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## 206 General Notice of Non-Discrimination

The School does not discriminate on the basis of race, color, national origin, sex, disability, or age in its programs and activities and provides equal access to the Boy Scouts and other designated youth groups. The following person has been designated to handle inquiries regarding non-discrimination policies:

Dr. Calvin Burney Jr.  
3248 Warsaw St  
419-244-9900  
[calvinburney@riseandshineacad.org](mailto:calvinburney@riseandshineacad.org)

The designated individual will serve as the requisite coordinator for each of the following: **Policy 221 (Access to Equal Educational Opportunity), Policy 222 (Title IX Coordinator), Policy 228 (Section 504), Policy 264 (Sexual and Other Forms of Harassment), and Policy 305 (Nondiscrimination).**

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## **222.1 Title IX Grievance Procedure**

The Title IX Grievance Procedure listed below is meant to provide for prompt and equitable resolution of student and employee complaints.

Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address, listed for the Title IX Coordinator.

Should any School employee, or School official who has authority to institute corrective measures on behalf of the School, receive notice of sexual harassment or allegations of sexual harassment, they shall immediately report it to the Title IX Coordinator.

### **Grievance Process for Complaints Not Alleging Sexual Harassment**

#### **Level I – Informal Procedure**

Upon receiving a report of sexual discrimination that does not allege sexual harassment, the Title IX Coordinator shall investigate the report. The Title IX Coordinator and the student or employee shall meet in an effort to resolve the matter informally. The Title IX Coordinator shall make a decision on the grievance and shall give that decision orally to the student or employee.

#### **Level II – Formal Procedure (Executive Committee of the Board)**

If the student or employee believes that there still is a basis for a grievance, he or she may make a written statement of the grievance to the Board. This written statement must be filed within ten (10) business days of the date of the Title IX Coordinator's decision and shall state the date and nature of the alleged grievance and the relief sought. If the grievant is a student, the Title IX Coordinator shall assist in preparing the written statement and assure it is timely filed.

The Board or its designee (1-3 members of the Board) shall make a decision on the grievance and shall give that decision in writing to the Title IX Coordinator and the Student or employee.

### **Grievance Process for Complaints of Sexual Harassment**

#### **Definitions**

For purposes of this grievance process,

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“*Complainant*” means an individual who is alleged to be the victim of conduct that could constitute sexual harassment.

“*Formal complaint*” means a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the School investigate the allegation of sexual harassment. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the School with which the formal complaint is filed. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information listed for the Title IX Coordinator.

“*Respondent*” means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

“*Sexual harassment*” means conduct on the basis of sex that satisfies one or more of the following:

- (1) An employee of the School conditioning the provision of an aid, benefit, or service of the School on an individual’s participation in unwelcome sexual conduct;
- (2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the School’s education program or activity; or
- (3) “Sexual assault” as defined in 20 U.S.C. 1092(f)(6)(A)(v), “dating violence” as defined in 34 U.S.C. 12291(a)(10), “domestic violence” as defined in 34 U.S.C. 12291(a)(8), or “stalking” as defined in 34 U.S.C. 12291(a)(30).

“*Supportive measures*” means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the School’s education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the Rise and Shine Academy’s educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The School must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the School to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

### Training

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Any individual designated by Rise and Shine Academy as a Title IX Coordinator, investigator, decision-maker, or any person designated to facilitate an informal resolution process, shall not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. In addition, these individuals shall not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

All Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, shall receive training on the definition of sexual harassment, the scope of the School's education program or activity, how to conduct an investigation and grievance process (including hearings, appeals, and informal resolution processes, as applicable), and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

The School will also ensure that investigators receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence, and that decision-makers receive training on any technology to be used at a live hearing, and on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant.

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

#### Presumption of No Responsibility

Throughout this grievance procedure, 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. In addition, the School shall not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

The School must comply with this grievance process before the imposition of any disciplinary sanctions, or other actions that are not supportive measures, against a respondent.

The investigation of the grievance shall include an objective evaluation of all relevant evidence – including both inculpatory and exculpatory evidence – and credibility determinations may not be based on a person's status as a complainant, respondent, or witness. The standard of evidence to be used to determine responsibility will be the clear and convincing evidence standard.

#### Good Cause Delay

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There may be a temporary delay of the grievance process or a limited extension of time-frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

#### Level I – Response to Report

Upon receiving a report of sexual harassment, the Title IX Coordinator shall promptly contact the complainant to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint. The School will maintain as confidential any supportive measures provided before or after the filing of a formal complaint or where no formal complaint has been filed, to the extent that maintaining such confidentiality would not impair the ability of the School to provide the supportive measures.

#### Level II – Formal Complaint

Upon receipt of a formal complaint (or later as additional allegations become known), the School will provide the following written notice to the parties who are known:

(A) Notice of the School's grievance process that complies with this section, including any informal resolution process.

(B) Notice of the allegations of sexual harassment potentially constituting sexual harassment, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident, if known. The written notice must include a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process. The written notice must inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence. The written notice must also inform the parties of any provision in the School's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

If, in the course of an investigation, the School decides to investigate allegations about the complainant or respondent that are not included in the foregoing notice provided, the School must provide notice of the additional allegations to the parties whose identities are known.

The School may consolidate formal complaints as to allegations of sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one

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party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances.

Investigation:

The Title IX Coordinator or his/her designated investigator will investigate the allegations in a formal complaint. When investigating a formal complaint and throughout the grievance process, the Title IX Coordinator or his/her designated investigator must:

- (A) Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the School and not on the parties provided that the School cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the School obtains that party's voluntary, written consent to do so for a grievance process (if a party is not an "eligible student," as defined in 34 CFR 99.3, then the School must obtain the voluntary, written consent of a "parent," as defined in 34 CFR 99.3);
- (B) Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence;
- (C) Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence;
- (D) Provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the complainant or respondent in any meeting or grievance proceeding; however, the School may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties;
- (E) Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all investigative interviews, or other meetings, with sufficient time for the party to prepare to participate;
- (F) Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the School does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. Prior to completion of the investigative report, the School must send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at

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least ten (10) business days to submit a written response, which the investigator will consider prior to completion of the investigative report; and

(G) Create an investigative report within thirty (30) business days of receipt of a formal complaint that fairly summarizes relevant evidence and, at least ten (10) business days prior to a time of determination regarding responsibility, send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response.

### Question and Answer Period

After the School has sent the investigative report to the parties, the Title IX Coordinator or his/her designated investigator shall submit the investigative report to the [Dr. Tashlai Burney] DECISION-MAKER. (CANNOT BE TITLE IX COORDINATOR OR INVESTIGATOR)] as decision-maker to reach a determination regarding responsibility. The decision-maker cannot be the same person(s) as the Title IX Coordinator or the investigator(s).

Before reaching a determination regarding responsibility, the [Decision- Maker] must afford each party five (5) business days to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party. However, questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. The DECISION-MAKER must explain to the party proposing the questions any decision to exclude a question as not relevant.

### Dismissal

The School must investigate the allegations in a formal complaint. If the conduct alleged in the formal complaint would not constitute sexual harassment even if proved, did not occur in the School's education program or activity, or did not occur against a person in the United States, then the School must dismiss the formal complaint with regard to that conduct for purposes of sexual harassment under Title IX. However, such a dismissal does not preclude action under another provision of the School's code of conduct.

The School may also dismiss the formal complaint or any allegations therein, if at any time during the investigation: a complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein; the respondent is no longer enrolled or employed by the School; or specific circumstances prevent the School from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon a dismissal, the School will promptly send written notice of the dismissal and reason(s) therefor simultaneously to the parties.

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Determination Regarding Responsibility

The DECISION-MAKER as decision-maker must issue a written determination regarding responsibility within fifteen (15) business days of the conclusion of the question and answer period.

The written determination must include:

- (A) Identification of the allegations potentially constituting sexual harassment;
- (B) A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, and methods used to gather other evidence;
- (C) Findings of fact supporting the determination;
- (D) Conclusions regarding the application of the School's code of conduct to the facts;
- (E) A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the School imposes on the respondent, and whether remedies designed to restore or preserve equal access to the School's education program or activity will be provided by the School to the complainant; and
- (F) The School's procedures and permissible bases for the complainant and respondent to appeal.

The School must provide the written determination to the parties simultaneously. The determination regarding responsibility becomes final either on the date that the School provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

If a determination of responsibility for sexual harassment has been made against a respondent, the School will provide remedies to a complainant. The Title IX Coordinator is responsible for effective implementation of any remedies. Possible remedies to the complainant that the School may implement include: counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures or individualized services offered as may be appropriate and reasonably available, without fee or charge to the complainant, that are designed to restore or preserve equal access to the School's education program or activity, to protect the safety of the complainant or the School's educational environment, or to deter sexual harassment.

Possible disciplinary sanctions the School may implement following any determination of responsibility by the respondent may include: suspension, expulsion, reprimand, documenting the occurrence in the personnel file, referral to counseling, withholding of a promotion, demotion,



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reassignment, temporary suspension without pay, termination of employment, or any other disciplinary measures outlined in the School's code of conduct or Staff Handbook.

Level III – Appeal to [Dr. Tashlai Burney- DECISION-MAKER (CANNOT BE SAME PERSON AS DECISION-MAKER 1, CANNOT BE TITLE IX COORDINATOR OR INVESTIGATOR)]

Either the complainant or respondent, or their parent or guardian, may appeal from a determination regarding responsibility or from a dismissal of a formal complaint, or any allegations therein. Any such appeal shall be in the form of a written statement challenging the outcome, and be received by the Title IX Coordinator within ten (10) business days of the determination.

The appeal may be on one or more of the following bases:

- (A) Procedural irregularity that affected the outcome of the matter;
- (B) New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
- (C) The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

The Title IX Coordinator shall give the written appeal to a DECISION-MAKER (CANNOT BE SAME PERSON AS DECISION-MAKER 1, CANNOT BE TITLE IX COORDINATOR OR INVESTIGATOR)] for decision.

Within three (3) business days of receipt, the Title IX Coordinator shall also provide notice to the other party in writing that the appeal was filed. The other party shall then be provided five (5) business days to submit a written statement in support of, or challenging, the outcome.

Within fifteen (15) business days after the time for the other party to submit a written statement has passed, the DECISION-MAKER shall issue a written decision describing the result of the appeal and the rationale for the result and provide the written decision simultaneously to both parties.

For all appeals, the School must ensure that the decision-maker(s) for the appeal: (i) not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent; (ii) receive training on the definition of sexual harassment, the scope of the School's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias; (iii) receive training on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant; and (iv) receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.

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### **Office for Civil Rights**

If the student (or their parent or guardian) or employee is not satisfied with the grievance process determination, he or she may appeal it to the Office for Civil Rights.

A student (or their parent or guardian) or employee who believes there is a basis for a grievance related to Title IX may file a written complaint with the Office for Civil Rights, U.S. Department of Education, 600 Superior Avenue East, Suite 750, Cleveland, Ohio 44114-2611. Any such written complaint must be filed within one hundred eighty (180) days from the date of the alleged discrimination, or, if this grievance procedure is utilized, within sixty (60) days after the last act of the grievance process.

### **Informal Resolution Process**

The School may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment.

Similarly, the School may not require the parties to participate in an informal resolution process, and may not offer an informal resolution process unless a formal complaint is filed. However, at any time prior to reaching a determination regarding responsibility the School may facilitate an informal resolution process that does not involve a full investigation and adjudication, provided that the School:

(A) Provides to the parties a written notice disclosing: the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;

(B) Obtains the parties' voluntary, written consent to the informal resolution process; and

(C) Does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

Any such informal resolution process should not exceed ten (10) business days.

### **Emergency Removal**

Nothing in this grievance procedure precludes the School from removing a respondent from the School's education program or activity on an emergency basis, provided that the School undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual

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harassment justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal. However, this provision may not be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act.

### **Administrative Leave**

Nothing in this grievance procedure precludes the School from placing a non-student employee respondent on administrative leave during the pendency of a grievance process. However, this provision may not be construed to modify any rights under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act.

### **Recordkeeping**

The School must maintain for a period of seven years records of:

- (A) Each sexual harassment investigation including any determination regarding responsibility, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to the School's education program or activity;
- (B) Any appeal and the result therefrom;
- (C) Any informal resolution and the result therefrom; and
- (D) All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. The School must make these training materials publicly available on its website, or if the School does not maintain a website the School must make these materials available upon request for inspection by the public.

For each response to a report or formal complaint of sexual harassment in an education program or activity, the School must create, and maintain for a period of seven years, records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment. In each instance, the School must document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the School's education program or activity. If the School does not provide a complainant alleging sexual harassment with supportive measures, then the School must document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the School in the future from providing additional explanations or detailing additional measures taken.

### **Retaliation Prohibited**



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Neither the School, nor any other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or this grievance procedure, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation or proceeding in this grievance procedure. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX or this grievance procedure, constitutes retaliation.

The School must keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted by the FERPA statute, 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

Complaints alleging retaliation may be filed according to the grievance procedures for sex discrimination complaints not alleging sexual harassment. The exercise of rights protected under the First Amendment does not constitute prohibited retaliation under this grievance procedure. Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of this grievance procedure does not constitute prohibited retaliation under this grievance procedure, provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

*See 34 CFR part 106; see also Policy 221, Policy 222, and Appendices 221.1-A through 221.1-J.*

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**222 Title IX Coordinator**

The School intends to comply with Title IX of the Education Amendments Act of 1972, which states, in part: “No persons in the United States shall on the basis of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving financial assistance....”

As such, the School does not discriminate on the basis of sex in its education program or activities, and is required by Title IX and its regulations not to discriminate in such a manner. This requirement not to discriminate in the education program or activity extends to admission and employment.

The following person shall be the Compliance Officer/Title IX Coordinator and is responsible for investigating any complaint alleging noncompliance with Title IX.

Dr. Calvin Burney Jr.  
3248 Warsaw St  
419-244-9900  
[calvinburney@riseandshineacad.org](mailto:calvinburney@riseandshineacad.org)

Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person’s verbal or written report. Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address, listed for the Title IX Coordinator.

Inquiries about the application of Title IX and its regulations to the School may be referred to the Title IX Coordinator, to the Assistant Secretary for Civil Rights of the Department, or both.

A specific procedure for grievances related to Title IX issues is set forth as the “Title IX Grievance Procedure.” *34 CFR 106*

The language above will be posted on the School’s website within two clicks of the home page; in all other School-related documents made available to students, parents, staff, and applicants (e.g., student newspapers, parent newsletters, student handbooks, employee handbooks, application forms, recruiting materials, etc.).

See also Policy 206 General Notice of Non-Discrimination

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## **264 Sexual and Other Forms of Harassment**

Students have the right to learn in an environment untainted by sexual or other forms of harassment or discrimination. Offensive conduct that has the purpose or effect of unreasonably interfering with the learning atmosphere or creating an intimidating, hostile, discriminatory, or offensive learning environment, or which disrupts the educational process or impedes the legitimate pedagogical concerns of the School, is strictly prohibited.

Sexual harassment includes all unwelcome sexual advances, requests for sexual favors, and verbal or physical contacts of a sexual nature. Other prohibited conduct includes that which has the purpose or effect of creating an intimidating, hostile, discriminatory, or offensive learning environment on the basis of gender, religion, race, color, ethnicity, disability, and/or other legally protected category.

The harassment by a student of a staff member or fellow student is strictly forbidden. Any student who is found to have harassed a staff member or student will be subject to discipline.

The harassment of a student or a staff member should be reported immediately by the student or staff member to any teacher or to the Principal or his/her designee. Any person who receives such a report shall immediately advise the Principal or his/her designee or a Board member, who will investigate and take appropriate action in accordance with Board directives.

Should any School employee, or School official who has authority to institute corrective measures on behalf of the School, receive notice of sexual harassment or allegations of sexual harassment, they shall immediately report it to the Title IX Coordinator for further action in accordance with Board directives.

*20 USC 1681 et seq.; R.C. 4112.02; See 34 CFR part 106.*

See Appendix 264-A Form for Reporting Incidents of Harassment, Intimidation and Bullying. See also Policy 222.1 Title IX Grievance Procedure; Policy 271 Student Code of Conduct.

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## **264.1 Anti-Harassment, Intimidation, and Bullying Policy**

The following policy must appear in any student handbook, and in any publications that set forth the comprehensive rules, procedures, and standards for the School and students. Information regarding this policy must be incorporated into employee training materials. Annually, the School shall send a written statement describing the policy and the consequences for violating the policy to each student's custodial parent or guardian, either electronically or with report cards.

The School prohibits acts of harassment, intimidation, or bullying (including cyber-bullying) of any student on school property or at school-sponsored events (any event conducted on or off School property, including School buses and other School related vehicles, that is sponsored, recognized or authorized by the Board). A safe and civil environment in the School is necessary for students to learn and achieve high academic standards. Harassment, intimidation and bullying, like other disruptive or violent behaviors, are conduct that disrupts both a student's ability to learn and the School's ability to educate its students in a safe environment. Since students learn by example, school administrators, faculty, staff, and volunteers should be commended for demonstrating appropriate behavior, treating others with civility and respect, and refusing to tolerate bullying.

“Harassment, intimidation, or bullying” means either of the following: (1) any intentional, written, verbal, electronic, graphic, or physical act that a student or group of students has exhibited toward another particular student more than once, and the behavior both causes mental or physical harm to the other student and is sufficiently severe, persistent or pervasive that it creates an intimidating, threatening or abusive educational environment for the other student; or (2) violence within a dating relationship. The definition of “harassment, intimidation, or bullying” also includes the above described acts which are electronically generated, stored or transmitted, sometimes called “cyberbullying.”

The School reserves the right to discipline students' off campus behavior which substantially disrupts the School's educational process or mission, or threatens the safety or well-being of a Student or Staff member. Factors which may be considered in determining whether the behavior warrants discipline include, but are not limited to, the following: (1) whether the behavior created material and substantial disruption to the educational process or the School's mission due to the stress on the individual(s) victimized or the time invested by Staff in dealing with the behavior or its consequences; (2) whether a nexus to on-campus activities exists; (3) whether the behavior creates a substantial interference with a Student's or Staff member's security or right to educate and receive education; (4) whether the behavior invades the privacy of others; or (5) whether any threat is deemed to be a true threat by the administration or Board, using factors and guidelines set out by the courts or by common sense, reasonable person standards.

Some acts of harassment, intimidation, bullying, and cyber-bullying may be isolated incidents requiring that the school respond appropriately to the individuals committing the acts. Other acts may be so serious or part of a larger pattern of harassment, intimidation, bullying, or cyber-bullying

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that they require a response either in the classroom, School building, or by law enforcement officials. Consequences and appropriate remedial actions for students who commit an act of harassment, intimidation, bullying, or cyber-bullying range from positive behavior intervention up to and including suspension or expulsion. Due process procedures for suspension and expulsion will be followed, as provided for under R.C. 3313.66. The disciplinary procedures and Code of Conduct of the School shall be followed and shall not infringe on any student's First Amendment rights under the United States Constitution.

All school personnel, volunteers, and students are required to report prohibited incidents of which they are aware to the Principal or his/her designee. All other persons may report prohibited incidents of which they are aware to the Principal or his/her designee. Should any School employee, or School official who has authority to institute corrective measures on behalf of the School, receive notice of sexual harassment or allegations of sexual harassment, they shall immediately report it to the Title IX Coordinator. Anonymous communications, if necessary, may be made by telephone, electronic mail, or in writing. In the case of sexual harassment, the School shall follow the School's Title IX Grievance Procedure. For all other incidents, the Principal or his/her designee is responsible for determining whether an alleged incident constitutes a violation of this policy. In so doing, the Principal or his/her designee shall conduct a prompt and thorough investigation of the reported incident, and prepare a report documenting the prohibited incident that is reported (See **Appendix 264.1-A** Form for Reporting Incidents of Harassment Intimidation and Bullying). Once an investigation is completed, if the reported incident has been substantiated, the Parent of any Student involved in the prohibited incident shall be notified. Semiannually, the Principal will provide the Board President with a written summary of all reported incidents. To the extent permitted by R.C. 3319.321 and the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g), Parents have access to any written reports pertaining to the prohibited incident, and, if the School has a website, the School shall post this summary of reported incidents on the School website. All School personnel, volunteers, and Students shall be individually immune from liability in a civil action for damages arising from reporting an incident in accordance with this policy promptly and in good faith.

The School prohibits reprisal or retaliation against any victim or person who reports an act of harassment, intimidation, or bullying. The consequence and appropriate remedial action for a person who engages in reprisal or retaliation shall be determined by the Principal or his/her designee after consideration of the nature and circumstances of the act, in accordance with School policies and procedures.

Students are prohibited from deliberately making false reports of harassment, intimidation, or bullying, and Students who deliberately do so will be disciplined up to and including suspension or expulsion.

The School shall implement the following strategy for protecting victims from new or additional harassment, intimidation, or bullying, and from retaliation: supervise and discipline offending students fairly and consistently; provide adult supervision during recess, lunch time, bathroom breaks and in the hallways during times of transition; maintain contact with parents and guardians of all involved parties; provide counseling for the victim if assessed that it is needed; inform School



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personnel of the incident and instruct them to monitor the victim and the offending party for the indications of harassing, intimidating and bullying behavior. Personnel are to intervene when prohibited behaviors are witnessed; check with the victim daily to ensure that there has been no incidents of harassment, intimidation, bullying, or retaliation from the offender or other parties.

Harassment, intimidation, and bullying behavior can take many forms and can vary dramatically in seriousness and impact on the targeted individual and other students. Accordingly, there is no one prescribed response to verified acts of harassment, intimidation, and bullying. While conduct that rises to the level of “harassment, intimidation, or bullying” will warrant disciplinary action whether and to what extent to impose disciplinary action (*i.e.*, detention, in- and out-of-school suspension, or expulsion) is a matter left in the professional discretion of the Principal, or other decision-maker in the case of sexual harassment. The following procedure sets forth possible interventions for the Principal to enforce the prohibition against harassment, intimidation, or bullying. Anonymous complaints that are not otherwise verified, however, shall not be the basis for disciplinary action.

1. Non-Disciplinary Interventions

When verified acts of harassment, intimidation, or bullying are identified early and/or when such verified acts do not reasonably require a disciplinary response, students may be counseled as to the definition of harassment, intimidation or bullying, its prohibition and their duty to avoid any conduct that could be considered harassing, intimidating or bullying. If a complaint arises out of conflict between students or groups of students, peer mediation may be considered. Special care, however, is warranted in referring such cases to peer mediation. A power imbalance may make the process intimidating for the victim and therefore inappropriate. The victim’s communication and assertiveness skills may be low and could be further eroded by fear resulting from past intimidation and fear of future intimidation. In such cases, the victim should be given additional support. Peer mediation may be deemed inappropriate to address the concern at the discretion of the School administration.

2. Disciplinary Interventions

When acts of harassment, intimidation, and bullying are verified and a disciplinary response is warranted, students are subject to the full range of disciplinary consequences. In- and out-of-school suspension may be imposed only after informing the accused perpetrator of the reasons for the proposed suspension and giving him/her an opportunity to explain the situation. Expulsion may be imposed only after a hearing before the Board of Directors, a committee of the board or an impartial hearing officer designated by the Board of Directors in accordance with Board policy. This consequence shall be reserved for serious incidents of harassment, intimidation, or bullying, and/or situations where past interventions have not been successful in eliminating prohibited behaviors.

Nothing in this policy prohibits a victim from seeking redress under any provision of Ohio or federal law that may apply.

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To the extent state or federal funds are appropriate, the School shall require that all students enrolled in the School be provided with age-appropriate instruction of this policy annually, including a written or verbal discussion of the consequences for violations. The School may form a prevention task force and/ or programs to educate students about this policy, such as holding an assembly on harassment, intimidation and bullying for Parents and Students, to raise the level of awareness and help prevent the prohibited conduct.

The School shall incorporate training on this policy into the in-service training required under R.C. 3319.073. The School may provide training, workshops, or courses to other Staff and volunteers who have direct contact with students.

*R.C. 3313.666, 3313.667, 3319.073*

See also Policy 222 Title IX Grievance Procedure; Policy 271 Student Code of Conduct; Policy 273 Expulsion and Suspension; Policy 232 Technology and Internet Acceptable Use; Policy 234 Electronic Communication Devices; Policy 261 Student Expression; Policy 262 Student Bill of Rights/Responsibilities; and Policy 264 Sexual and Other Forms of Harassment.

#### **306.4 Reporting a Complaint**

The School encourages all individuals who believe they are being harassed to firmly and promptly notify the offender that his or her behavior is unwelcome. The School does, however, recognize that, in some instances, power and status disparities between the alleged harasser and the individual may make such a confrontation impossible. In the event that such informal, direct communication between individuals is either ineffective or impossible, the following steps should be followed in reporting a harassment complaint. A complaint may be filed by one experiencing or witnessing harassment.

##### Notification of Appropriate Staff

Individuals who believe they have been subjected to harassment should report the incident to the Principal or his/her designee. When appropriate, the Principal or his/her designee will immediately consult with the Board. If the Principal or his/her designee is allegedly involved in the incident, then the individual should report the incident directly to the President of the Board.

The School encourages prompt reporting of complaints so that rapid response and appropriate action may be taken, but no limited time frame applies. Late reporting of complaints will not in and of itself preclude the School from taking remedial action.

Should any School employee, or School official who has authority to institute corrective measures on behalf of the School, receive notice of sexual harassment or allegations of sexual harassment, they shall immediately report it to the Title IX Coordinator. If the complaint involves sexual harassment as defined by Title IX, the School's Title IX Grievance Procedure shall be followed.



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Protection Against Retaliation

The School will not in any way retaliate or permit retaliation against any individual who makes a good faith report of harassment or who assists or cooperates in an investigation thereof. Retaliation is a serious violation of this harassment policy and should be reported immediately. Any person found to have violated this policy by retaliating against another individual for making a report of harassment or for assisting or cooperating in the investigation thereof will be subject to the same disciplinary action provided for harassment offenders.

#### Investigating the Complaint

Any allegation of harassment brought to the attention of the School will be thoroughly and promptly investigated. Confidentiality will be maintained where possible throughout the investigatory process to the extent practical and appropriate under the circumstances.

#### Resolving the Complaint

Upon completing the investigation of a harassment complaint, the School will communicate its findings and intended actions. If the investigation finds that harassment occurred, the harasser will be subject to appropriate disciplinary procedures, as listed below. If the investigation determines that no harassment has occurred, this finding will be communicated as appropriate.

#### Sanctions

Individuals found to have engaged in misconduct constituting harassment will be disciplined, up to and including discharge. Appropriate actions will be determined by the School. For example, action may include reprimanding the offender, documenting the occurrence in the personnel file, referral to counseling, withholding of a promotion, demotion, reassignment, temporary suspension without pay, or termination of employment.

Although the School's ability to discipline a non-employee harasser (e.g., customer, supplier) is limited by the degree of control, if any, that the School has over the alleged harasser, any individual who has been subjected to harassment by such an individual should still file a complaint and be assured that the School will take those actions it deems appropriate to end any harassment.



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### Appendix 222.1-A

<b>Form for Formal Complaint of Sexual Harassment</b>
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*Please note that the School's harassment policies prohibit knowingly making false statements or knowingly submitting false information.*

Incident Reporter: \_\_\_\_\_

Date: \_\_\_\_\_

Names of the parties involved in the incident, if known: \_\_\_\_\_

Date and location of the alleged incident, if known: \_\_\_\_\_

Additional witnesses of incident, if known: \_\_\_\_\_

Description of conduct constituting sexual harassment: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**I am requesting that the School investigate the foregoing allegation of sexual harassment.**

Signature of Reporting Person: \_\_\_\_\_

Date: \_\_\_\_\_

*\*Formal Complaints of sexual harassment should be submitted to the Title IX Coordinator.*

Signature of Title IX Coordinator: \_\_\_\_\_