (720) 506-2988, [christopher.scott@ascentcolorado.org](mailto:christopher.scott@ascentcolorado.org)

To file a Title IX Formal Complaint visit: <https://nd.ascentcolorado.org/title-ix-and-non-discrimination/>

These procedures expand and incorporate the School’s Title IX Policy. See Family Handbook, Policy SE 46.0.

**NOTICE:** Ascent Classical Academy Charter Schools (“ACACS”) does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX and its regulations, including in admission and employment.

Each ACACS campus and network website shall include on its website 1) Ascent Classical Academy Charter Schools’ statement of non-discrimination; 2) the identity and contact information for the Title IX Coordinator for that site; and 3) a Title IX Formal Complaint form.

Inquiries about Title IX may be referred to the ACACS campus Title IX Coordinator, the U.S. Department of Education’s Office for Civil Rights, or both.

Please use this policy and these procedures to report information about conduct that may constitute sex discrimination or make a complaint of sex discrimination under Title IX.

### **GRIEVANCE PROCEDURES:**

ACACS has adopted grievance procedures that provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating or attempting to participate in its education program or activity, or by the Title IX Coordinator, alleging any action that would be prohibited by Title IX or the Title IX regulations.

discrimination as required under Title IX. The requirements for such a fact-specific determination are set forth in 34 C.F.R. § 106.44(f)(1)(v).

## **A. Complaints:**

The following people have a right to make a complaint of sex discrimination, including complaints of sex-based harassment, requesting that ACACS investigate and make a determination about alleged discrimination under Title IX:

- A “complainant,” which includes:
  - a student or employee of ACACS who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX; or
  - a person other than a student or employee of ACACS who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX at a time when that individual was participating or attempting to participate in ACACS’s education program or activity;
- A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant; or
- ACACS’s Title IX Coordinator.<sup>1</sup>

ACACS may consolidate complaints of sex discrimination against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations of sex discrimination arise out of the same facts or circumstances, unless such consolidation would violate the Family Educational Rights and Privacy Act (FERPA).<sup>2</sup> When more than one complainant or more than one respondent is involved, references below to a party, complainant, or respondent include the plural, as applicable.

## **B. Basic Requirements of Title IX Grievance Procedures:**

ACACS requires that any Title IX Coordinator, investigator, or decisionmaker not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. The Coordinator may serve as the investigator and/or decisionmaker in any particular matter. The investigator may also serve as the decisionmaker in any matter. The Coordinator, after consulting with other ACACS leaders as needed or desired, will decide whether to serve as the investigator and/or decisionmaker, or whether other people shall serve in those roles for any particular matter.

ACACS presumes that the respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of its grievance procedures.

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<sup>1</sup> When a Title IX Coordinator is notified of conduct that reasonably may constitute sex discrimination under Title IX (and in the absence of a complaint or the withdrawal of any or all of the allegations in a complaint, and in the absence or termination of an informal resolution process), the Title IX Coordinator must determine whether to initiate a complaint of sex discrimination as required under Title IX. The requirements for such a fact-specific determination are set forth in 34 C.F.R. § 106.44(f)(1)(v).

<sup>2</sup> Consolidation would not violate FERPA when ACACS obtains prior written consent from the parents or eligible students to the disclosure of their education records. *See* 34 CFR § 99.30; 34 CFR § 99.3 (defining an “eligible student” as “a student who has reached 18 years of age or is attending an institution of postsecondary education”).

ACACS endeavors to resolve matters arising under this policy within 60-90 days. To accomplish this, the following general timeframes for major stages of the grievance procedures are established:

- Evaluation (i.e. the decision whether to dismiss or investigate the complaint): 5 calendar days
- Investigation: 25 calendar days
- Determination: 10 calendar days
- Notification of Appeal (if any): due 5 calendar days after determination
- Appeals process (if any): 15 calendar days

ACACS has also established the following process that allows for the reasonable extension of timeframes on a case-by-case basis for good cause with notice to the parties that includes the reason for the delay.

- ACACS, Respondent, or Complainant requires an extension of time in any of the above-listed stages of the grievance procedures and requests the same from the ACACS person in charge of the process at that time, i.e., the Coordinator, Investigator, or Decisionmaker. If ACACS requires the additional time, the request shall be made to the Complainant and Respondent concurrently.
- The request shall include the following information:
- The requested extension of time;
- The general reason for the delay (e.g., necessary due to witness unavailability, school breaks, or days off that make progress not feasible)
- The anticipated impact on the remaining timeline of the grievance procedures
- If a request is for no more than 25% of the timeframe listed above and is for good cause, the parties shall not object to such request absent good cause, which shall be set forth in writing.
- Requests for extension of timeframes shall be determined by mutual assent between the parties. If such mutual assent cannot be reached, the ACACS person in charge of the process at the time – i.e., the Coordinator, Investigator, or Decisionmaker – shall determine if the extension of time shall be granted.
- Absent extraordinary circumstances, the grievance procedures should be completed within 90 days.

ACACS will take reasonable steps to protect the privacy of the parties and witnesses during its grievance procedures. These steps will not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures. The parties cannot engage in retaliation, including against witnesses.

ACACS will objectively evaluate all evidence that is relevant and not otherwise impermissible including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a complainant, respondent, or witness.

The following types of evidence, and questions seeking that evidence, are impermissible (i.e.,

(i) will not be accessed or considered, except by ACACS to determine whether one of the exceptions listed below applies; (ii) will not be disclosed; and (iii) will not otherwise be used), regardless of whether they are relevant:

- Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- 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 ACACS obtains that party's or witness's voluntary, written consent for use in its grievance procedures; and
- 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.

### **C. Notice of Allegations:**

Upon initiation of ACACS's Title IX grievance procedures, ACACS will notify the parties of the following:

- ACACS's Title IX grievance procedures and any informal resolution process;
- Sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), the conduct alleged to constitute sex discrimination, and the date(s) and location(s) of the alleged incident(s);
- Retaliation is prohibited; and
- The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of this evidence. If ACACS provides a description of the evidence, the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party.

If, in the course of an investigation, ACACS decides to investigate additional allegations of sex discrimination by the respondent toward the complainant that are not included in the notice provided or that are included in a complaint that is consolidated, ACACS will notify the parties of the additional allegations.

### **D. Dismissal of a Complaint:**

ACACS may dismiss a complaint of sex discrimination if:

- ACACS is unable to identify the respondent after taking reasonable steps to do so;

- The respondent (i) is not participating in ACACS’S education program or activity or (ii) is not employed by ACACS;
- The complainant voluntarily withdraws any or all of the allegations in the complaint, the Title IX Coordinator declines to initiate a complaint, and ACACS determines that, without the complainant’s withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination under Title IX even if proven; or
- ACACS determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under Title IX. Before dismissing the complaint, ACACS will make reasonable efforts to clarify the allegations with the complainant.

Upon dismissal, ACACS will promptly notify the complainant of the basis for the dismissal. If the dismissal occurs after the respondent has been notified of the allegations, then ACACS will also notify the respondent of the dismissal and the basis for the dismissal promptly following notification to the complainant, or simultaneously if notification is in writing.

ACACS will notify the complainant that a dismissal may be appealed and will provide the complainant with an opportunity to appeal the dismissal of a complaint. If the dismissal occurs after the respondent has been notified of the allegations, then ACACS will also notify the respondent that the dismissal may be appealed. Dismissals may be appealed on the following bases:

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available when the dismissal was made; or
- The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

If the dismissal is appealed, ACACS will:

- Notify the parties of any appeal, including notice of the allegations, if notice was not previously provided to the respondent;
- Implement appeal procedures equally for the parties;
- Ensure that the decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
- Ensure that the decisionmaker for the appeal has been trained consistent with the Title IX regulations;<sup>3</sup>
- Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
- Notify the parties of the result of the appeal and the rationale for the result.

When a complaint is dismissed, ACACS will, at a minimum:

- Offer supportive measures to the complainant as appropriate;<sup>4</sup>

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<sup>3</sup> Training requirements are set forth in 34 C.F.R. § 106.8(d).

<sup>4</sup> Requirements related to supportive measures are set forth in 34 C.F.R. § 106.44(g).

- If the respondent has been notified of the allegations, offer supportive measures to the respondent as appropriate; and
- Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that sex discrimination does not continue or recur within ACACS’s education program or activity.<sup>5</sup>

#### **E. Investigation:**

ACACS will provide for adequate, reliable, and impartial investigation of complaints.

The burden is on ACACS—not on the parties—to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.

ACACS will provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible.

ACACS will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance.

ACACS will provide each party with an equal opportunity to access the evidence that is relevant to the allegations of sex discrimination and not otherwise impermissible, in the following manner:

- ACACS will provide an equal opportunity to access either the relevant and not otherwise impermissible evidence, or an accurate description of this evidence. If ACACS provides a description of the evidence, ACACS will provide the parties with an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party;
- ACACS will provide a reasonable opportunity to respond to the evidence or the accurate description of the evidence; and
- ACACS will take reasonable steps to prevent and address the parties’ unauthorized disclosure of information and evidence obtained solely through the grievance procedures. Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of sex discrimination are authorized.

#### **F. Questioning the Parties and Witnesses:**

ACACS will provide a process that enables the decisionmaker to question parties and witnesses to adequately assess a party’s or witness’s credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex discrimination.

When weighing witness credibility, the following factors shall be considered:

- Inherent plausibility;
- Demeanor;

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<sup>5</sup> The Title IX Coordinator requirements are set forth in 34 C.F.R. § 106.44(f).

- Motive to falsify;
- Corroboration via other witnesses' testimony and/or physical evidence;
- Witness' past record;
- Consistency of information;
- Amount of detail provided
- Memory;
- Any other relevant factors determined by the investigator

### **G. Determination Whether Sex Discrimination Occurred:**

Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, ACACS will:

- Use the preponderance of the evidence standard to determine whether sex discrimination occurred. This standard requires the decisionmaker to evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the decisionmaker is not persuaded under the applicable standard by the evidence that sex discrimination occurred, whatever the quantity of the evidence is, the decisionmaker will determine that sex discrimination has not occurred.
- Notify the parties in writing of the determination whether sex discrimination occurred under Title IX including the rationale for such determination, and the procedures and permissible bases for the complainant and respondent to appeal, if applicable;
- Not impose discipline on a respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the grievance procedures that the respondent engaged in prohibited sex discrimination.
- If there is a determination that sex discrimination occurred, the Title IX Coordinator will, as appropriate:
  - Coordinate the provision and implementation of remedies to a complainant and other people ACACS identifies as having had equal access to ACACS's education program or activity limited or denied by the sex discrimination of the respondent;
  - Coordinate the imposition of any disciplinary sanctions on a respondent, including notification to the complainant that appropriate action was taken; and
  - Take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within ACACS's education program or activity.
- Comply with the grievance procedures before the imposition of any disciplinary sanctions against a respondent; and
- Not discipline a party, witness, or others participating in the grievance procedures for making a false statement or for engaging in consensual sexual conduct based *solely* on the determination whether sex discrimination occurred.<sup>6</sup>

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<sup>6</sup> ACACS is permitted to address false statements or consensual sexual conduct by initiating a separate disciplinary process under its code of conduct as long as there is evidence independent of the determination whether sex discrimination occurred.

## **H. Appeal of Determinations:**

ACACS offers the following process for appeals from a determination whether sex discrimination occurred:

**STEP ONE:** If a party named in the complaint is not satisfied with the determination, it may seek relief from the school leader (i.e., chief administrator at the school) within 5 days of receiving the determination. The school leader shall review the information submitted by the dissenting party, including the determination, and shall have the option of meeting the Complainant, Respondent, or other affected persons, either separately or as a group. Within 10 business days of receiving the appeal, the school leader must issue a written report indicating his or her decision on the appeal, including findings, if any, of his or her investigation from the appeal, if conducted.

**STEP TWO:** If a party remains unsatisfied, a final appeal may be filed with the School's Board of Directors within 10 working days of receipt of the school leader's appellate decision. The Board of Directors shall be the final determining body and shall decide the merits of the case based on the information contained in the formal complaint, the determination, the appellate decision, and the results of the investigation(s) that had occurred.

The Board's consideration of the matter will occur at its next regular meeting occurring at least 7 working days subsequent to its receipt of the appeal. A decision shall be issued within 20 working days after the Board's meeting. The decision of the Board shall be final.

Nothing herein shall be interpreted to confer upon any person the right to a hearing independent of a Board policy, administrative procedure, statute, rule, regulation, or agreement expressly conferring such right. This process shall apply, unless the context otherwise requires and unless the requirements of another policy, procedure, statute, rule, regulation or agreement expressly contradicts with this process, in which case the terms of the contrary policy, procedure, law, rule, regulation or agreement shall govern.

This appeal process will be, at a minimum, substantively similar to the process ACACS offers in all other comparable proceedings, including proceedings relating to other discrimination complaints.

## **I. Informal Resolution, if offered:**

In lieu of resolving a complaint through ACACS's Title IX grievance procedures, the parties may instead elect to participate in an informal resolution process. If this occurs, then the Title IX Coordinator shall work with the parties to attempt to reach an informal resolution. If such is reached, then the Title IX Coordinator shall draft an informal resolution agreement, which the parties shall sign.

ACACS does not offer informal resolution to resolve a complaint that includes allegations that an employee engaged in sex-based harassment of an elementary school or secondary school



student, or when such an informal process would conflict with Federal, State, or local law.

#### **J. Supportive Measures:**

ACACS's Title IX Coordinator will offer and coordinate supportive measures as appropriate for the complainant and/or respondent to restore or preserve that person's access to ACACS's education program or activity or provide support during ACACS's Title IX grievance procedures or during the informal resolution process. These supportive measures may include, but are not limited to:

- Counseling
- Extensions of deadlines and other course-related adjustments;
- Campus escort services;
- Increased security and monitoring of certain areas of the campus;
- Restrictions on contact applied to one or more parties;
- Leaves of absence;
- Changes in class, work, extracurricular, or other activities, regardless of whether there is or is not a comparable alternative;
- Training and education programs related to sex-based harassment.

#### **K. Disciplinary Sanctions and Remedies:**

Following a determination that sex-based harassment occurred, ACACS may impose disciplinary sanctions, which may include any of the following: a warning and/or reprimand in the student's educational record, in-school suspension, out-of-school suspension, or expulsion. ACACS may also provide remedies, which may include, but are not limited to, counseling services, implementing sexual harassment and/or discrimination prevention programs on campus, altering class schedules to limit contact with the respondent, directing no contact between a respondent and complainant, and increasing security and monitoring of certain areas on campus.

#### **L. Relevant Definitions**

*Complainant* means:

- (1) A student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations; or
- (2) A person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations and who was participating or attempting to participate in ACACS's education program or activity at the time of the alleged sex discrimination.

*Complaint* means an oral or written request to ACACS that objectively can be understood as a request for ACACS to investigate and make a determination about alleged discrimination under Title IX or its regulations.

*Disciplinary sanctions* means consequences imposed on a respondent following a determination

under Title IX that the respondent violated ACACS's prohibition on sex discrimination.

*Party* means a complainant or respondent.

*Relevant* means related to the allegations of sex discrimination under investigation as part of these grievance procedures. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged sex discrimination occurred.

*Remedies* means measures provided, as appropriate, to a complainant or any other person ACACS identifies as having had their equal access to ACACS's education program or activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person's access to ACACS's education program or activity after ACACS determines that sex discrimination occurred.

*Respondent* means a person who is alleged to have violated ACACS's prohibition on sex discrimination.

*Retaliation* means intimidation, threats, coercion, or discrimination against any person by ACACS, a student, or an employee or other person authorized by ACACS to provide aid, benefit, or service under ACACS's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or its regulations, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under the Title IX regulations.

*Sex-based harassment* is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity, that is:

(1) *Quid pro quo harassment*. An employee, agent, or other person authorized by ACACS to provide an aid, benefit, or service under ACACS's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;

(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 ACACS's education program or activity. Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

- (i) The degree to which the conduct affected the complainant's ability to access ACACS's education program or activity;
- (ii) The type, frequency, and duration of the conduct;
- (iii) The parties' ages and roles within ACACS's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
- (iv) The location of the conduct and the context in which the conduct occurred;

and

(v) Other sex-based harassment in ACACS's education program or activity; or

(3) *Specific offenses.*

(i) Sexual assault meaning an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation;

(ii) Dating violence meaning violence committed by a person:

(A) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(B) Where the existence of such a relationship shall be determined based on a consideration of the following factors:

(1) The length of the relationship;

(2) The type of relationship; and

(3) The frequency of interaction between the persons involved in the relationship;

(iii) Domestic violence meaning felony or misdemeanor crimes committed by a person who:

(A) Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws for the State of Colorado, or a person similarly situated to a spouse of the victim;

(B) Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;

(C) Shares a child in common with the victim; or

(D) Commits acts against a youth or adult victim who is protected from those acts under Colorado's family or domestic violence laws; or

(iv) Stalking meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

(A) Fear for the person's safety or the safety of others; or

(B) Suffer substantial emotional distress.

*Supportive measures* means individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a complainant or respondent, not for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to: (1) Restore or preserve that party's access to ACACS's education program or activity, including measures that are designed to protect the safety of the parties or ACACS's educational environment; or (2) Provide support during