



CHEROKEE
CHARTER ACADEMY



**TITLE IX
SEXUAL
HARASSMENT
POLICY**



#CCAFAMILY



PURPOSE	3
I. Sexual Harassment	4
II. Reporting	4
III. Definitions	4
IV. Response	7
V. Training	9
VI. Record Keeping	10

PURPOSE

Title IX of the Education Amendments of 1972 ("Title IX") prohibits sex discrimination in educational programs or activities receiving Federal financial assistance. This policy and the administrative procedures that implement it have been adopted in accordance with the new federal Title IX regulations, which are in effect as of August 14, 2020.¹

Cherokee Charter Academy ("School") does not discriminate and does not permit discrimination on the basis of sex in its employment practices, educational programs, or other activities that it operates.

The purpose of this policy and the administrative procedures that implement it is to secure prompt and equitable resolutions of complaints based on sex discrimination, including complaints of sexual harassment, in violation of Title IX of the Education Amendments of 1972, and violation of School policies that prohibit this type of discrimination. This policy and administrative procedures only applies to complaints alleging discrimination on the basis of sex as prohibited by Title IX as defined herein. This policy and the administrative procedures shall be available in the School administrative office, posted on the School website, and included in student and employee handbooks. Annually, the School will provide notice of its grievance procedures and grievance process, to applicants for admission and employment; students; parents or legal guardians of students; employees, and all unions or professional organizations with whom it holds collective bargaining or professional agreements, if any. This notice shall include, at a minimum, the name and contact information for the School's Title IX Coordinator, and information on how to report or file a complaint of sexual discrimination or sexual harassment, how to report or file a formal complaint of sexual harassment, and how the School will respond.

The School shall appoint a **TITLE IX COORDINATOR**, who shall be responsible for coordinating the School's response to all allegations involving possible sexual harassment. The following contact information shall be published and regularly updated on the website, student and employee handbooks, and other locations as appropriate for the Title IX Coordinator.

Title IX Coordinator: Dan Moorer
2126 Sixes Road
Canton, GA 30114
(678) 385-7322
DMoorer@CherokeeCharter.Org

¹ 34 CFR §106.1 et al.

I. Sexual Harassment

- A. Sexual harassment is defined as conduct on the basis of sex that satisfies one or more of the following:
1. An employee of the School conditioning the provision of an aid, benefit, or service of the School on an individual's participation in unwelcome sexual conduct (quid-pro-quo); or
 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 School's education program or activity; or
 3. "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).

II. Reporting

- A. Any School employee with actual knowledge of sex discrimination, including sexual harassment in an education program or activity as defined in the Policy, must report the sex discrimination to the Title IX Coordinator. Failure to report may result in disciplinary action against the employee, up to and including termination.
- B. Any person may report sex discrimination, including sexual harassment as defined by this Policy, (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), to the Title IX Coordinator in person, by mail, by telephone, by electronic mail, or through other means specified by the School. Reports may be made at any time, including during non-business hours.
- C. The School shall not require waiver of the right to an investigation and adjudication of formal complaints of sexual harassment as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right.

III. Definitions

- A. **Actual Notice** means notice of sexual harassment or allegations of sexual harassment to a School's Title IX Coordinator or any official of the School who has

authority to institute corrective measures on behalf of the School, or to any employee of an elementary and secondary school. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge. This standard is not met when the only official of the School with actual knowledge is the Respondent. The mere ability or obligation to report sexual harassment or to inform a student about how to report sexual harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of the School. "Notice" as used in this paragraph includes, but is not limited to, a report of sexual harassment to the Title IX Coordinator.

- B. **Appeal Officer** means a trained individual appointed by the School who will review and make a decision on a properly filed appeal. The Appeal Officer must be free from bias or conflict of interest and must not be the Title IX Coordinator, the Investigator, or the Decision Maker(s).
- C. **Complainant** is an individual, a student or employee, who is alleged to be the victim of conduct that could constitute sexual harassment. The Complainant must be participating in or attempting to participate in an education program of the School. Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a Complainant or otherwise a party under this Policy, unless the Title IX Coordinator is alleged to be the victim of conduct that could constitute sexual harassment.
- D. **Decision Maker** means the trained person(s) responsible for making a determination regarding responsibility. The Decision Maker cannot be the same person(s) as the Title IX Coordinator, the Investigator, or the Appeal Officer.
- E. **Education Program or Activity** means locations, events, or circumstances over which the School exercised substantial control over both the Respondent and the context in which the sexual harassment occurs.
- F. **Formal complaint** means a document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the School investigate the allegation of sexual harassment. At the time of filing a formal complaint, a Complainant must be participating in or attempting to participate in the education program or activity of the School with which the formal complaint is filed. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information listed for the Title IX Coordinator, or by any other method specified by the School. 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 School) that contains the Complainant's physical or digital signature, or otherwise indicates that the Complainant is the person filing the formal complaint.

- G. **Grievance Process** means the provisions, rules, or practices included within this Policy and the administrative procedures for processing formal complaints of sexual harassment. The Grievance Process shall be applied equally to both the Complainant and the Respondent.
- H. **Investigator** means a trained person(s) appointed by the School who is tasked with conducting the investigation into allegations of sexual harassment addressed in a formal complaint. The Investigator does not need to be an employee of the School and may be outside counsel or any other person designated by the School. The Investigator shall not be the Decision Maker, or the Appeal Officer not should the Investigator be the Title IX Coordinator when possible..
- I. **Remedial Actions or Remedial Remedies** means those actions intended to restore or preserve a Complainant’s equal access to the educational programs and activities of the School.
- J. **Respondent** is any individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.
- K. **Standard of Evidence** means the preponderance of evidence standard that is to be used during the investigation and final determination of a formal complaint. Preponderance of evidence means that the evidences shows that the action alleged is more likely to have occurred than not to have occurred. This standard shall be applied for all formal complaints of sexual harassment against students and employees.
- L. **Supportive measures** means 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 or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the School's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the School's educational environment, or deter sexual harassment. Supportive measures may include 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 or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The School must 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 the School to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

IV. Response

- A. Upon receipt obtaining actual knowledge of sexual harassment in an education program or activity of the School against a person in the United States, the School must respond promptly in a manner that is not deliberately indifferent. A School is deliberately indifferent only if its response to sexual harassment is clearly unreasonable in light of the known circumstances.

Upon receipt of a report of alleged sexual harassment, the Title IX Coordinator will promptly contact the Complainant and discuss the following:

- a) The availability of supportive measures that are available to the Complainant to immediately restore or preserve equal access to the School's education program or activity without unreasonably burdening the other party.
- b) The availability of supportive measures with or without the filing of a formal complaint; and
- c) The process for filing the formal complaint.

In each instance, the 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 its education program or activity. If the School does not provide a Complainant with supportive measures, then the reasons why such a response was not clearly unreasonable in light of the known circumstances must be documented. The documentation of certain bases or measures does not limit the School in the future from providing additional explanations or detailing additional measures taken.

The filing of a formal complaint does not preclude the School from responding to the complaint by also applying other School policy violations, including but not limited to, Code of Conduct violations, violations of the Student or Employee

Handbook, or allegations that are not related to sexual harassment. Non-sexual harassment allegations and/or findings shall be promptly reported to the Principal or the supervisor of the Respondent to process pursuant to the School's applicable policies, including its disciplinary policies.

If the Complainant refuses to initiate a formal complaint, the Title IX Coordinator may submit a signed, written formal complaint to initiate a formal investigation and complaint process, regardless of the Complainant/Complainant's parent's or guardian's consent, if based upon the allegations and information received there is the possible likelihood of sexual harassment. The Title IX Coordinator shall submit a signed, written formal complaint to initiate a formal investigation and complaint process, regardless of the Complainant/Complainant's parent's or guardian's consent, if the allegations and information received involve sexual harassment of a student by an employee.

Throughout the course of the investigation of the formal complaint and throughout the grievance process (collectively, "Formal Complaint Process"), the burden of proof and burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the School and not on the parties.

Any individual designated by the School as a Title IX Coordinator, Investigator, Decision- Maker, or any person designated by the School to facilitate an informal resolution process, must not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent. If any party alleges a conflict of interest or bias, the Principal shall appoint another person to fulfill the role of the person alleged to have a conflict of interest.

The School will endeavor to complete investigations within sixty (60) days of the date on which the formal complaint was received; however, the School's primary objective is a thorough and equitable investigation and grievance process.

The School shall coordinate its investigation and grievance process with any other ongoing criminal investigation of the incident, if any. The School may determine whether to delay its investigation pending the conclusion of a criminal investigation or for criminal proceedings to begin. If the fact-finding portion of the investigation is suspended due to the existence of a criminal investigation, the School's investigation shall resume promptly once law enforcement officials have completed their evidence gathering state of the criminal investigation.

School employees and students are required to participate fully in an investigation, but in no event will a Complainant be subjected to any disciplinary sanctions or consequences for refusing or failing to participate.

An informal resolution process may be facilitated at any time after the Formal Complaint is filed and prior to the determination regarding responsibility, with the exception that an informal resolution is not permitted to resolve allegations that an employee of the School sexually harassed a student.

Upon a finding of responsibility, disciplinary sanctions against an employee may include any available sanction available for the discipline of employees, up to and including termination. Disciplinary sanctions against a student may include any available discipline or sanction, up to and including expulsion, under the policies, rules and procedures established by the School.

If an employee subject to possible discipline for violations of this Policy retires or resigns prior to the completion of the investigation, or before a final disposition is made, or during the course of a disciplinary hearing, the Superintendent shall report the allegations to the Georgia Professional Standards Commission.

No person shall, for the purpose of interfering with any right or privilege secured by Title IX or this Policy, intimidate, threaten, coerce, or discriminate against any individual who is the victim of or who reports alleged sexual harassment or testifies, assists, or participates in an investigation, final determination of any proceeding or hearing related to a sexual harassment complaint. Should retaliation occur, the victim shall promptly report the actions to the Principal or the Title IX Coordinator. Persons found guilty of retaliation shall be subject to discipline.

V. Training

- A. Title IX Coordinators, Investigators, Decision Makers, and any person who facilitates an informal resolution process, must receive training on the following:
 - a) definition of sexual harassment;
 - b) the scope of the School's education program or activity;
 - c) how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable; and
 - d) how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

Decision Makers must also receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant.

Investigators must receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.

Any materials used to train Title IX Coordinators, Investigators, Decision Makers, and any person who facilitates an informal resolution process, must not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment.

All training materials must be made publicly available on the School's website.

VI. Record Keeping

A. The School must maintain records for a period of seven years, including:

1. Each sexual harassment investigation including any determination regarding responsibility and any required audio or audiovisual recording or transcript, any disciplinary sanctions imposed on the Respondent, and any remedies provided to the Complainant designed to restore or preserve equal access to the School's education program or activity;
 - a) Any appeal and result;
 - b) Any information resolution and result;
 - c) Records of the School's response upon obtaining actual knowledge of sexual harassment in an education program or activity under its control, including records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment. In each instance, the 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 School's education program or activity. If a School does not provide a Complainant with supportive measures, then the School must document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the School in the future from providing additional explanations or detailing additional measures taken.

- d) All materials used to train Title IX Coordinators, Investigators, Decision Makers, and any person who facilitates an informal resolution process. A School must make these training materials publicly available on its website, or if the School does not maintain a website, the School must make these materials available upon request for inspection by members of the public.