

Baypoint Preparatory Academy

Title IX Policy

Baypoint Preparatory Academy (“School”) is committed to maintaining a safe and respectful school environment that is free from discrimination and harassment. Title IX of the Education Amendment Act of 1972 (“Title IX”) prohibits discrimination on the basis of sex, including sexual harassment, in the School’s education programs and activities.

This Title IX Policy for Sexual Harassment (“Policy”) details the School’s commitment to maintain a learning environment that is free from sexual harassment and provides a grievance process for allegations of sexual harassment as defined under Title IX. Any individual can report sexual harassment at School to School staff (e.g., Executive Director, Site Administrator, teacher), and the School will take appropriate action in accordance with this Policy.

Sexual harassment is a form of gender discrimination in that it constitutes differential treatment on the basis of gender, gender identity or expression, or sexual orientation, and, for that reason, is a violation of state and federal laws and a violation of this Policy. The School considers sexual harassment to be a major offense which can result in the suspension or expulsion of students and termination of employees.

Definition of Sexual Harassment Under California Law

California Education Code section 212.5 defines sexual harassment as any unwelcome sexual advances, requests for sexual advances, requests for sexual favors, or other verbal, visual, or physical conduct of a sexual nature made by someone from or in the work or educational setting, under the following conditions:

- Submission to the conduct is explicitly or implicitly made a term or a condition of an individual’s employment, academic status, or progress.
- Submission to, or rejection of the conduct by the individual is used as the basis of employment or academic decisions affecting the individual.
- 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.
- Submission to, or rejection of, the conduct by the individual is used as the basis for any decisions 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:

- Unwelcome verbal conduct such as suggestive, derogatory comments, sexual innuendos, slurs, or unwanted sexual advances, invitations, or comments; pestering for dates; making threats; or spreading rumors about or rating others as to sexual activity or performance.

- Unwelcome visual conduct such as displays of sexually suggestive objects, pictures, posters, written material, cartoons, or drawings; graffiti of a sexual nature; or use of obscene gestures.
- Unwelcome physical conduct such as unwanted touching, pinching, kissing, patting, hugging, blocking of normal movement, assault; or interference with work or study directed at an individual because of the individual's sex, sexual orientation, or gender.
- Threats and demands or pressure to submit to sexual requests in order to keep a job or academic standing or to avoid other loss, and offers of benefits in return for sexual favors.

Under Education Code section 230, harassment and other discrimination on the basis of sex include, but are not limited to, the following: exclusion of a person or persons from participation in, denial of the benefits of, or subjection to harassment or other discrimination in, any academic, extracurricular, research, occupational training, or other program or activity; and exclusion from participation in, or denial of equivalent opportunity in, athletic programs. The full definition of discrimination and harassment based on sex from Education Code section 230 can be found here:

http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=EDC&ionNum=230.

The definition of sexual harassment under California law and the definition of Sexual Harassment under Title IX overlap in some areas. Complaints alleging unlawful discrimination, harassment, intimidation or bullying based on gender, sex, gender identity or expression, or sexual orientation are eligible to be investigated pursuant to the School's Uniform Complaint Procedures. However, if any complaints alleging sexual harassment constitute Sexual Harassment as defined under Title IX (see next page), the complaints shall be investigated under the Title IX Grievance Procedures for Sexual Harassment. The School prohibits retaliatory behavior against anyone who files a sexual harassment complaint or any participant in the complaint investigation process.

Sex Equity in Education Act Statement

Students have all the rights set forth in Education Code section 221.8 (as applicable to School's programs): This includes the right to fair and equitable treatment, the right to a school environment without discrimination on the basis of sex, and right to be provided with an equitable opportunity to participate in all academic extracurricular activities. The description of all rights set forth in Education Code section 221.8 can be found here:

http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=EDC&ionNum=221.8.

For more information about Gender Equity/Title IX, please visit the following CDE website:

<https://www.cde.ca.gov/re/di/eo/genequitytitleix.asp>.

Title IX Grievance Procedures for Sexual Harassment

I. Scope and Jurisdiction

This Policy's Title IX grievance procedures apply only to conduct that falls within the definition of "Sexual Harassment" under Title IX. School employees or students may submit formal complaints of Sexual Harassment for investigation under this Policy. Sexual Harassment under Title IX means conduct on the basis of sex that falls within one or more of the following categories:

1. A School employee conditioning the provision of a school aid, benefit, or service 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 School's education program or activity.
3. Sexual assault, dating violence, domestic violence, or stalking (as those terms are defined in 34 CFR section 106.30).

II. Title IX Personnel

The School has designated the following individual as its Title IX Coordinator to coordinate the investigation and resolution of Sexual Harassment formal complaints as outlined in this Policy:

Name: Sabina Chaar

Title: Executive Director/Title IX Coordinator

Address: 520 East Carmel Street, San Marcos, CA 92078

Phone: (760) 203-4383

Email: schaar@baypointprep.org

The Title IX Coordinator may designate other individual(s) to fulfill all or part of their duties. In addition to the Title IX Coordinator, the following Title IX personnel are involved in the formal complaint process:

- **Investigator**: The individual responsible for gathering all evidence related to the formal complaint. This individual will create an "Investigation Report" which will summarize the relevant evidence.
- **Decision-Maker**: The individual responsible for evaluating evidence in order to make a determination regarding the formal complaint. The Decision-Maker submits a written determination of findings to the parties. The Decision-Maker cannot be the Title IX Coordinator, the Investigator, or any individual involved in the investigation of the formal complaint.
- **Title IX Appeals Officer**: If applicable, this individual is responsible for evaluating an appeal of the final determination. The Title IX Appeals Officer cannot be the Title IX Coordinator, Investigator, or any individual involved in the investigation of the formal complaint.

All Title IX Personnel will receive training in accordance with Title IX requirements. The Title IX Coordinator must ensure individuals responsible for investigating a formal complaint are neutral.

III. Reporting Allegations of Sexual Harassment and Submitting Formal Complaints

Any individual (e.g., a student or employee who is alleged to be a victim of Sexual Harassment or a parent/guardian of a student who is alleged to be a victim of Sexual Harassment), may report Sexual Harassment directly to the School's Title IX Coordinator, or to any other available School employee who shall immediately inform the Title IX Coordinator.

Upon receiving such a report, whether written or verbally, the Title IX Coordinator will contact the complainant and inform them of their right to file a formal complaint and the process for filing a formal complaint.

A formal complaint is one that contains the complainant's physical or digital signature, and it may be filed at any time with the Title IX Coordinator in person, by mail, or by email. A complainant may use the attached Title IX form to submit a formal complaint to the Title IX Coordinator.

IV. The School's Initial Response to a Report of Sexual Harassment

Upon receipt of any report of Sexual Harassment, the Title IX Coordinator or designee will take the following steps. These steps are offered regardless of whether the complainant submits a formal written complaint:

1. Contact Complainant and Determine Need for Supportive Measures: The Title IX Coordinator will contact the complainant and respondent¹ to discuss the availability of supportive measures to stop the harassment, protect students, and ensure access to the educational program. If a formal complaint was not filed, the Title IX Coordinator shall explain to the complainant the right to file a formal complaint and the process for filing a formal complaint.
 - a. Supportive measures are nondisciplinary and non punitive and shall be available at any point during the Title IX investigation. Supportive measures may include, but are not limited to: wellness check-ins, counseling services, extension of deadlines or course-related adjustments, modifications of work or class schedules, changes in work locations, or leaves of absences. The Title IX Coordinator is responsible for implementing the supportive measures.
2. Determine Need for Emergency Removal: The Title IX Coordinator will review the facts to determine whether the respondent (either student or staff) may need to be removed from the school setting to prevent any further sexual harassment and/or maintain the safety of students and staff.

- a. If the respondent is a student, the School may determine that removal from the educational program is justified due to an immediate threat to the physical health or safety of any student or other individual arising from the allegations. The School will conduct an individualized safety and risk analysis before the removal. The School shall provide the student with notice and opportunity to challenge the decision immediately following the removal consistent with expulsion procedures set forth in the charter. The School will comply with applicable laws concerning disciplining or expelling students.
 - b. If the respondent is an employee, the employee may be placed on administrative leave during the formal complaint investigation.
3. Consider Use of Informal Resolution Process: At any time after an informal or formal complaint has been filed, but before reaching a determination regarding the allegation, the School may offer an informal resolution process (such as a mediation) to the complainant and respondent. However, the informal resolution process is not available where the complainant alleges that an employee sexually harassed a student.

V. Initial Review of Formal Complaint:

If a formal complaint is filed, the Title IX Coordinator will review the complaint to determine whether it raises allegations that fall within the definition of Sexual Harassment under Title IX as described above.

If it does, the Title IX Coordinator will follow this Policy's grievance procedures for formal complaints. If it does not, the Title IX Coordinator will determine whether the complaint should be dismissed (as explained below) and/or investigated pursuant to another applicable School policy (e.g., Uniform Complaint Procedures).

VI. Mandatory or Permissive Dismissal of Formal Complaint:

Under certain circumstances, a complaint must or should be dismissed by the Title IX Coordinator. The Title IX Coordinator will endeavor to make this determination no more than **ten (10) calendar days** from the date they receive the formal complaint.

1. Mandatory Dismissal: The Title IX Coordinator must dismiss the formal complaint if they determine any of the following:
 - a. The alleged conduct would not constitute Sexual Harassment as defined under Title IX even if proved; or
 - b. The alleged conduct did not occur in the School's education program or activity or did not occur against an individual in the United States.

2. Permissive Dismissal: The Title IX Coordinator may dismiss a formal complaint if they determine any of the following:
 - a. The complainant has notified the School, in writing, that they would like to withdraw the complaint or any allegations in the complaint;
 - b. The respondent is no longer enrolled in, or employed by, the School; or
 - c. Specific circumstances prevent the School from gathering evidence to reach a determination with regard to the complaint.

Written Notice of Dismissal: If the Title IX Coordinator dismisses the complaint, they must send written notice of the dismissal simultaneously to both parties (complainant and respondent) as follows:

- The written notice should state the reason(s) for the dismissal and inform the parties of their right to appeal in accordance with the procedures described in the “Appeals” section below.
- If the Title IX Coordinator determines another School grievance procedure (e.g., Uniform Complaint Procedures) is the appropriate grievance procedure for the complainant’s allegation(s), the written notice shall inform the parties (complainant and respondent) of the School’s intent to investigate the complaint through that grievance procedure.

VII. Title IX Grievance Procedures

If the Title IX Coordinator does not dismiss the formal complaint, the School will initiate the following Title IX Grievance Procedures and issue a Written Decision. The School will endeavor to complete its investigation and issue a Written Decision **within ninety (90) calendar days of receipt of the formal complaint**.

1. Send Written Notice of Formal Complaint

The Title IX Coordinator must provide the parties (complainant and respondent) with a Notice of Formal Complaint. The Title IX Coordinator will endeavor to provide this Notice **within ten (10) calendar days of receipt of the formal complaint**. The notice shall include: (1) a copy of this Policy; (2) a description of the allegations potentially constituting Sexual Harassment with sufficient details known at the time; (3) a statement that the respondent is presumed not responsible for conduct and that a determination regarding responsibility is made at the conclusion of complaint process; (4) a statement informing the parties of the opportunity to have an advisor of their choice throughout the grievance process and the ability to inspect and review evidence; and (5) a statement informing the parties that they must not knowingly make false statements or submit false information.

2. Investigator Conducts Investigation

The Investigator will gather and review evidence related to the allegations. This can include, but is not limited to, interviewing parties or witnesses, as well as reviewing relevant evidence.

Written notice of all investigative interviews or other meetings must be provided to any individual whose participation is invited or expected to be provided with sufficient time for the individual to prepare to participate. Notice must include the date, time, location, participants, and purpose of the meeting. Attendees of such meetings will have the right to be accompanied by an advisor of their choice.

3. Investigator Provides Parties Equal Opportunity to Review Gathered Evidence

The Investigator will provide both the complainant and respondent with an equal opportunity to review the evidence that is directly related to the allegations raised in the formal complaint. The parties will have a period of at least **10 calendar days** before the Investigative Report is provided to the parties to review the evidence, ask the Investigator additional questions, provide or suggest additional evidence to be considered by the Investigator.

4. Investigator Prepares and Shares Investigative Report

The Investigator will prepare an Investigative Report summarizing the relevant evidence. The Investigative Report is not the School's final Written Decision. The Investigator will send the Investigative Report to the parties and their advisors, if any, for their review and written response at least **10 calendar days** before issuance of the Written Decision. The School will inform the parties in writing that they may submit to the Decision-Maker written, relevant questions that the parties want asked of any party or witness. The Decision-Maker is responsible for providing the responses (if any) to these questions to both parties.

5. Decision-Maker Issues Written Decision

The Decision-Maker will endeavor to issue the Written Decision **within ninety (90) calendar days from the receipt of the formal complaint**. The Decision-Maker will issue a Written Decision to both parties simultaneously. The Decision-Maker uses the "preponderance of evidence" standard (i.e., it is more likely than not that the respondent committed the alleged conduct). The Written Decision will include all of the following:

- a. Identification of the allegations potentially constituting Sexual Harassment.
- b. A description of the procedural steps taken by the School during the investigation process (e.g., notifications to the parties, interviews with the parties and witnesses, site visits, or methods used to gather other evidence).
- c. Findings of fact supporting the determination.

- d. Conclusions regarding the application of the School's policies to the facts.
- e. A statement of, and rationale for, the result as to each allegation, including a decision regarding responsibility, any disciplinary sanctions the School imposes on the respondent, and whether remedies designed to restore or preserve equal access to the School's educational program will be provided by the School to the complainant.
- f. The School's procedures and permissible bases for either party to appeal the decision.

6. Remedies

If the School determines that the respondent engaged in Sexual Harassment, the School will provide remedies to the complainant, as appropriate. This may include supportive measures. Remedies may also include: transfer from a class; parent/student conference(s); positive behavior support; warnings; detention; and/or formal discipline, such as suspension and expulsion. When an employee is found to have committed Sexual Harassment, the School will take appropriate disciplinary action, up to and including termination, in accordance with School policies and as permitted by law.

VIII. Appeals

Either party may appeal the School's Written Decision, or its dismissal of a formal complaint or any allegation in the complaint, within **five (5) calendar days of the decision**. An appeal may be made on any of the following grounds:

1. A procedural irregularity affected the outcome.
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made that could affect the outcome of the matter.
3. The Title IX Coordinator, Investigator(s), or Decision-Maker(s) had a conflict of interest or bias for or against the complainant or respondent that affected the outcome of the matter.

Upon receipt of an appeal, the School will provide a written notification to the other party about the appeal that gives both parties a reasonable, equal opportunity to submit a written statement in support of/challenging the appeal.

The Title IX Appeals Officer (not Decision-Maker, Title IX Coordinator, or Investigator) shall issue a written decision of an appeal. The Title IX Appeals Officer will endeavor to issue their decision **within thirty (30) calendar days from the receipt of the appeal**.

IX. Record Keeping

The School will maintain for a period of seven (7) years records pertaining to Title IX Sexual Harassment allegations, as well as all material used to train Title IX Personnel.



Title IX Complaint Form

Instructions: This form can be completed by any individual who has knowledge of a sexual harassment conduct occurring within the education program or activity of Baypoint Preparatory Academy (“School”). Please complete the information below. Should you need additional space or would like to provide documentation to support the allegations in the complaint, you can attach those to this complaint form. If you have any questions, please contact the School’s Title IX Coordinator listed below.

Contact Information and Complainant’s (Victim) Information

Full Name of Person Filing the Complaint: _____
Address: _____
Phone: _____ Email: _____
School Name: _____
Complainant’s (Victim) Full Name (if different from above): _____

Respondent’s (Accused) Information

Respondent’s Full Name: _____
Is the Accused a student? ___ No ___ Yes
If yes, what is the student’s grade and relation to complainant: _____
Is the Accused a staff member? ___ No ___ Yes
If yes, what is the staff member’s relation to the complainant (e.g. teacher)? If no, what is the accused’s affiliation to the School?

Details of Complaint

Date of the Alleged Incident(s): _____ Location of Alleged Incident: _____

Please describe the facts underlying your complaint. Provide details such as the names of those involved, the dates of the incident(s), whether witnesses were present and the names of any witnesses, etc. Please provide any details which you feel might be helpful to a complaint investigator.

Did the harassment occur at School or during a School activity? If so, please describe below:

Did this incident interfere with your ability to access or participate in School programs or activities? If so, please describe below:

List the individuals involved in the relevant incident(s):

List any witnesses to the incident(s):

Acknowledgements:

By submitting this form to the School's Title IX Coordinator, I wish to initiate the School's formal Title IX Grievance Procedures.

Signature of Complainant

Date

Once you have completed this form, please submit it to the Title IX Coordinator:

Sabina Chaar - 520 East Carmel Street - San Marcos, CA 92078 - (760) 203-4383
schaar@baypointprep.org