

Title IX Formal Complaint Process for Sexual Harassment

1. Title IX Statement of Nondiscrimination

Calvin Nelms Charter Schools prohibits discrimination, including harassment, against any student on the basis of sex. Retaliation against anyone involved in the formal complaint process described below is a violation of Calvin Nelms Charter Schools policy and is prohibited.

2. Sexual Harassment

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

1. An employee of Calvin Nelms Charter Schools conditioning the provision of an aid, benefit, or service of Calvin Nelms Charter Schools 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 Calvin Nelms Charter School’s education program or activity; or
3. “Sexual assault” as defined in [20 U.S.C. 1091\(f\)\(6\)\(A\)\(v\)](#); “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\(a\)\(30\)](#).

3. Definitions

a) Title IX Official

For the purposes of this formal complaint process, a “Title IX Official” means the Title IX Coordinator/designee and campus administrators.

b) Complainant

A complainant is a student who is alleged to be the victim of sexual harassment.

c) Respondent

A respondent is the person who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

d) Formal Complaint

A formal complaint means a document filed by a complainant (or complainant’s parent/guardian) or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that Calvin Nelms Charter Schools 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 Calvin Nelms Charter School’s education program or activity.

A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by e-mail using the Title IX Coordinator's contact information. A formal complaint may be a document or electronic submission (i.e., by e-mail or through an online portal provided by Calvin Nelms Charter Schools) that contains the complainant's physical or digital signature, or otherwise indicates that the complainant is the individual filing the complaint.

4. Reporting Procedures

a) Student Report

Any student who believes that he or she has experienced sexual harassment or believes that another student has experienced sexual harassment should immediately report the alleged acts to a teacher, school counselor, principal, assistant principal, or Calvin Nelms Charter School's Title IX Coordinator/designee.

b) Parent Report

Any parent who suspects or receives notice that a student or group of students has or may have experienced sexual harassment shall promptly notify a campus administrator or the Title IX Coordinator.

c) Employee Report

Any Calvin Nelms Charter Schools employee who suspects or receives notice that a student or group of students has or may have experienced sexual harassment shall promptly notify a campus administrator or the Title IX Coordinator.

d) Alternate Reporting Procedures

A student shall not be required to report prohibited conduct to the person alleged to have committed the conduct. Reports concerning sexual harassment, including reports against the Title IX coordinator, may be directed to the Superintendent. A report against the Superintendent may be made directly to the Board of Directors. If a report is made directly to the Board, the Board shall appoint an appropriate person to conduct an investigation.

e) Timely Reporting

Reports of sexual harassment shall be made as soon as possible after the alleged act or knowledge of the alleged act. A failure to promptly report may impair Calvin Nelms Charter School's ability to investigate and address the prohibited conduct.

f) Notice to Parents

Upon receipt of a formal complaint, the Title IX Official or designee shall promptly notify the parents of any student alleged to have experienced sexual harassment and the parents of a student

who is alleged to have engaged in conduct that could be sexual harassment with notice in compliance with the “Written Notice” section below.

5. Supportive Measures

Calvin Nelms Charter Schools shall offer the parties supportive measures. Supportive measures may include individualized services that are non-punitive, non-disciplinary, and do not unreasonably burden the other party yet are designed to restore or preserve a student’s equal access to education. Supportive measures may include but are not limited to counseling, extensions of deadlines or other class-related adjustments, modifications of class schedules, campus escort services, mutual restrictions on contact between the parties, increased monitoring of certain areas of the campus, and other similar measures. Calvin Nelms Charter Schools must maintain as confidential any supportive measures provided to the parties to the extent this would not impair the ability of Calvin Nelms Charter Schools to provide supportive measures.

6. Formal Complaint Procedure

A formal complaint alleging sexual harassment shall be in writing. A formal complaint may be made by the complainant-student, a parent, or legal guardian. In cases where an alleged victim does not file a formal complaint, the Title IX Coordinator may initiate the formal complaint process where warranted (e.g., allegations of sexual assault or abuse, improper relationship between employee and student).

The formal complaint process shall be engaged with all deliberate speed for resolving formal complaints of sexual harassment. Calvin Nelms Charter Schools shall attempt to complete an investigation of a formal complaint within 60 calendar days of receiving a formal complaint. Temporary delays shall be permitted only for good cause; good cause can include but is not limited to law enforcement activities, the absence of a party or witness, the absence of a party’s advisor of choice, or the need to provide language assistance or accommodation of disabilities.

a) Equitability and Objectivity

Both the complainant and the respondent are to be treated equitably in the grievance process. Calvin Nelms Charter Schools must ensure an objective evaluation of all relevant evidence, including inculpatory and exculpatory evidence.

b) Credibility and Presumption of Innocence

Credibility determinations shall not be made on the basis of a person’s status as a complainant, respondent, or witness. The respondent is presumed not responsible, and any finding of responsibility comes only at the conclusion of a grievance process.

c) No Conflicts of Interest

The individuals directly involved in the formal complaint process (Title IX Coordinator or designee, investigator, decision-maker, and facilitator of informal resolution efforts) must not have

any bias or conflict of interest. These individuals shall also be trained. The materials used to train Title IX personnel may not rely on sex stereotypes, must promote impartial investigations and adjudications, and must be posted on Calvin Nelms Charter School's website.

d) Standard of Evidence

Calvin Nelms Charter Schools will use the clear and convincing evidence standard for making a determination of responsibility.

e) Privileges

No information protected by a legal privilege, such as the attorney-client privilege or the doctor-patient privilege, can be used during an investigation unless the person holding that privilege has waived it. Neither a party nor Calvin Nelms Charter Schools is allowed to seek, permit questions about, or allow the introduction of evidence that is protected by a recognized privilege. Individuals can always opt to waive their own privileges.

f) Emergency Removals

Calvin Nelms Charter Schools may remove a respondent from Calvin Nelms Charter School's education programs or activities on an emergency basis if <<Calvin Nelms Charter Schools>> undertakes an individualized safety and risk analysis and determines that an immediate threat, arising from the allegations of sexual harassment, to anyone's physical health or safety justifies removal. Additionally, Calvin Nelms Charter Schools must provide the respondent with notice and an opportunity to challenge the decision immediately following the removal.

Calvin Nelms Charter School's ability to initiate an emergency removal does not override or modify the rights of individuals under the Individuals with Disabilities Education Act, Section 504, or the Americans with Disabilities Act.

If the respondent is a Calvin Nelms Charter Schools employee, the employee may be placed on administrative or other school-initiated leave during the investigation in accordance with applicable law.

g) Initial Assessment of Formal Complaint and Potential Dismissal

Upon receipt of a formal complaint, the Title IX Official or designee shall determine whether the allegations, if proven, would constitute sexual harassment as defined by Title IX.

Calvin Nelms Charter Schools must dismiss a formal complaint if the conduct alleged in the formal complaint:

1. Would not constitute sexual harassment, even if proved;
2. Did not occur in Calvin Nelms Charter School's education program or activity; or
3. Did not occur against a person in the United States.

Calvin Nelms Charter Schools may dismiss a formal complaint:

1. If the complainant notifies the Title IX Coordinator in writing that he/she wishes to withdraw the formal complaint or any allegations therein;
2. If the respondent is no longer enrolled in or employed by Calvin Nelms Charter Schools; or
3. If circumstances prevent Calvin Nelms Charter Schools from gathering evidence sufficient to reach a determination about the allegations.

If the Title IX Official dismisses a formal complaint or any allegations in it, the Title IX Official shall promptly send written notice of the dismissal and the reasons to the parties. Both parties have the right to appeal a dismissal decision.

Dismissal of a formal complaint does not preclude Calvin Nelms Charter Schools from conducting an investigation under the school's policy concerning on-sexual harassment discrimination or any other policy that may apply to the alleged conduct.

h) Consolidation of Complaints

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

i) Written Notice

When an investigation of a formal complaint begins, the parties will receive written notice. Included in the notice shall be a copy of this process and Calvin Nelms Charter School's policy concerning prohibited sexual harassment. Written notice shall also include:

1. Notice of the allegations of sexual harassment including, to the extent known, the identity of the parties, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident.
2. A statement that the respondent is presumed to be innocent and that a determination regarding responsibility is made at the conclusion of the formal complaint process.
3. A statement that the parties are entitled to an advisor of their choice who may be a parent/guardian or who may be, but is not required to be, an attorney.
4. A statement that the parties can inspect and review relevant evidence
5. Information from Calvin Nelms Charter Schools code of conduct about making false statements or knowingly submitting false statements during the complaint process.

This written notice must be provided to allow the parties sufficient time to prepare a response before any initial interview.

If, during an investigation, Calvin Nelms Charter Schools District decides to investigate allegations about the complainant or respondent that were not included in the original notice, Calvin Nelms Charter Schools must provide notice of the additional allegations to the parties.

j) Investigators

An investigation of a formal complaint may be conducted by a trained Title IX Official or designee, such as a principal, an assistant principal, a central office administrator, or by a third party designated by Calvin Nelms Charter Schools, such as an attorney. When appropriate, the principal shall be involved in or informed of the investigation.

Calvin Nelms Charter Schools shall provide an equal opportunity for the parties to present witnesses to be interviewed and evidence to be considered, including information from fact and expert witnesses, as well as inculpatory and exculpatory evidence.

Calvin Nelms Charter Schools cannot restrict the ability of a party to discuss the allegations under investigation or to gather and present relevant evidence.

k) Representation

Both parties will have the opportunity to have an advisor of choice accompany them to any meetings throughout the investigation process. A parent/guardian may serve as a student's advisor; a student may also have an advisor in addition to his/her parent present at meetings in the investigation process. However, parents and advisors cannot interfere with interviews. Advisors may only observe.

l) Conducting the Investigation

Calvin Nelms Charter Schools shall provide written notice of the date, time, location, participants, and purpose of all interviews, or other meetings with sufficient time for the party to prepare.

Calvin Nelms Charter Schools shall provide equal opportunities for the parties and their advisors to inspect and review the evidence obtained as part of its investigation, if the information is directly related to the allegations raised in the formal complaint, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.

Every party has the right to choose to participate, or not participate, in any part of an investigation. No person shall be forced, threatened, coerced, discriminated against, or retaliated against for choosing not to be part of the grievance process.

The investigation may consist of personal interviews with the person making the report, the complainant, the respondent, and others with knowledge of the circumstances surrounding the allegations. The investigation may also include analysis of other information or documents related to the allegations.

Prior to completing an investigative report, Calvin Nelms Charter Schools will 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. The parties must have at least 10 days to submit a written response, which the investigator will consider prior to completing the investigative report.

If a response is submitted, the investigator shall consider that response before finalizing the investigative report. The investigative report can then be finalized and provided to the parties.

That report shall be circulated to the parties at least another 10 days before any determination of responsibility.

Before making a determination of responsibility, the parties shall be given an opportunity to submit relevant, written questions to each other. The decision maker may establish a deadline for a party to respond to questions posed by another party. Responses may be verbal or written at the decision-maker's discretion. Parents/guardians may respond in writing for their children. The decision-maker may ask additional questions of the parties and witnesses before making a determination of responsibility.

Questions and evidence about a complainant's prior sexual history are not relevant with two limited exceptions: to prove someone other than the respondent committed the alleged misconduct or to prove consent.

m) Cooperation with Law Enforcement or Regulatory Agencies

If a law enforcement or regulatory agency notifies Calvin Nelms Charter Schools that a criminal or regulatory investigation has been initiated, Calvin Nelms Charter Schools shall confer with the agency to determine if the school's investigation would impede the criminal or regulatory investigation. Calvin Nelms Charter Schools shall proceed with its investigation only to the extent that it does not impede the ongoing criminal or regulatory investigation. After the law enforcement or regulatory agency has finished gathering its evidence, Calvin Nelms Charter Schools shall promptly resume its investigation.

n) Disability Accommodations

Calvin Nelms Charter Schools shall ensure that individuals with disabilities who participate in the school's formal grievance process are appropriately accommodated, including with respect to the use of technology and reliance on visual, auditory, or written modes of communication.

o) Concluding the Investigation

The investigator shall prepare a final written report of the investigation. The report shall not include a determination of whether prohibited conduct occurred but may include recommended findings of fact. The report shall be filed with the Title IX Coordinator and the decision-maker.

p) Written Determination of Responsibility and Notification

Notification of the outcome of the investigation shall be provided to both parties in compliance with FERPA.

q) Decision-maker

The decision-maker shall objectively evaluate the relevant evidence and reach conclusions about whether the respondent is responsible for the alleged sexual harassment. The decision-maker shall use independent judgment and shall not be the Title IX Coordinator or the person(s) who conducted the investigation.

Decision-makers shall be free from conflicts of interest or bias for or against complainants or respondents and shall have received special training about how to be impartial and how to decide what evidence is relevant. The decision-maker will weigh the relevant evidence and decide whether it meets Calvin Nelms Charter Schools standard of evidence for sexual harassment allegations.

After the evidence has been weighed, the decision-maker shall issue a written decision regarding responsibility. It shall include:

1. Identification of the allegations potentially constituting sexual harassment.
2. A description of the procedural steps taken from receipt of the formal complaint through the determination of responsibility, including notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held, if any.
3. Findings of fact supporting the determination.
4. Conclusions regarding the application of Calvin Nelms Charter School's code of conduct to the facts.
5. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility.
6. Any disciplinary sanctions that will be imposed on the respondent, and whether remedies will be provided to the complainant to restore or preserve equal access to Calvin Nelms Charter School's education program or activity.
7. A statement of Calvin Nelms Charter School's procedures and permissible bases for the complainant and respondent to appeal.

Calvin Nelms Charter Schools shall send the written determination regarding responsibility to the parties simultaneously, along with information about how to appeal the determination.

The Title IX coordinator is responsible for implementing the remedies contained in the written determination regarding responsibility if there is no timely appeal or once the appeal process is completed.

r) Corrective Action/Remedies

Calvin Nelms Charter School's remedies are to be designed to restore or preserve equal access to the school's education programs or activities.

Disciplinary consequences for respondents who are students will range from a verbal warning to expulsion, as allowed under the Student Code of Conduct.

Disciplinary consequences for respondents who are employees will range from a verbal warning to termination of employment, as allowed under the school's standards for employee conduct.

Corrective actions may also include training programs for those involved in the complaint, a comprehensive education program for the school community, counseling to the complainant and the respondent who engaged in prohibited conduct, follow-up inquiries to determine if any new incidents or any instances of retaliation have occurred, involving parents and students in efforts to identify problems and improve the school climate, increasing staff monitoring of areas where prohibited conduct has occurred, and reaffirming Calvin Nelms Charter School's policy against discrimination and harassment.

s) Improper Conduct Not Constituting Sexual Harassment

If the investigation reveals improper conduct that did not rise to the level of sexual harassment, Calvin Nelms Charter Schools may take disciplinary action in accordance with the Student Code of Conduct and/or employee standards for conduct, along with any other corrective action reasonably calculated to address the conduct.

t) Confidentiality

To the greatest extent possible, Calvin Nelms Charter Schools shall respect the privacy of the complainant, respondent, and witnesses. Limited disclosures may be necessary to conduct a thorough investigation, comply with applicable law, and to implement supportive measures.

Calvin Nelms Charter Schools shall maintain the identities of parties and witnesses as confidential, unless disclosure of someone's identity is required under other laws or is necessary in order to conduct the grievance process, including the implementation of supportive measures and to comply with the Title IX regulations.

u) Appeal

An appeal must be in writing (on a form provided by Calvin Nelms Charter Schools and filed with the Title IX Coordinator within 10 calendar days of issuance of the determination of responsibility. Appeals are available on the following bases:

1. A procedural irregularity that affected the outcome of the matter;
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; or
3. 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.

A Calvin Nelms Charter Schools official who decides the appeal shall not be the same person who reached the determination regarding responsibility, the investigator, or the Title IX Coordinator.

After considering the parties' written statements, the decision-maker on appeal shall issue a written decision and send it to the parties simultaneously.

Calvin Nelms Charter School's determination about whether the respondent is responsible for the sexual harassment allegations becomes final after appeal.

v) Retaliation Prohibited

Calvin Nelms Charter Schools prohibits retaliation by a student or school employee against anyone alleged to have experienced sexual harassment, or any other person who in good faith, makes a report of sexual harassment, serves as a witness, or participates or refuses to participate in an investigation.

Any person who believes he or she has been retaliated against may file a complaint in accordance with the grievance process described in this regulation.

w) False Claim

A student or employee who intentionally makes a false claim or provides a materially false statement shall be subject to appropriate disciplinary action.

7. Informal Resolution

Calvin Nelms Charter Schools may offer informal resolution at any time prior to reaching a determination regarding responsibility, except in cases where the respondent is a school employee. Informal resolution may be attempted only if each party enters the process voluntarily. Calvin Nelms Charter Schools will not require informal resolution as a condition of continuing enrollment or employment, the enjoyment of any other right, or a waiver of the right to an investigation and adjudication of formal complaints. Calvin Nelms Charter Schools also may not offer an informal resolution process unless a formal complaint is filed.

Calvin Nelms Charter Schools shall provide a specially trained resolution facilitator who is free from conflicts of interest or bias. All parties shall be provided with notice of the allegations, notice of their rights, information about whether an informal process is confidential, and about withdrawing from the process.

8. Records Retention

Calvin Nelms Charter Schools shall retain copies of each sexual harassment allegation, investigation report, and related records for the time period required under the Title IX regulations at 34 C.F.R. Part 106.

9. Access to Procedures

Information regarding this regulation shall be included in Calvin Nelms Charter School's employee and student handbooks.