

## **Title IX Sex Discrimination Grievance Procedures**

### **OVERVIEW**

The Essex North Shore Agricultural and Technical School (“School”) is committed to maintaining school environments free of discrimination based on sex.

Sex discrimination, which includes sex-based harassment, in any form or for any reason is prohibited. This includes sex discrimination by administrators, personnel, students, vendors, and other individuals in school or at school-related events. Except as provided for in Title IX, no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity operated by the School.

The School does not discriminate on the basis of sex in its educational programs or activities, as required by Title IX of the Education Amendments of 1972, including in admissions and employment. Retaliation against any individual who has brought sex discrimination, which includes sex-based 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 School.

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

### **SCOPE**

The Title IX Grievance Procedure has been developed in accordance with the revised Title IX regulations, 34 CFR Part 106, effective August 1, 2024, which mandate specific procedures for responding to and investigating all allegations of sex discrimination under Title IX, including sex-based harassment. Sex-based harassment means sexual harassment and other harassment based on sex, including on the basis of sex stereotypes, sex characteristics, pregnancy, or related conditions,<sup>1</sup> sexual orientation, and gender identity.

The Title IX Grievance Procedure applies 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. In addition, the School has an obligation to address a sex-based hostile environment in a School education program or activity, even when

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<sup>1</sup> As used in this Grievance Procedure “Pregnancy or related conditions” means: (1) Pregnancy, childbirth, termination of pregnancy, or lactation; (2) Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or (3) Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

some conduct contributing to the hostile environment occurred outside of a School educational program or activity.

Allegations of conduct that meet the definition of sex discrimination, including reports of sex-based harassment, will be addressed through the Title IX Grievance Procedure. Allegations of conduct that meet the definition of sex discrimination or sex-based 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 Grievance Procedure.

All staff are required to notify the Title IX Coordinator when the staff member has information about conduct that reasonably may constitute sex discrimination under Title IX or its regulations.

### 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. The School will take reasonable steps to protect the privacy of the parties and witnesses during its grievance proceedings, provided that the steps do not restrict the ability of the parties to: obtain and present evidence, including by speaking to witnesses, subject to the prohibitions against retaliation; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures. The School will not disclose personally identifiable information obtained in the course of complying with this Procedure, except in the following circumstances: (1) when the School has obtained prior written consent from a person with the legal right to consent to the disclosure; (2) when the information is disclosed to a parent, guardian, or other authorized legal representative with the legal right to receive disclosures on behalf of the person whose personally identifiable information is at issue; (3) to carry out the purposes of this Procedure, including action taken to address conduct that reasonably may constitute sex discrimination under Title IX in the School's education program or activity; (4) as required by Federal law, Federal regulations, or the terms and conditions of a Federal award, including a grant award or other funding agreement; or (5) to the extent such disclosures are not otherwise in conflict with Title IX, when required by State or local law or when permitted under FERPA or its implementing regulations.

### DEFINITIONS

**Complainant:** A student or employee who is alleged to have been subjected to conduct that could constitute sex-based harassment or sex discrimination, or a person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination and who was participating or attempting to participate in the School's education program or activity at the time of the alleged sex discrimination.

**Complaint:** An oral or written request to the School that objectively can be understood as a request for the School to investigate and make a determination about alleged sex discrimination. A physical or digital signature is not required. A complaint may be made by the alleged victim,

guardian, Title IX Coordinator, or, if alleging other than sexual harassment, any student or employee or third party participating or attempting to participate in the School's program or activity.

Sex-Based Harassment under Title IX: Sexual harassment and other harassment on the basis of sex, including on the bases of sex stereotypes, sex characteristics, pregnancy or related conditions, gender identity, and/or sexual orientation that is:

- (1) Quid Pro Quo Harassment: An employee, agent, or other person authorized by the School to provide an aid, benefit, or service under the School's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;
- (2) Hostile Environment Harassment: Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the School's education program or activity<sup>2</sup>; or
- (3) Specific Offenses: Sexual assault; dating violence; domestic violence; or stalking.

Sex Harassment under Title VII: Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when: (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. A hostile environment on the basis of sex is created when the conduct is sufficiently severe or pervasive to alter the conditions of employment.

Sex Harassment under M.G.L. c. 151B: the term "sexual harassment" is defined as sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: (a) submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment decisions; (b) such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, humiliating or sexually offensive work environment. Discrimination on the basis of sex shall include, but not be limited to, sexual harassment.

Sex Harassment under M.G.L. c. 151C: the term "sexual harassment" is defined as sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when: (a) 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

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<sup>2</sup> Whether a hostile environment is created is a fact-specific inquiry that includes consideration of the degree to which access is affected, type/frequency/duration, parties' ages/roles/previous interactions/other factors, location, and other sex-based harassment in the School's program or activity.

placement services or as a basis for the evaluation of academic achievement; or (b) 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 environment.

**Sex Discrimination:** Sex discrimination includes discrimination based on sex, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and/or gender identity. The School is prohibited from separating or treating any person differently based upon sex in a manner that subjects a person to more than minimal harm unless otherwise permitted by Title IX. The School may not prevent a student from participating in an educational program or activity consistent with the student's gender identity. The School must not adopt or implement any policy, practice, or procedure concerning a student's current, potential, or past parental, family, or marital status that treats students differently on the basis of sex.

**Sexual Assault:** An offense that meets the definition of forcible rape, forcible sodomy, sexual assault with an object, forcible fondling, incest, or statutory rape as defined in the FBI's Uniform Crime Reporting system and set out below:

Sex Offenses – Forcible: Any sexual act directed against another person, forcibly and/or against that persons will; or not forcibly or against the persons will where the victim is incapable of giving consent.

- (1) **Forcible Rape:** The carnal knowledge of a person, forcibly and/or against that person's will; or not forcibly or against that person's will where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity (or because of his/her/their youth).
- (2) **Forcible Sodomy:** Oral or anal sexual intercourse with another person, forcibly and/or against that person's will; or not forcibly against that person's will where the victim is incapable of giving consent because of his/her/their youth or because of his/her/their temporary or permanent mental or physical incapacity.
- (3) **Sexual Assault With An Object:** The use of an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person's will; or not forcibly against the person's will where the victim is incapable of giving consent because of his/her/their youth or because of his/her/their temporary or permanent mental or physical in capacity.
- (4) **Forcible Fondling:** The touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person's will; or not forcibly or against that person's will where the victim is incapable of giving consent because of his/her/their youth or because of his/her temporary 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.

Sex Offenses – Non-forcible: Unlawful, non-forcible sexual intercourse.

- (1) Incest: Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- (2) Statutory Rape: Non-forcible 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.

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 sex discrimination, which includes sex-based harassment. When a sex discrimination complaint alleges that the School’s policy or practice discriminates on the basis of sex, the School is not considered a Respondent for purposes of this Procedure.

Retaliation: Intimidation, threats, coercion, or discrimination against any person by the School, a student, an employee, or other person authorized by the School to provide aid, benefit, or service under the School’s education program or activity for the purpose of interfering with Title IX rights, or because the person has reported information, participated or refused to participate in an investigation.

Student: A person who has gained admission.

Superintendent: The Superintendent or Superintendent’s designee.

Title IX Coordinator: Employee(s) designated by the School to coordinate its efforts to comply with Title IX. The Title IX Coordinator is responsible for: (1) treating the Complainant and Respondent equitably; (2) offering and coordinating supportive measures as appropriate; (3) notifying Complainant or reporter of the applicable grievance procedure and informal resolution process and notifying the Respondent if a complaint is made; (4) initiating grievance procedure/informal resolution process as appropriate; and (5) determining whether to initiate a complaint under certain circumstances.

### SUPPORTIVE MEASURES

Upon notification of conduct that reasonably may constitute sex discrimination, which includes, but is not limited to, a complaint of sex-based harassment, the Title IX Coordinator will offer and coordinate supportive measures as appropriate for the Complainant and/or Respondent to restore or preserve that person’s access to the School’s education program or activity or to provide support during any aspect of the School’s Title IX grievance procedures.

Supportive Measures are individualized measures offered as appropriate, as reasonably available, without unreasonably burdening the Complainant or Respondent, not for punitive or disciplinary reason, and without charge to restore/preserve party's access to education program or activity (including safety), or to provide support during grievance/informal resolution process. Supportive Measures may be offered before or after the filing of a complaint or where no complaint has been filed. Supportive measures available to Complainants and Respondents may 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.

If a Complainant or Respondent seeks a modification or reversal of the decision to provide, deny, modify, or terminate supportive measures applicable to them, this request will be considered by an impartial employee. The impartial employee will be someone other than the employee who made the challenged decision and who exercises the authority to modify or reverse the decision, if the impartial employee determines that the decision to provide, deny, modify, or terminate the supportive measure was inconsistent with the definition of supportive measures as set forth in this procedure. A Complainant and Respondent will also have the opportunity to seek additional modification or termination of a supportive measure applicable to them if circumstances change materially.

The Title IX Coordinator shall not disclose information about any supportive measures to persons other than the person to whom they apply, including informing one party of supportive measures provided to another party, unless necessary to provide the supportive measure or to restore or preserve a party's access to the education program or activity, or as consistent with the confidentiality section of this Procedure.

If the Complainant or Respondent is a student with a disability, the Title IX Coordinator will consult with one or more members, as appropriate, of the student's Individualized Education Program (IEP) team, if any, or one or more members, as appropriate, of the group of persons responsible for the student's placement decision, if any, to determine how to comply with the requirements of the Individuals with Disabilities Education Act and Section 504 of the Rehabilitation Act of 1973, in the implementation of supportive measures.

## COMPLAINTS

Sex-Based Harassment: The following people have a right to make a complaint of sex-based harassment, requesting that the School investigate and make a determination:

- (1) A student or employee of the School who is alleged to have been subjected to conduct that could constitute sex-based harassment under Title IX, Title VII, M.G.L. c. 151B, or M.G.L. c. 151C;
- (2) A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a Complainant; or

(3) The School's Title IX Coordinator.

**Sex Discrimination other than Sex-Based Harassment:**

With respect to complaints of sex discrimination other than sex-based harassment, in addition to the people listed above who have a right to make a complaint of sex-based harassment, any student or employee of the School; or any person other than a student or employee who was participating or attempting to participate in the School's education program or activity at the time of the alleged sex discrimination, has a right to make a complaint of sex discrimination other than sex-based harassment.

Complaints of sex discrimination, including complaints of sex-based harassment, and retaliation will be investigated promptly and equitably by the Title IX Coordinator or a designee. The Title IX Coordinator may act as the investigator and the decision-maker or may designate another School staff member to conduct the investigation of the complaint and to issue a determination thereon. If a student with a disability is a Complainant or Respondent, the Title IX Coordinator is required to consult with one or more members of the student's IEP or Section 504 Team to ensure compliance with the requirements of the IDEA and Section 504 throughout the grievance proceedings.

**CONSOLIDATION OF COMPLAINTS**

The School may consolidate complaints against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against another party, when the allegations arise out of the same facts or circumstances. Consolidation is not permitted if consolidation would violate the Family Educational Rights and Privacy Act (FERPA). Consolidation would not violate FERPA when a School obtains prior written consent from a parent or eligible student to the disclosure of their education records.

**TIMELINES**

The Title IX Coordinator, investigator, or decision-maker may reasonably extend any of the timelines in this Procedure on a case-by-case basis for good cause with notice of the parties that includes the reason for the delay. A report to law enforcement, or an ongoing law enforcement investigation, will not automatically delay the School's investigation in accordance with this Procedure. A request from law enforcement authorities to delay the School's investigation may, however, require a temporary suspension of an investigation. Under such circumstances, the School will promptly resume its investigation upon being advised that law enforcement's evidence gathering is completed.

**EQUITABLE TREATMENT OF PARTIES**

Under the School's Title IX Grievance Procedures, the School will treat Complainants and Respondents equitably. The School ensures that the Title IX Coordinator, Investigator, and/or Decision-maker will not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent. In accordance with Title IX

and the regulations effective August 1, 2024, a Decision-maker may be the same person as the Title IX Coordinator or Investigator.

In investigating a complaint of sex discrimination, including sex-based harassment, the School presumes that the Respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of the grievance procedures.

#### 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 imminent and serious threat to the health or safety of the Complainant or any student, employees, or other individual arising from the allegations of sex-based harassment and/or sex discrimination justifies removal; and (3) provides the Respondent with notice and the opportunity to challenge the decision immediately following the removal.

#### ADMINISTRATIVE LEAVE

Nothing in this Procedure shall be construed to limit the School's authority to place an employee Respondent on administrative leave from employment responsibilities during the pendency of the Grievance Procedures.

#### DISMISSAL OF COMPLAINT

The School may, at any stage in this Procedure, dismiss a complaint if:

- (1) The School is unable to identify the Respondent after taking reasonable steps to do so;
- (2) The Respondent is not participating in the School's education program or activity and is not employed by the School;
- (3) The Complainant voluntarily withdraws any or all of the allegations in the complaint, the Title IX Coordinator declines to initiate a complaint, and the School determines that, without the Complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination, which includes sex-based harassment, under Title IX even if proven; or
- (4) The School determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination, which includes sex-based harassment, under Title IX. Before dismissing the complaint, the School will make reasonable efforts to clarify the allegations with the Complainant.

The School will notify the Complainant of the basis for the dismissal within ten (10) school days after the dismissal decision is made. If the dismissal occurs after the Respondent has been notified of the allegations, then the School will also notify the Respondent of the dismissal and the basis for the dismissal promptly following notification to the Complainant, or simultaneously if notification is in writing.

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

- (1) Procedural irregularity that would change the outcome;
- (2) New evidence that would change the outcome and that was not reasonably available when the dismissal was made; or
- (3) The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against Complainant(s) or Respondent(s) generally or the individual Complainant or Respondent that would change the outcome.

If the dismissal is appealed, the School will:

- (1) Notify the parties of any appeal, including notice of the allegations, if notice was not previously provided to the Respondent;
- (2) Implement appeal procedures equally for the parties;
- (3) Ensure that the decision-maker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
- (4) Ensure that the decision-maker for the appeal has been trained consistent with the Title IX regulations;
- (5) Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the dismissal; and
- (6) Notify the parties of the result of the appeal and the rationale for the result.

When a complaint is dismissed, the School will, at a minimum:

- (1) Offer supportive measures to the Complainant as appropriate;
- (2) If the Respondent has been notified of the allegations, offer supportive measures to the Respondent as appropriate; and
- (3) Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that sex-based harassment and/or sex discrimination does not continue or recur within the School's education program or activity.

### NOTICE OF ALLEGATIONS

Upon receipt of a complaint that is not subject to dismissal under this Procedure, the School will notify the parties of the following:

- (1) The School's Title IX Grievance Procedures and, if the School opts to offer informal resolution, information regarding any informal resolution process;
- (2) Sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), the conduct alleged to constitute sex-based harassment and/or sex discrimination, and the date(s) and location(s) of the alleged incident;

- (3) That the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of this evidence; and
- (4) That retaliation is prohibited.

If, in the course of the investigation, the School decides to investigate additional allegations of sex-based harassment or sex discrimination by the Respondent toward the Complainant that are not included in the notice provided or that are included in a complaint that is consolidated, the School will notify the parties of the additional allegations.

In the event that a complaint has not already been dismissed, the notice of the allegations will be sent to the parties within five (5) school days of receipt of the Complaint.

#### NO COMPLAINT FILED OR WITHDRAWAL OF THE COMPLAINT - TITLE IX COORDINATOR INITIATION OF COMPLAINT

In the absence of a complaint or the withdrawal of any or all of the allegations in a complaint, and in the absence or termination of an informal resolution process, the Title IX Coordinator must determine whether to initiate a complaint of sex discrimination that complies with the grievance procedures. To make this fact-specific determination, the Title IX Coordinator must consider, at a minimum, the following factors: (1) the Complainant's request not to proceed with initiation of a complaint; (2) the Complainant's reasonable safety concerns regarding initiation of a complaint; (3) the risk that additional acts of sex discrimination would occur if a complaint is not initiated; (4) the severity of the alleged sex discrimination, including whether the discrimination, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence; (5) the age and relationship of the parties, including whether the Respondent is an employee of the School; (6) the scope of the alleged sex discrimination, including information suggesting a pattern, ongoing sex discrimination, or sex discrimination alleged to have impacted multiple individuals; (7) the availability of evidence to assist a decisionmaker in determining whether sex discrimination occurred; and (8) whether the School could end the alleged sex discrimination and prevent its recurrence without initiating its grievance procedures.

If, after considering these and other relevant factors, the Title IX Coordinator determines that the conduct as alleged presents an imminent and serious threat to the health or safety of the Complainant or other person, or the conduct as alleged prevents the School from ensuring equal access on the basis of sex to its education program or activity, the Title IX Coordinator may initiate a complaint.

A Title IX Coordinator is not required to consider whether to file a complaint if the Title IX Coordinator reasonably determines that the conduct as alleged could not constitute sex discrimination under Title IX or its regulations.

Upon notification that a Complainant decided not to file a complaint or has withdrawn a previously filed complaint, the Title IX Coordinator will seek to make a decision whether to initiate a complaint within ten (10) school days, which may be extended for good cause, extenuating circumstances, or receipt of additional information.

## INVESTIGATION

The School will provide for adequate, reliable, and impartial investigation of complaints. The Title IX Coordinator will either investigate the complaint or assign the investigation to the principal, assistant principal, or other designee. The School will provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible. The burden is, however, on the School rather than the Complainant or Respondent to gather sufficient evidence to determine whether sex-based harassment or sex discrimination occurred. In conducting the investigation, there is a presumption that the Respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of these Grievance Procedures. The investigator/decision-maker will engage in an objective evaluation of all evidence that is relevant, and not otherwise impermissible under this Procedure—including both inculpatory and exculpatory evidence. The investigator may make credibility determinations, but such determinations must not be based on a person's status as a Complainant, Respondent, or witness.

## QUESTIONING PARTIES AND WITNESSES

The investigator/decision-maker shall conduct or be present during the interviews of the parties and witnesses so as to enable the investigator/decision-maker to adequately assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex discrimination. An investigator/decision-maker may choose to place less or no weight upon statements by a party or witness who refuses to respond to questions deemed relevant and not impermissible but must not draw an inference about whether sex discrimination or sex-based harassment occurred based solely on a party's or witness's refusal to respond to such questions.

## OPPORTUNITY TO ACCESS OR RECEIVE A DESCRIPTION OF RELEVANT EVIDENCE

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

- (1) Upon the completion of the investigation, but prior to the issuance of the investigator's/decision-maker's final determination relative to the complaint, the School will provide an equal opportunity to access either the relevant and not otherwise impermissible evidence, or an accurate description of the evidence, on a time-limited basis;
- (2) Upon receipt of the notice of the equal opportunity to access evidence or an accurate description of the evidence, the parties will have seven (7) calendar days to access the evidence and to respond thereto, if they so elect; and

- (3) The School will take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the grievance procedures. Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of sex-based harassment and/or sex discrimination are authorized.

### RELEVANT EVIDENCE

Relevant evidence means evidence that is related to the allegations of sex-based harassment and/or sex discrimination under investigation as part of the grievance procedures. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex-based harassment and/or sex discrimination occurred, and evidence is relevant when it may aid a decision-maker in determining whether the alleged sex-based harassment and/or sex discrimination occurred.

### IMPERMISSIBLE EVIDENCE

The following types of evidence, and questions seeking that evidence, are impermissible (i.e., will not be accessed or considered, except by the School to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether they are relevant:

- (1) Evidence that is protected under a privilege recognized by federal or state law, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- (2) A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the School obtains that party's or witness's voluntary, written consent for use in its grievance procedures; and
- (3) Evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct or is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent to the conduct alleged to constitute sex-based harassment. Evidence of prior consensual sexual activity between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's consent to the alleged sex-based harassment or preclude a determination that sex-based harassment occurred.

### DETERMINATION

Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, within twenty-five (25) school days following the date of receipt of the complaint,<sup>3</sup> the investigator/decision-maker will:

- (1) Use the preponderance of the evidence standard of proof to determine whether sex-based harassment and/or sex discrimination occurred. The standard of proof requires the investigator/decision-maker to evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the investigator/decision-maker determines that there is not a preponderance of evidence to support the complaint of sex discrimination or sex-based harassment, the decisionmaker will not determine that sex-based harassment and/or sex discrimination occurred;
- (2) Notify the parties in writing of the determination whether sex-based harassment and/or sex discrimination occurred under Title IX including the rationale for such determination, and the procedures and permissible bases for the Complainant and Respondent to appeal, if applicable;
- (3) Not impose discipline on a Respondent for sex-based harassment and/or sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the grievance procedures that the Respondent engaged in prohibited conduct;
- (4) If there is a determination that sex-based harassment and/or sex discrimination occurred, the Title IX Coordinator will, as appropriate:
  - a. Coordinate the provision and implementation of remedies to a Complainant and other people the School identifies as having had equal access to the School's education program or activity limited or denied by sex discrimination;
  - b. Coordinate the imposition of any disciplinary sanctions on a Respondent, including notification to the Complainant of any such disciplinary sanctions; and
  - c. Take other appropriate prompt and effective steps to ensure that sex-based harassment and/or sex discrimination does not continue or recur within the School's education program or activity.
- (5) Not discipline a party, witness, or others participating in the grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex-based harassment and/or sex discrimination occurred. This limitation shall not, however, prohibit the School from taking disciplinary action to address false statements or consensual sexual conduct as long as there is evidence independent of the determination whether sex-based harassment and/or sex discrimination occurred.

## DISCIPLINARY SANCTIONS AND REMEDIES

Persons who engage in sex-based harassment, sex discrimination, or retaliation may be subject to disciplinary action, including, but not limited to, reprimand, suspension, termination, expulsion of students (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>3</sup> When additional time is needed for good cause, the Title IX Coordinator will provide notice written notice to the parties of the extension of this timeframe consistent with the "Timelines" section of this Procedure.

Although the Respondent may, in accordance with Title IX, be subject to Title IX emergency removal at any time, the Respondent may not be subject to disciplinary sanctions for alleged sex discrimination or sex-based harassment until after this grievance process has been completed.

### APPEALS PROCESS

If the Complainant or the Respondent is dissatisfied with the investigator/decision-maker's determination, an appeal may be made to the Superintendent or designee within seven (7) calendar days after receiving notice of the determination, except for circumstances in which the Respondent is subject to long-term suspension as a result of a finding of discrimination, harassment, or retaliation. In such an instance, the appeal rights of the Respondent will be provided in a manner consistent with the disciplinary due process requirements applicable to the circumstances (e.g., M.G.L. c. 71, 37H, 37H ½ or 37H ¾ or collective bargaining agreement/employment contract). Appeals must be made in writing (email is sufficient) to the Superintendent 562 Maple Street, Hathorne, MA 01937 or via electronic mail at [hriccio@essextech.net](mailto:hriccio@essextech.net). The Superintendent or designee will decide the appeal within thirty (30) calendar days of the date of receipt of the written appeal.

### INFORMAL RESOLUTION

In lieu of resolving allegations through the formal investigation process set out in the School's Title IX Grievance Procedure, the School may opt to offer the parties participation in an Informal Resolution Process facilitated by trained personnel who would neither be the potential investigator or decision-maker in the Title IX grievance procedures. The filing of a complaint is not required to initiate an Informal Resolution Process. The School may offer informal resolution when it receives information about conduct that reasonably may constitute sex discrimination under Title IX or when a complaint of sex discrimination is made. Both parties must give voluntary, informed, written consent prior to the initiation of the Informal Resolution Process.

Prior to engaging in informal resolution, the School will provide notice to the parties of the allegations; notice of the right to withdraw from the Informal Resolution Process and to initiate the Title IX Grievance Procedures; notice that agreements to resolution at the conclusion of the informal process preclude using the Grievance Procedures for the same allegations; notice of the potential terms<sup>4</sup> that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties; and what information the School will maintain and whether and how the School could disclose such information for use in the Grievance Procedure, if the Grievance Procedure is initiated or resumed.

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<sup>4</sup> Potential terms that may be included in an informal resolution agreement include but are not limited to: (i) Restrictions on contact; and (ii) Restrictions on the Respondent's participation in one or more of the School's programs or activities or attendance at specific events, including restrictions the School could have imposed as remedies or disciplinary sanctions had the school determined at the conclusion of the School's grievance procedures that sex discrimination occurred.

The School does not offer informal resolution to resolve a complaint that includes allegations that an employee engaged in sex-based harassment of a student, or when such a process would conflict with federal, state, or local law.

The Informal Resolution Process shall not exceed twenty-five (25) school days unless an extension of that timeline is agreed to by the School and consented to by both parties.

### RECORDKEEPING

The following records related to this Grievance Procedure will be maintained for a period of seven (7) years:

- (1) For each complaint, documentation of the informal resolution process or grievance procedures and outcome.
- (2) For each notification received by the Title IX Coordinator of conduct that reasonably may constitute sex-based harassment, sex discrimination, or retaliation under Title IX or the regulations, documentation of the actions the School took to meet its obligations to respond promptly and effectively.

### NOTICE TO BE PROVIDED REGARDING TITLE IX COORDINATOR

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.

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