

# HOLYOKE COMMUNITY CHARTER SCHOOL

2200 Northampton St., Holyoke, MA 01040  
**Telephone:** (413) 533-0111 **Fax:** (413) 536-5444

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## **Sexual Harassment Policy:**

### General Statement:

All persons have the right to be free from sexual harassment; therefore, sexual harassment in any form is strictly forbidden in school, on school grounds, or at school related activities. The School does not discriminate on the basis of sex in the School's educational programs or activities, admissions or employment practices. The School has designated the following individual as the School's Title IX Coordinator:

Name:	Kyle Callender
Email:	kcallender1@hccs-sabis.net
Address:	2200 Northampton Street, Holyoke, MA 01040
Phone number	(413) 533-0111

### Definition:

Under Massachusetts law, Sexual harassment includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct or other verbal or physical conduct or communication of a sexual nature when (1): submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of the provision of the benefits, privileges, or placement services or as a basis for the evaluation of academic or professional achievement; or (2): such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's education by creating an intimidating, hostile, humiliating or sexually offensive educational or work environment.

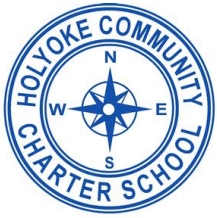
Under Title IX of the Education Amendments of 1972, the term "sexual harassment" includes three (3) types of misconduct based on sex:

- (1) any instance of quid pro quo harassment by a school employee;
- (2) unwelcome conduct on the basis of sex, including unwelcome conduct based on sex stereotyping or on the basis of traditional notions of masculinity and femininity, that is sufficiently severe and pervasive and objectively offensive conduct, effectively denying a person equal educational access; or
- (3) any instance of sexual assault as defined in the Cleary Act, dating violence, domestic violence, or stalking as defined in the Violence Against Women Act.

Sexual harassment is not, by definition, limited to prohibited conduct by a male toward a female. A male, as well as a female, may be the victim of sexual harassment, and a female, as well as a male, may be the harasser. Further, the victim does not have to be of the opposite sex from the harasser. Finally, any adult may be the victim of sexual harassment by a student.

### Examples

Examples of sexual harassment may, if meeting the definition set forth above, include, but are not limited to: demanding sexual favors accompanied by threats; engaging in reprisals as a result of an individual's refusing to engage in sexual behavior; contact with any sexual part of another's body (e.g., touching, patting or pinching); touching any nonsexual part of the body (e.g., shoulder, etc.) after that person has



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indicated that such touching is unwanted; displaying sexually suggestive pictures or objects; calling a person a demeaning, sexualized term.

## *Reporting*

Any student who believes he/she is a victim of sexual harassment should inform a teacher, counselor, or another adult in a position of authority in the school as soon as possible. Students should avoid trying to solve the problem of sexual harassment alone. School staff will assist the student with the filing of a complaint of sexual harassment in accordance with the School's Sexual Harassment Grievance Procedures.

All persons shall promptly report knowledge of actual or reasonably suspected sexual harassment to the Principal or her designee. Supportive interim measures will be discussed with the alleged victim

## *Investigation*

All formal complaints of sexual harassment meeting the definition of sexual harassment under Title IX of the Education Amendments of 1972 shall be addressed in accordance with the School's Sexual Harassment Grievance Procedures and in accordance with applicable federal and state regulations.

## *Disciplinary Action*

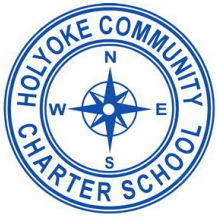
Following a determination that sexual harassment in violation of this Policy has occurred, the individual(s) found to have engaged in such harassment may be subject to discipline including, but not limited to, possible long-term suspension, expulsion or, in the case of an employee, termination. In some instances, the School may also exercise its authority under applicable Title IX or state regulations, to immediately remove, on an emergency basis, an individual identified as a perpetrator of sexual harassment even prior to the completion of an investigation and the issuance of a determination as to whether sexual harassment has occurred. The School may also provide interim supportive measures to protect the safety of the alleged victim and the alleged perpetrator, to deter further harassment, and/or to ensure equal educational access for the alleged victim and the alleged perpetrator during, and subsequent to, an investigation and determination in accordance with the School's Sexual Harassment Grievance Procedures.

## *Retaliation Prohibited*

Retaliation, reprisal, intimidation with, interference of, and/or retaliation against any individual, including a student, parent, or guardian, for filing a complaint of sexual harassment or participating in the investigation thereof is strictly prohibited and shall be treated as an actionable, wrongful act in and of itself. Such wrongful act may result in a student's long-term suspension of up to ninety (90) school days or, in the case of employees, termination of employment.

## *Report to Police*

Depending upon the seriousness and frequency of incidents, the Holyoke Police Department or the Massachusetts State Police may be contacted by the school administration.



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## **Title IX Sexual Harassment Grievance Procedures: (This section will be updated once the state law is approved)**

### Overview

The Holyoke Community Charter School is committed to maintaining school environments free of sexual harassment.

Sexual harassment in any form or for any reason is prohibited. This includes sexual harassment by administrators, personnel, students, vendors, and other individuals in school or at school related events.

The School does not discriminate on the basis of sex in its educational programs or activities and is required by Title IX not to discriminate on the basis of sex. Such non-discrimination also extends to admissions and the employment application process. Retaliation against any individual who has brought sexual harassment to the attention of school officials, or against an individual who has participated, or refused to participate, in the investigation thereof is unlawful and will not be tolerated by the Holyoke Community Charter School.

### Scope

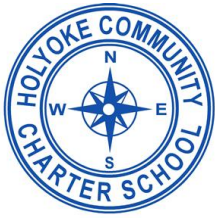
The Title IX Sexual Harassment Grievance Procedures have been developed in accordance with the revised Title IX regulations, 34 CFR Part 106, effective August 14, 2020, which established a new definition of sexual harassment under Title IX and which mandate specific procedures for responding to and investigating allegations of sexual harassment under Title IX.

The Title IX Sexual Harassment Grievance Procedures apply only to allegations of sexual harassment under Title IX, which includes harassment based on sex, sexual orientation, and/or gender identity, and is defined in the Definitions section below.

The Title IX Sexual Harassment Grievance Procedures apply to conduct that occurs within the United States in an education program or activity of the School, regardless of whether such School program or activity is conducted on or off school grounds. A School education program or activity includes locations, events, or circumstances over which the School exercised substantial control over both the respondent and the context in which the sexual harassment occurred.

Allegations of conduct that meet the definition of sexual harassment under Title IX will be addressed through the Title IX Sexual Harassment Grievance Procedures. Allegations of conduct that meet the definition of sexual harassment under Title IX, and simultaneously meet the definitions of sexual harassment under Title VII of the Civil Rights Act of 1964 (employees), M.G.L. c. 151B (employees), and/or M.G.L. c. 151C (students), will also be addressed through the Title IX Sexual Harassment Grievance Procedures.

Allegations of conduct that do not meet the definition of sexual harassment under Title IX, but could, if proven, meet the definition(s) of sexual harassment under Title VII (employees), M.G.L. c. 151B (employees), and/or M.G.L. c. 151C (students), will be addressed through the School's Civil Rights Grievance Procedures. (See exception under Section II, Part 4, Step 4 below). The definitions of sexual



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harassment under Title VII, M.G.L. c. 151B, and M.G.L. c. 151C are set out in the Civil Rights Grievance Procedures.

The School's Civil Rights Grievance Procedures is available in Appendix G.

### Confidentiality

The School will keep the identity of complainants, respondents, and witnesses confidential, except as permitted by the Family Educational Rights and Privacy Act (FERPA), as otherwise required by law, and/or as necessary to carry out this Procedure.

### Definitions

**Complainant:** An individual who is alleged to be the victim of conduct that could constitute sexual harassment under Title IX. Parents and/or legal guardians of a complainant are not considered a complainant but may file a Formal Complaint on behalf of a minor child and act on behalf of the minor child in any Title IX matter. For the purpose of this procedure the terms "complainant" and "alleged victim" shall have the same meaning.

**Formal Complaint:** A document or electronic submission filed by a complainant, that contains the complainant's physical or digital signature or otherwise indicates that the complainant is the person filing the Formal Complaint, or a document signed by the Title IX coordinator, that:

- (1) alleges sexual harassment against a respondent; and
- (2) requests that the School investigate the allegation of sexual harassment.

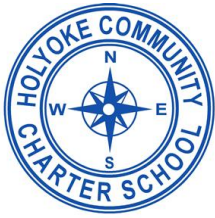
At the time of filing a Formal Complaint, the complainant must be participating in or attempting to participate in the School's education program or activity with which the Formal Complaint is being filed.

**Sexual Harassment:** Under Title IX, the term "sexual harassment" includes three (3) types of misconduct based on sex:

- (1) any instance of quid pro quo harassment by a school employee;
- (2) unwelcome conduct on the basis of sex, including unwelcome conduct based on sex stereotyping or on the basis of traditional notions of masculinity and femininity, that is sufficiently severe and pervasive and objectively offensive conduct, effectively denying a person equal educational access; or
- (3) any instance of sexual assault, dating violence, domestic violence, or stalking; and/ or hostile environment harassment as defined below.

**Sexual Assault:** An offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's Uniform Crime Reporting system and set out below:

- **Rape:** The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
- **Fondling:** The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity. In Massachusetts, pursuant to M.G.L. c. 265, § 13B, a child under the age of 14 is incapable of giving consent to indecent touching.
- **Incest:** Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.



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- **Statutory Rape:** Sexual intercourse with a person who is under the statutory age of consent. In Massachusetts, pursuant to M.G.L. c. 265, § 23, the statutory age of consent is 16 years of age.

For the purposes of the definition of sexual assault, the term “consent” shall be defined in a manner consistent with Massachusetts laws.

**Dating Violence:** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party’s statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

**Domestic Violence:** A felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner of the victim; by a person with whom the victim shares a child in common; by a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner; by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

**Stalking:** Engaging in a “course of conduct” directed at a specific person that would cause a “reasonable person” to fear for the person’s safety or the safety of others or suffer “substantial emotional distress.”

For the purposes of this definition:

“Course of conduct” means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person’s property.

“Reasonable person” means a reasonable person under similar circumstances and with similar identities to the victim.

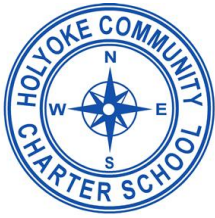
“Substantial emotional distress” means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

**Hostile environment harassment:** unwelcome sex-based conduct that, based on the totality of 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 the school’s education program or activity.

**Party or Parties:** The complainant and/or respondent.

**Principal:** The Principal or Principal’s designee.

**Respondent:** An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.



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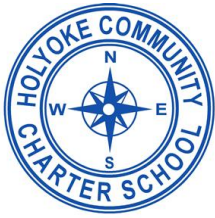
Executive Director: The Executive Director or Executive Director's designee.

Supportive Measures: Individualized services reasonably available that are non-punitive, non-disciplinary, and not unreasonably burdensome to the Complainant or Respondent, while designed to ensure equal educational access, protect safety, and/or deter sexual harassment. Supportive Measures may be offered before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Supportive measures are individualized services reasonably available that are non-punitive, non-disciplinary, and not unreasonably burdensome to the other party, while designed to ensure equal educational access, protect safety, and/or deter sexual harassment. Supportive measures available to complainants and respondents 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 building and/or campus; and other similar measures. Violations of the restrictions imposed by supportive measures may be considered a violation of school rules and may also be considered in determining whether sexual harassment has occurred.

Title IX Coordinator: Employee(s) designated by the School to coordinate its efforts to comply with Title IX.

## I. REPORTING SEXUAL HARASSMENT

- A. Who May Report Sexual Harassment: Anyone may report an allegation of sexual harassment.
- B. How to Report Sexual Harassment: Individuals are encouraged to report allegations of sexual harassment to the Title IX Coordinator or the Principal, but any School employee who receives a report of sexual harassment will respond to the report as outlined below.
- C. Internal Reporting: Any School employee who receives a report of sexual harassment shall respond by promptly informing the Principal or Title IX Coordinator of the report. Any School employee who observes sexual harassment of a student should intervene to stop the conduct and shall promptly inform the Principal or Title IX Coordinator of the incident. If a report involves an allegation against the Principal or Title IX Coordinator, the School employee shall instead report the allegation to the Executive Director.  
  
Any Principal who receives a report of sexual harassment shall promptly inform the relevant Title IX Coordinator of the report.
- D. School's Response to Report: The School will respond to all reports of sexual harassment promptly and equitably, and in a manner consistent with this Procedure and any other relevant School procedures and policies. Upon receipt of a report, the Title IX Coordinator shall:
  - (1) Promptly and confidentially contact the complainant to discuss the availability of supportive measures;
  - (2) Inform the complainant of the availability of supportive measures with or without the filing of a Title IX Formal Complaint;
  - (3) Consider the complainant's wishes with respect to supportive measures;



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- (4) If the School does not provide the complainant with supportive measures, document the reasons why such response was reasonable; and
- (5) Explain to the complainant the process for filing a Title IX Formal Complaint. Only the filing of a Title IX Formal Complaint will trigger the Title IX Formal Complaint grievance process, outlined in Section II.

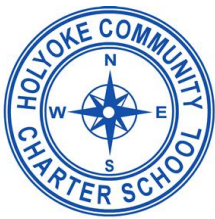
## II. FILING A TITLE IX FORMAL COMPLAINT

Only the filing of a Title IX Formal Complaint will trigger the Title IX Formal Complaint grievance process, outlined below.

- A. Who may file a Title IX Formal Complaint: Although anyone may report sexual harassment, only a complainant or a Title IX Coordinator may file a Title IX Formal Complaint. If a complainant chooses not to file a Formal Complaint, the complainant's choice to not initiate an investigation will generally be respected, unless the Title IX Coordinator determines that signing a Formal Complaint to initiate an investigation over the wishes of the complainant is not clearly unreasonable in light of the known circumstances. The Title IX Coordinator will take into account concerns articulated by the parties, the best interests of the community, fairness to all concerned, and the School's legal obligations under applicable state and federal laws. Where the Title IX Coordinator signs the Formal Complaint, the Title IX Coordinator is not a complainant or a party during the grievance process and must comply with the requirement to be free from conflicts or bias.
- B. Processing of a Title IX Formal Complaint: Title IX Formal Complaints will be investigated promptly and equitably by the Title IX Coordinator or designee, as follows:

### **Step 1:** Title IX Formal Complaint is filed:

- (1) A Formal Complaint shall state (if known to the reporter or alleged victim) the name(s) of the persons involved, witnesses to the conduct, if any, a description of the conduct, and to the extent possible, the dates and locations of the conduct. A Formal Complaint will not be dismissed solely because it was not completely filled out or it was filled out incorrectly.
- (2) A Formal Complaint may be filed at any time, including during non-business hours. Formal Complaints submitted outside of normal business hours will be deemed received on the following school working day.
- (3) At the time of the filing of the Formal Complaint, the alleged victim must be participating in or attempting to participate in the education program or activity of the school with which the Formal Complaint is filed.
- (4) A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information for the Title IX Coordinator listed in this procedure, and by any additional method designated by the school.
- (5) Consolidation of Formal Complaints: Schools may consolidate Formal Complaints where the allegations arise out of the same facts.



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- (6) Consideration of the use of the Informal Resolution Process with the consent of the parties. *See* Section II(D).
- (7) Throughout this process, there shall be a presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

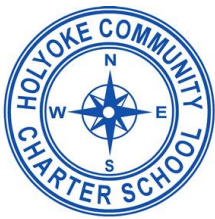
**Step 2:** Consider Supportive Measures for both the complainant and the respondent: Once a Formal Complaint is filed, the Title IX Coordinator will ensure that supportive measures are considered for both parties. *See* Section I(D).

**Step 3:** Written Notice of Allegations: Upon receipt of a Formal Complaint, the School shall send written notice of the allegations, including the identity of the parties, to both the complainant and the respondent, if their identities are known. The written notice must include: (1) a statement prohibiting knowingly submitting false information; (2) sufficient details known at the time to allow the respondent the opportunity to respond to the allegations; (3) a statement that the respondent is presumed not responsible for the alleged conduct; (4) that a determination regarding responsibility is made at the conclusion of the grievance process; (5) that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney; and (6) that the parties/advisors may inspect and review evidence in accordance with this procedure. If, in the course of the investigation, the School decides to investigate allegations of sexual harassment that are not included in the initial written notice of allegations, the School shall provide notice of the additional allegations to the parties whose identities are known.

**Step 4:** Consider Whether Dismissal of Formal Complaint Warranted: Some Formal Complaints will be subject to mandatory or discretionary dismissal under Title IX.

- (1) Mandatory Dismissal of Formal Complaint: The Title IX Coordinator shall dismiss a Formal Complaint under Title IX when the conduct alleged:
  - a. even if proved, would not meet the definition of sexual harassment under Title IX;
  - b. did not occur in an education program or activity of the School; or
  - c. did not occur against a person in the United States.
- (2) Discretionary Dismissal of Formal Complaint: The Title IX Coordinator may dismiss a Formal Complaint or allegations therein for purposes of Title IX at any time if:
  - a. the complainant informs the Title IX Coordinator in writing that the complainant desires to withdraw the Formal Complaint or allegations;
  - b. the respondent is no longer enrolled or employed by the School; or
  - c. specific circumstances prevent the School from gathering sufficient evidence to make a determination.
- (3) The Title IX Coordinator must provide the parties with written notice of any dismissal of a Formal Complaint and the reasons for the dismissal.
- (4) Dismissal of a Formal Complaint for purposes of Title IX shall not preclude the School from addressing the allegations under any other relevant School policies or procedure(s), including but not limited to, the Civil Rights Grievance Procedures, the Bullying Prevention and Intervention Plan, the Student Code of Conduct, and/or a collective bargaining contract, nor will it preclude the School from addressing the allegations





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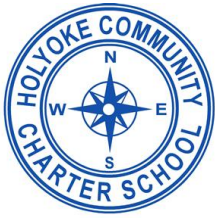
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pursuant to the grievance process set out in Section II of this Procedure. The Title IX Coordinator shall have the discretion to make any such referrals and proceed as appropriate in regard to the allegations.

**Step 5:** Initial Investigation: All Formal Complaints will be investigated by the Title IX Coordinator or other individual designated to serve as the investigator by the Title IX Coordinator. The investigator shall be responsible for seeking and gathering evidence relative to the investigation. Any Formal Complaint against an employee who holds a supervisory position shall be investigated by a person who is not subject to that supervisor's authority. During the Formal Complaint resolution process:

- (1) Standard of Proof: The investigator shall make factual findings based on a preponderance of the evidence standard.
- (2) The burden for gathering evidence and the burden of proof remains on the School, not on the parties.
- (3) The School shall provide equal opportunity for the parties to present fact and expert witnesses and other inculpatory and exculpatory evidence.
- (4) The School shall not restrict the ability of the parties to discuss the allegations or gather evidence (e.g., no "gag" orders).
- (5) Each party may have one (1) advisor of their own selection and at their own expense participate in this grievance process. In the case of a student under the age of 18, this advisor may be in addition to the student's parents/guardians. Any restrictions on the participation of an advisor will be applied equally to each party. The advisor may, but is not required to, be an attorney. Any evidence received by an advisor in this process is subject to confidentiality and may be used only for the purpose of the grievance process. Advisors are prohibited from disseminating or disclosing such evidence outside of the grievance process.
- (6) The School shall send prior written notice to the parties of any investigative interviews, meetings, or hearings in which their participation is invited or expected.
- (7) Privacy of Medical Treatment and Mental Health Treatment Records: The School may not access or use either the complainant's or the respondent's medical, psychological, or similar treatment records unless the School obtains the party's written consent to do so.
- (8) The investigator may impose reasonable timeframes on all parties as required to facilitate the timely completion of the investigation. The investigator may extend any of the timeframes beyond the time periods identified in this procedure for good cause. If a complaint or report of sexual harassment is received within three (3) weeks of the end of the academic school year, the investigator will attempt to complete the investigation by the end of the school year. In the event that the investigation extends beyond the last day of school, the School will make reasonable efforts to complete the investigation within the above-referenced time frame, but may extend the investigation period to account for the unavailability of witnesses while school is not in session. If the investigator extends the investigation, the investigator will notify the parties of the extension and the reasons therefore in writing.

**Step 6:** Opportunity for Parties to Respond to Evidence: The School must send the parties, and their advisor(s) (if they have one) evidence directly related to the allegation, in electronic format or hard copy. Parties shall be afforded ten (10) calendar days to inspect, review and respond to the evidence. The School shall not require, allow, rely upon, or otherwise use evidence that



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constitutes information protected from disclosure by a legally recognized privilege, unless it has been waived by the holder of the privilege.

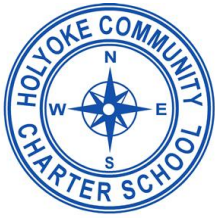
- (1) Prior to providing evidence to the parties, the investigator may redact confidential information that is not directly related to the allegations or that is otherwise barred from use under Title IX or by privilege (e.g., treatment records), the Family Educational Rights and Privacy Act and/or 603 CMR 23.00. Information that is directly related to the investigation, and that is not expressly barred from disclosure under Title IX (e.g., treatment records), the Family Educational Rights and Privacy Act, and/or 603 CMR 23.00, must be made available for review by both parties.
- (2) The parties and their advisors shall be prohibited from dissemination of any of the evidence for any purpose not directly related to this grievance procedure.

**Step 7:** Completion of the Investigative Report: The School must send the parties, and their advisor, an Investigative Report that fairly summarizes relevant evidence but does not reach any conclusions regarding responsibility, in electronic format or hard copy, within twenty-five (25) school days of receipt of the Formal Complaint, unless otherwise extended for good cause. A copy of the Investigative Report will also be sent to the decision-maker.

**Step 8:** Parties' Opportunity to Respond to Investigative Report: The School shall provide each party ten (10) calendar days for the parties to respond to the investigative report. The Investigative Report will notify the parties of the opportunity to submit to the decision-maker directed questions of the other party and/or any witness within that same ten (10) calendar days. (See Step 9).

**Step 9:** Directed Written Questions from the Parties: After the Investigative Report has been sent to the parties, but prior to reaching a determination regarding responsibility, the decision-maker shall afford both the complainant and the respondent the opportunity to submit to the decision-maker written, relevant questions of the other party or any witness, provide the party with the other party's and/or witness's written responses to said written questions, and allow for additional, limited follow-up questions from each party in writing. Questions that seek disclosure of information protected under a legally recognized privilege, Family Educational Rights and Privacy Act, and/or 603 CMR 23.00 shall not be permitted, unless the person holding the privilege has waived the privilege.

- (1) The complainant shall be protected from answering questions about the complainant's prior sexual behavior unless offered to prove that someone other than the respondent committed the alleged misconduct or offered to prove the complainant's consent to the conduct under investigation.
- (2) Upon receipt of the Investigative Report, each party shall have ten (10) calendar days to submit directed relevant questions to the decision-maker in writing.
  - a. All questions must be posed in a respectful manner (e.g., without profanity and without attacking a person's character or motivations).
  - b. Questions that are not relevant will be excluded, and the decision-maker shall explain to the party posing the question the reason(s) for excluding any question.



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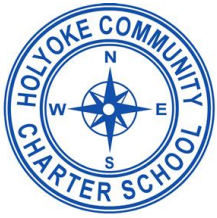
- (3) Upon receipt of the directed questions from the School, each party and witness shall have five (5) calendar days to respond to those questions in writing.<sup>1</sup>
- (4) After receipt of the answers by the parties, any follow-up questions by the parties shall be submitted to the decision-maker in writing within three (3) calendar days, and those follow-up questions shall be responded to in writing within three (3) calendar days of receipt.
- (5) Each party will be provided a copy of the other party's or witness's written answers.

**Step 10:** Determination of Responsibility/Findings of Fact by the Decision-Maker:

- (1) The decision-maker shall issue a written determination regarding responsibility with a description of the procedural steps taken, findings of fact, conclusions about whether the alleged conduct occurred, rationale for the result as to each allegation, the range of disciplinary sanctions to which the respondent may be subject, whether remedies will be provided to the complainant, and procedures and bases for appeal. The decision-maker's written determination shall not be completed by the Title IX Coordinator or the investigator.
  - (2) Standard of Proof: The decision-maker shall make factual findings based on a preponderance of the evidence standard.
  - (3) The decision-maker's findings shall be based on an objective review of all relevant evidence, inculpatory and exculpatory, and avoid credibility determinations based on a person's status as a complainant, respondent, or witness.
  - (4) The decision-maker shall not draw inferences about the determination of responsibility based solely on a party's failure or refusal to answer questions.
  - (5) The written determination must be sent simultaneously to both parties.
  - (6) This determination shall be sent within twenty (20) school days of the issuance of the investigative report unless an extension is agreed upon by the parties or if the process is otherwise reasonably delayed. Except where the parties have agreed to an extension of the timeline or where the process is otherwise reasonably delayed, the written determination shall be issued within sixty (60) school days of receipt of the Formal Complaint.
- C. Remedies: If the decision-maker determines that sexual harassment has occurred, the School administration shall take steps to eliminate the harassing environment, which may include but not be limited to providing remedies to a complainant that are designed to restore or preserve the complainant's equal access to the School's education programs and/or activities. These remedies may be the same individualized services as the supportive measures outlined in Section I(D) above and/or may consist of alternative interventions and/or punitive or disciplinary sanctions that burden the respondent.
- D. Discipline: Persons who engage in sexual harassment or retaliation may be subject to disciplinary action, including, but not limited to, reprimand, suspension, termination, expulsion (if applicable under M.G.L. c. 71, §§ 37H or 37H ½), or other sanctions as determined by the School administration, subject to applicable procedural requirements.

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<sup>1</sup> The parent or guardian may act on behalf of the party in drafting questions and submitting written answers. In the case of young children, reasonable accommodation based on disability, and/or other good cause, either party and/or any witness may request and have their oral responses reduced to writing by the investigator or Title IX Coordinator.



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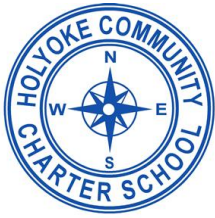
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- (1) Although the respondent may, in accordance with Title IX, be subject to emergency removal at any time, the respondent may not be subject to disciplinary sanctions for the misconduct defined under this procedure until after this grievance process has been completed.
- E. Informal Process: Only after a Formal Complaint is filed may the School opt to offer and facilitate informal resolution options, such as mediation or restorative justice. Both parties must give voluntary, informed, written consent to attempt any offered informal resolution. Any informal resolution under this procedure will be facilitated by trained personnel.
  - (1) The informal resolution process is not available to resolve allegations that an employee sexually harassed a student.
  - (2) The informal process is voluntary, and the alleged victim and/or respondent may terminate or decline any informal process at any time and resume the Formal Complaint grievance process.
  - (3) The informal process shall not exceed thirty (30) calendar days.

Participation in the informal process will stay the timelines of the Formal Complaint process.

- F. Emergency Removal under Title IX: The School may remove a respondent on an emergency basis at any time provided that the School: (1) undertakes an individualized safety and risk analysis; (2) 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 that there is no alternative to the respondent's emergency removal to mitigate the threat presented; and (3) provides the respondent with notice and the opportunity to challenge the decision immediately following the removal.
- G. Anonymous Reports: The School may be on notice of an allegation of sexual harassment through receipt of an anonymous report. In cases of anonymous reports, the School's obligation is to respond in a manner that is not clearly unreasonable in light of the known circumstances. If the anonymous reporter is the complainant and they request confidentiality, the School can and should offer supportive measures to the extent consistent with maintaining the request for confidentiality. If an anonymous report is received without a disclosure of the complainant's identity, the School will be unable to provide the complainant supportive measures in response to that report. The School may in conformance with applicable state laws and regulations be required to report sexual harassment identified in an anonymous complaint to state and/or local authorities such as the Massachusetts Department of Children and Families in conformance with state statutes and regulations and/or take actions to protect the safety of the school community (contacting the police, for example) that may result in the identity of the reporting person being disclosed. Although the School shall respond to anonymous reports of sexual harassment in accordance with this Procedure, a Formal Complaint cannot be filed anonymously.
- H. Appeals: The complainant or respondent may appeal from a determination regarding responsibility and/or from the School's dismissal of a Formal Complaint or any allegations therein, only on the following bases:
  - (1) procedural irregularity that affected the outcome of the matter;
  - (2) newly discovered evidence that could affect the outcome of the matter; and/or



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- (3) Title IX personnel had a conflict of interest or bias that affected the outcome of the matter.

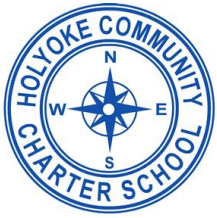
An appeal may be made to the Executive Director or designee within five (5) calendar days after receiving the determination of responsibility or dismissal. The Executive Director will decide the appeal no later than thirty (30) calendar days of the date of receipt of the written appeal. In cases in which it has been determined that a respondent student is subject to long-term suspension as a result of a finding of sexual harassment in accordance with this procedure, the respondent may elect to exercise their appeal under the disciplinary due process requirements applicable to the circumstances (e.g., M.G.L. c. 71, §§ 37H, 37H ½ or 37H ¾) in place of this appellate procedure. Appeals must be made in writing (email is sufficient) to the Executive Director, Francis W. Parker Charter Essential School, 49 Antietam Street, Devens, Massachusetts 01434.

The Title IX Formal Complaint grievance process is deemed complete when either the time period for appeal has lapsed or upon the issuance of the Executive Director's decision on a timely filed appeal.

- I. Recordkeeping: Records related to this Procedure will be maintained for a period of seven (7) years.
- J. Employment Agencies: The contact information for state and federal employment discrimination enforcement agencies is as follows: 1) Federal - United States Equal Employment Opportunity Commission (EEOC); John F. Kennedy Federal Building; 15 New Sudbury Street, Room 475; Boston, MA 02203-0506; 1-800-669-4000; EEOC Boston Area Office Website: <https://www.eeoc.gov/field-office/boston/location>; 2) State: Massachusetts Commission Against Discrimination (MCAD); Boston Headquarters; One Ashburton Place; Sixth Floor, Room 601; Boston, MA 02108; (617)-994-6000; MCAD Website <https://www.mass.gov/orgs/massachusetts-commission-against-discrimination>.
- K. Identification of key personnel involved in Title IX process for reports and/or Formal Complaints of sexual harassment:
- Title IX Coordinator: **Kyle Callender**, [kcallender1@hccs-sabis.net](mailto:kcallender1@hccs-sabis.net)  
2200 Northampton Street, Holyoke, MA 01040 (413)533-0111
  - Investigator(s): **Benjamin Torres**, [btorres@hccs-sabis.net](mailto:btorres@hccs-sabis.net)  
**Robert Riddles**, [rriddles@hccs-sabis.net](mailto:rriddles@hccs-sabis.net)
  - Decision-maker: **School Principal, Dr. Sonia Correa Pope**, [spope@hccs-sabis.net](mailto:spope@hccs-sabis.net)
  - Appeal Officer: **Aaron Yosky**, [ayosky@hccs-sabis.net](mailto:ayosky@hccs-sabis.net)
  - Informal Resolution Facilitator: **Facilities Director, Tom Paquin**, [tpaquin@hccs-sabis.net](mailto:tpaquin@hccs-sabis.net)

The School will notify students, employees, applicants for admission or employment, parents and legal guardians of students, and unions of the name, title, office address, email address and telephone number of the Title IX Coordinator. This information will be prominently displayed on the School's website.

Legal Refs: Section 504 of the Rehabilitation Act of 1973; Title II of the Americans with Disabilities Act of 1990; Title VI of the Civil Rights Act of 1964; Title VII of the Civil Rights Act; Title IX of the



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Education Amendments of 1972; the Age Act; M.G.L. c. 151B and c. 151C; and M.G.L. c. 76, § 5; SC Policy JICFB, Bullying Prevention; SC Policy AC, Nondiscrimination.

## **Student Concerns and Grievances:**

Any student of the Holyoke Community Charter School who believes he or she has been discriminated against, denied a benefit, or excluded from participation in any educational program or activity on the basis of sex, color, religion, national origin or disability in violation of this policy, may file a written complaint with the school's Civil Rights Administrator:

Name:	Dr. Sonia Correa Pope
Address:	2200 Northampton Street Holyoke, MA 01040
Phone number	(413) 533-0111
Email	spope@hccs-sabis.net

The Civil Right Administrator coordinates compliance under Title IX and Section 504 and cause a review of written complaint within 10 working days after receipt of the written complaint. If the complainant is not satisfied with such a response, he or she may submit a written appeal to the Board of Trustees indicating with particularity the nature of the disagreement with the response and his or her reasons for such disagreement.

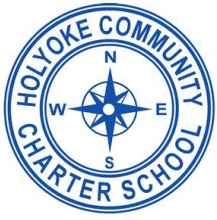
The Chairman of the Board of Trustees shall permit the complainant to address the Board of Trustees or its sub-committee concerning his or her complaint and shall provide the complainant with a written decision in the matter as expeditiously as possible following the completion of the hearing. Any individual has the right at any time to address inquiries regarding their civil rights to the Office of Civil Rights in Boston, Massachusetts.

Reports or complaints alleging sexual harassment as Defined under Title IX of the Education Amendments of 1972 shall not be subject to this grievance procedure and shall be addressed through HCCS' separate Title IX Sexual Harassment Grievance Procedure.

## **Students Rights and Responsibilities:**

The Holyoke Community Charter School has the responsibility to afford students the rights that are theirs by virtue of guarantees offered under the federal and state constitutions and statues. In connection with rights there are responsibilities that must be assumed by students. Among these rights and responsibilities are the following:

1. Civil Rights – including the rights to equal educational opportunity and freedom from discrimination; the responsibility not to discriminate against others.
2. The right to attend free public schools; the responsibility to attend school regularly and to observe school rules essential for permitting others to learn at school.
3. The right to due process of law with respect to suspension, expulsion, and decisions the student believes injure his/her rights.
4. The right to free inquiry and expression; responsibility to observe reasonable rules regarding these rights.



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5. The right to privacy, which includes privacy in respect to the student's school records.

**Student responsibilities include regular school attendance, promptness to school and to classes, academic honesty, and conscientious effort in classroom work, and conformance to school rules. Students share with the administration and faculty a responsibility to maintain a school climate that is safe, secure, and conducive to learning.**

## Legal References:

Holyoke Community Charter School intends to follow all mandates of state and federal law and all provisions issued by the Board of Education. The following legal references apply:

- Title II, of the Americans with Disabilities Act of 1990
- Title VI, Civil Rights Act of 1964
- Title VII, Civil Rights Act of 1964 as amended by the Equal Employment Opportunity Act of 1972
- Executive Order 11246, as amended by E.O. 11375
- Title IX, Education Amendments of 1972
- MGLA C. 76:5; 76:16 (Chapter 622 of the Acts of 1971)
- MGLA C. 71; Sec. 37H, 37H½, and 37H¾ (student handbooks required to state disciplinary measures applicable to “violations of other students’ civil rights”)
- MGLA C. 76; Sec 5 (prohibition of discrimination “on account of race, color, sex, religion, national origin, or sexual orientation”, in access to “advantages, privileges, and courses of study of [local] public school”.)
- MGLA C. 151C (Fair Education Practices Act, includes prohibition of sexual harassment)
- MGLA C. 214; Sec 1B (right of privacy)
- MGLA C. 214; Sec 1C (right of freedom from sexual harassment)
- MGLA C. 12; Sec 11H and 11I (prohibition of threats, intimidation, or coercion interfering with someone’s legal rights)
- MGLA C. 265; Sec 37 (criminal penalties for the use of force or threats to interfere with someone’s legal rights)
- MGLA C. 265; Sec 39 (increasing penalties for assaults, batteries, and property damage motivated by bias on grounds of race, religion, ethnicity, disability and sexual orientation)
- MGLA C. 266; Sec 127A (criminal penalties for vandalism of a school)
- Board of Education Chapter 622 Regulations Pertaining to Access to Equal Educational Opportunity, adopted 6/24/75, amended 10/24/78
- Board of Education, Chapter 766 Regulations 10/74 – amended through 3/28/78, 603 CMR 26:00
- Section 504 of the Rehabilitation Act of 1973
- 20 U.S.C. Sec 4071-74