

Country Gardens Charter School

Discrimination Policy and Review Procedure including Title IX

Country Gardens Charter School will follow the Title IX regulations and recognize that sexual harassment, including sexual assault, is unlawful discrimination. Title IX of the Education Amendments of 1972 ("Title IX"), 20 U.S.C. § 1681 *et seq.* is a Federal civil rights law that prohibits discrimination on the basis of sex in education programs and activities. Country Gardens Charter School is receiving Federal Funds and will comply with Title IX. No person in the United States shall, on basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance. Under Title IX, discrimination on the basis of sex can include sexual harassment or sexual violence, such as rape, sexual assault, sexual battery, and sexual coercion. Country Gardens Charter School is not required to deprive an individual of rights guaranteed under the U.S. Constitution. Title IX, Title VII, and FERPA, as well as the legal rights of parents or guardians will be allowed to act on behalf of individuals with respect to exercising Title IX rights. Inquiries concerning Title IX may be referred to the Title IX Coordinator or Office for Civil Rights. The Title IX Coordinator can be reached in person, by phone, mail, or email at any time.

Discrimination on the basis of race, color, sex, gender identity, sexual orientation, religion, creed, national origin, age, ancestry veteran status, disability unrelated to job requirements, genetic information, military service, or any other legally protected basis provided in the Arizona Civil Rights Act and/or federal employment discrimination laws is unlawful and prohibited at Country Gardens Charter School ("CGCS"). Country Gardens Charter School will operate free from sex discrimination, including sexual harassment.

Any of the following conduct on the basis of sex constitutes sexual harassment:

- A school employee conditioning an educational benefit or service upon a person's participation in unwelcome sexual conduct (often called "quid pro quo" harassment);
- Unwelcome conduct determined by a reasonable person to be so severe, pervasive and objectively offensive that is effectively denies a person equal access to the school's education program or activity, or
- Sexual assault, dating violence, domestic violence, or stalking (as those offenses defined in the Violence Against Women Act, 34, U.S.C. § 12291. (a).

Actual knowledge of allegations of sexual harassment can be reported to any school employee; or by any employee who personally observes such behavior. Actual knowledge is met when an employee witnesses the conduct, hears about the conflict from the alleged victim or anyone else (e.g. parent, friend, peer, anonymous reporter) or receives a written report of the conduct of the alleged victim. The conduct is so severe, pervasive and objectively offensive.

Country Gardens Charter School will respond when: (1) The school has actual knowledge of the sexual harassment; (2) that occurred within the school's education program or activity; (3) against a person in the United States. This includes any elementary or secondary school employee and any person (*e.g.*, the alleged victim or any third party) may report to the Title IX Coordinator in person or by email, phone, or mail. The education program or activity includes situations over which the school exercised substantial control, such as field trips or online platforms during school hours or sponsored events.

For employees these activities include, but are not limited to, hiring and firing of employees and CGCS prohibits retaliation against any employee or applicants engaged in a protected activity under the Arizona Civil Rights Act or federal employment discrimination laws. This policy includes opposing any practice which is unlawful under these laws or for making a charge, testifying, assisting or participating in the administrative process of the Arizona Attorney General Civil Rights Division and/or Equal Employment Opportunity Commission. CGCS is committed to providing an inclusive and welcoming environment for our employees, students, volunteers, subcontractors, and vendors.

Any employee or student who feels that he/she is a victim of discrimination, including sex discrimination is encouraged to seek assistance through the internal problem solving or the complaint processes. It should be noted that the processes described below may not be appropriate in every circumstance. Therefore, the processes should be considered flexible and modified as appropriate to the situation.

Discipline

Employees and students may be disciplined if it is determined through this process that the discriminatory action, treatment, harassment or retaliation for complaining, has occurred in violation of federal or state laws or District policies. The responsible administrator shall refer the matter to the appropriate administrator to initiate disciplinary proceedings against the respondent.

Students: If the recommended disciplinary consequences involve either long –term suspension or expulsion, the student is entitled to pursue the hearing and appeal rights per the code of conduct.

Employees: If the disciplinary consequence involves suspension or termination, the employee’s hearings and appeal rights will be governed by Arizona law and district policies.

1. Scope of Policy

This policy applies to all terms and conditions of employment.

2. Informal Problem-Solving Resolution Process

The Title IX Coordinator will meet with the alleged victim and his/her parents once made aware of alleged sexual harassment. The Title IX Coordinator will discuss supportive measures that are available with or without the filing of formal complaint, and also explain the process for filing a formal complaint. If needed the Title IX Coordinator can sign a formal complaint to initiate the grievance process. The district will get written consent from the individuals and their parents/guardians after a formal complaint has been filed if an informal process is chosen. Anyone may withdraw from informal resolution process and resume the grievance process with respect to the formal complaint.

A written complaint is not required. Through such discussions a satisfactory resolution to the problem may be developed. The employee is not required to discuss alleged discrimination with the person(s) who is alleged to have discriminated or retaliated against the employee.

Informal resolution cannot be offered if the if the alleged perpetrator is an employee.

3. Formal Complaint Process

In cases when an informal review does not yield a satisfactory resolution or in cases where the employee does not wish to make use of an informal review processes, the employee, or the

alleged victim or any third party victim may request a formal review of a complaint of discrimination, including sexual harassment or sexual discrimination by submitting a written request to the Title IX Coordinator on a Title IX Complaint Form. No investigation of alleged sexual harassment may occur until after a formal complaint has been filed.

Country Gardens Charter School will investigate every formal complaint. This complaint may be filed by a complainant or by the Title IX Coordinator. At the conclusion of the review, the Title IX Coordinator will prepare a written report that contains the findings of fact and proposed final disposition of the matter and will provide a draft of the report to the parties and give them each an opportunity to add written comments or response within 14 calendar days. The Title IX Coordinator may modify the findings or proposed final disposition in consideration of comments and responses of the parties. The final report will be sent to the parties and will include their written responses and comments. The written report will disclose to the complainant information about the sanction imposed on the perpetrator and the sanction directly relates to the harassed student, this includes an order that the harasser stay away from the harassed student, or that the harasser is prohibited from attending school for a period of time, or transferred to other classes. However, nothing stated herein is intended to preclude the employee or student from filing a complaint or charge to federal or state authorities. The Title IX Coordinator is the investigator, who leads the investigation after the formal complaint.

The school will dismiss a formal complaint if the following apply:

- The alleged conduct, even if true, would not constitute sexual harassment.
- The alleged conduct, even if true, did not occur in the school district's education program or activity.
- The alleged conduct, even if true did not occur against a person in the United States.

If the formal complaint does not fall under Title IX then Country Gardens Charter School will address the allegations under the schools code of conduct and provide supportive measures.

Written Notice

Once a formal complaint is filed, the school will provide individuals, including parents/guardians written notice of the sexual harassment allegations in sufficient detail , including the identities of the involved individuals (if known), the conduct allegedly constituting sexual harassment and the date and location of the incident (if known). A copy of the grievance policy will be provided.

- A statement of the alleged perpetrator is presumed not responsible of the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.
- The written notice will inform the involved individuals may have an advisor of their choice to inspect and review evidence.
- The written notice will inform the involved individuals of any code of code provision that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

A Fair Grievance Process

The formal complaints of sexual harassment will incorporate due process principles, treats all parties fairly and reaches reliable responsible determinations. Country Gardens will not continue with the grievance process in the absence of a formal complaint.

- Both parties will be provided written notice of the allegations and provide an equal opportunity to select an advisor of the party's choice, and an equal opportunity to submit and review evidence throughout the investigation.
- The Title IX Coordinator, Investigator and Decision-maker will be trained to objectively evaluate all relevant evidence without prejudice of the facts at issue and free from conflicts of interest or bias for or against either party. Protect parties' privacy by requiring a party's consent before using the party's medical, psychological, or similar treatment records during a grievance process;
- Obtain the parties' voluntary, written consent before using any kind of "informal resolution" process, such as mediation or restorative justice, and not use an informal process where an employee allegedly sexually harassed a student;
- Will apply a presumption that the respondent is not responsible during the grievance process (often called a "presumption of innocence"), so that school bears the burden of proof and standard of evidence is applied correctly.
- The preponderance of the evidence standard or clear and convincing evidence standard will be used for all formal complaints (and use the same standard for formal complaints against students as for formal complaints against employees);
- The Decision maker will not be the same person as the investigator or the Title IX Coordinator. The Decision - maker will explain any decision to exclude a question as irrelevant and provide each side with the answers to their questions. The Decision-maker will allow for additional, limited follow-up questions. The Decision-maker will identify the allegations, describe the procedural steps taken by the district, lay out the responsibility determination, including finding of fact, disciplinary sanctions, applicability of code and conduct and remedies, and outlines the appeal process.
- Protect all complainants from inappropriately being asked about sexual history ("rape shield" protections);
- Provide both parties a written determination regarding responsibility explaining how and why the decision maker reached conclusion;
- The grievance procedures may include voluntary informal methods (e.g. mediation) for resolving some types of sexual harassment complaints. Other supportive measures may include: counseling, extensions of deadline or other course-related adjustments, changes to class schedules, and increased security if warranted. If this is used the complainant must be notified of the right to end the informal process at any time and begin the formal stage of the complaint process. In cases of sexual assault, mediation is not appropriate.
- Effectively implemented remedies for a complainant if the respondent is found responsible for sexual harassment;
- Offer both parties the right to appeal;
- Protect any individual, including complainants, respondents and witnesses, from retaliation for reporting sexual harassment or participating (or refusing to participate) in any Title IX grievance process;

- The steps of the grievance process are:
 - Notice will be provided to both parties.
 - Investigation will be completed within 14 days.
 - Written questions and answers will be used for the investigation.
 - Responsibility determination/resolution will be done within 30 days of the formal complaint.
 - Appeal must be submitted within 5 days of the resolution.

Appeal

An appeal may will be allowed if one of the following is cited: (i) a procedural irregularity affected the outcome, (ii) new evidence may affect the outcome and was not previously reasonably available, (iii) the Title IX Coordinator, Investigator or Decision-maker had a conflict of interest or bias that affected the outcome. This appeal must be submitted within 5 days to the Superintendent with particularly the nature of the disagreement, the reasons underlying such disagreement, and how the outcome would be changed by reconsideration of the determination. The Superintendent or designee shall issue a written decision within 10 days of the receipt of the appeal. The Superintendent's decision is the final decision. The Superintendent or designee will be the Decision-maker. For the appeal, the Decision –maker may not be the initial Decision – maker, the Investigator or the Title IX Coordinator.

Non-retaliation

CGCS policy and the law prohibit retaliation against individuals who raise issues of potential discrimination or who participate in an investigation of any claim of discrimination.

Training

All staff will be trained on this policy annually. This information will be in the student code of conduct, personnel manual, and district website.

Records

The District will document and keep records of all sexual harassment reports and investigations for seven years.

Updated August 18, 2020