



# HILL VIEW MONTESSORI

## CHARTER Public School

### **Title IX Grievance Procedures for Complaints of Sex Discrimination (§ 106.45)**

#### **HVMCPS Title IX Coordinator for Employees:**

Phil Arnold, HVMCPS Executive Director  
75 Foundation Avenue  
Haverhill, MA 01835  
978-521-2616 extension 1000

#### **HVMCPS Title IX Coordinator for Students:**

Ginger Whitson, HVMCPS Dean of Students  
75 Foundation Avenue  
Haverhill, MA 01835  
978-521-2616 extension 1209

Hill View Montessori Charter Public School (HVMCPS) 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, alleging any action that would be prohibited by Title IX or the Title IX regulations.

#### **Complaints:**

The following people have a right to make a complaint of sex discrimination, including complaints of sex-based harassment, requesting that HVMCPS investigate and make a determination about alleged discrimination under Title IX:

- A “complainant”, which includes:
  - A student or employee of HVMCPS who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX; or
  - A person other than a student or employee of HVMCPS who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX at a time when that individual was participating or attempting to participate in HVMCPS’ education program or activity;
- A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant; or
- HVMCPS’ Title IX Coordinator

Note that a person is entitled to make a complaint of sex discrimination only if they themselves are alleged to have been subjected to the sex discrimination, if they have a legal right to act on behalf of such person, or if the Title IX Coordinator initiates a complaint consistent with the requirement of 34 C.F.R. § 106.44(f)(1)(v).

With respect to complaints of sex discrimination other than sex-based harassment, in addition to the people listed above, the following persons have a right to make a complaint:

- Any student or employee of HVMCPS; or
- Any person other than a student or employee who was participating or attempting to participate in HVMCPS' education program or activity at the time of the alleged sex discrimination.

HVMCPS may consolidate complaints of sex discrimination 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 of sex discrimination arise out of the same facts or circumstances.<sup>7</sup> When more than one complainant or more than one respondent is involved, references below to a party, complainant, or respondent include the plural, as applicable.

#### **Basic Requirements of Title IX Grievance Procedures:**

HVMCPS will treat complainants and respondents equitably.

HVMCPS requires that any Title IX Coordinator, investigator, or decisionmaker not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. A decisionmaker may be the same person as the Title IX Coordinator or investigator.

HVMCPS presumes that the respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of its grievance procedures.

HVMCPS has established the following timeframes for the major stages of the grievance procedures:

#### **Initial Evaluation** (Decision to Dismiss or Investigate a Complaint)

Timeframe: Within 5-10 business days of receiving the formal complaint.

#### **Investigation**

Timeframe: Complete the investigation within 20-30 business days of the decision to proceed.

#### **Determination of Responsibility**

Timeframe: Issuance of a written determination within 10 business days of the investigation's conclusion.

**Appeal** *(if applicable)*

Timeframe: Appeals must be filed within 5 business days of receiving the determination, and a decision on the appeal must be made within 10-15 business days of filing.

**Final Resolution**

Timeframe: The entire grievance process, from receipt of the complaint to final resolution, should be completed within 60-90 business days.

HVMCPS has also established the following process that allows for the reasonable extension of timeframes on a case-by-case basis for good cause with notice to the parties that includes the reason for the delay:

**Identification of Good Cause:**

An extension of timeframes may be granted when circumstances arise that justify a delay. Examples of good cause include, but are not limited to:

- Complexity of the case (e.g., multiple witnesses, substantial evidence)
- Unavailability of key parties, witnesses, or evidence
- The need for language assistance or accommodations for disabilities
- School holidays or breaks
- Concurrent law enforcement investigations

**Request for Extension:**

Either party involved in the grievance process or the Title IX Coordinator may request an extension. The request must be made in writing and include a clear explanation of the reason for the delay.

**Review and Decision:**

The Title IX Coordinator will review the request and determine whether good cause exists to grant an extension. The decision will be made promptly, considering the need to ensure a fair and efficient process.

**Written Notice of Extension:**

If an extension is granted, written notice will be provided to all parties involved in the grievance process. This notice will include:

- The reason for the extension
- The new adjusted timeframes for the affected stage(s) of the grievance procedure

**Ongoing Communication:**

The Title IX Coordinator will maintain regular communication with all parties throughout the extended timeframe to provide updates on the progress of the process and ensure transparency.

HVMCPS will take reasonable steps to protect the privacy of the parties and witnesses during its grievance procedures. These steps will not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures. The parties cannot engage in retaliation, including against witnesses.

HVMCPS will objectively evaluate all evidence that is relevant and not otherwise impermissible—including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a complainant, respondent, or witness.

The following types of evidence, and questions seeking that evidence, are impermissible (i.e., will not be accessed or considered, except by HVMCPS 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:

- Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- 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 HVMCPS obtains that party's or witness's voluntary, written consent for use in its grievance procedures; and
- 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 alleged sex discrimination. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex discrimination or preclude determination that sex discrimination occurred.

#### **Notice of Allegations:**

Upon initiation of HVMCPS' Title IX grievance procedures, HVMCPS will notify the parties of the following:

- HVMCPS' Title IX grievance procedures and any informal resolution process
- 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 discrimination, and the date(s) and location(s) of the alleged incident(s);
- Retaliation is prohibited; and
- The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of this evidence. [If HVMCPS provides a description of the evidence: The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence upon the

request of any party.]

If, in the course of an investigation, HVMCPS decides to investigate additional allegations of 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, HVMCPS will notify the parties of the additional allegations.

### **Dismissal of a Complaint:**

HVMCPS may dismiss a complaint of sex discrimination if:

- HVMCPS is unable to identify the respondent after taking reasonable steps to do so;
- The respondent is not participating in HVMCPS' education program or activity and is not employed by HVMCPS;
- The complainant voluntarily withdraws any or all of the allegations in the complaint, the Title IX Coordinator declines to initiate a complaint, and HVMCPS determines that, without the complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination under Title IX even if proven; or
- HVMCPS determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under Title IX. Before dismissing the complaint, HVMCPS will make reasonable efforts to clarify the allegations with the complainant.

Upon dismissal, HVMCPS will promptly notify the complainant of the basis for the dismissal. If the dismissal occurs after the respondent has been notified of the allegations, then HVMCPS 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.

HVMCPS 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 HVMCPS will also notify the respondent that the dismissal may be appealed. Dismissals may be appealed on the following bases:

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available when the dismissal was made; and
- The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

If the dismissal is appealed, HVMPS will:

- Notify the parties of any appeal, including notice of the allegations, if notice was not previously provided to the respondent;
- Implement appeal procedures equally for the parties;
- Ensure that the decisionmaker for the appeal did not take part in an investigation of the

- allegations or dismissal of the complaint;
- Ensure that the decisionmaker for the appeal has been trained consistent with the Title IX regulations;
- Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
- Notify the parties of the result of the appeal and the rationale for the result.

When a complaint is dismissed, HVMCPS will, at a minimum:

- Offer supportive measures to the complainant as appropriate;
- If the respondent has been notified of the allegations, offer supportive measures to the respondent as appropriate; and
- Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that sex discrimination does not continue or recur within HVMCPS' education program or activity.

### **Investigation:**

HVMCPS will provide for adequate, reliable, and impartial investigation of complaints.

The burden is on HVMCPS – not on the parties – to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.

HVMCPS 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.

HVMCPS will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance.

HVMCPS 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:

- HVMCPS will provide an equal opportunity to access either the relevant and not otherwise impermissible evidence, or an accurate description of this evidence. [If HVMCPS provides a description of the evidence: HVMCPS will provide the parties with an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party.];
- HVMCPS will provide a reasonable opportunity to respond to the evidence or the accurate description of the evidence; and
- HVMCPS 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 discrimination are authorized.

### **Questioning the Parties and Witnesses:**

HVMCPS will provide a process that enables the decisionmaker to question parties and

witnesses 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.

When HVMCPS chooses not to conduct a live hearing: HVMCPS' process for proposing and asking relevant and not otherwise impermissible questions and follow-up questions of parties and witnesses, including questions challenging credibility, will:

- Allow the investigator or decisionmaker to ask such questions during individual meetings with a party or witness;
- Allow each party to propose such questions that the party wants asked of any party or witness and have those questions asked by the investigator or decisionmaker during one or more individual meetings, including follow-up meetings, with a party or witness, subject to the procedures for evaluating and limiting questions discussed below; and
- Provide each party with an audio or audiovisual recording or transcript with enough time for the party to have a reasonable opportunity to propose follow-up questions.

When HVMCPS chooses to conduct a live hearing: HVMCPS' process for proposing and asking relevant and not otherwise impermissible questions and follow-up questions of parties and witnesses, including questions challenging credibility, will allow the decisionmaker to ask such questions, and either:

- Allow each party to propose such questions that the party wants asked of any party or witness and have those questions asked by the decisionmaker, subject to the procedures for evaluating and limiting questions discussed below; or
- Allow each party's advisor to ask any party or witness such questions, subject to the procedures for evaluating and limiting questions discussed below. Such questioning will never be conducted by a party personally. [If HVMCPS permits advisor-conducted questioning and a party does not have an advisor to ask questions on their behalf, HVMCPS will provide the party with an advisor of HVMCPS' choice, without charge to the party, for the purpose of advisor-conducted questioning. In those instances, HVMCPS will not appoint a confidential employee and may appoint, but is not required to appoint, an attorney to serve as an advisor.]

*Procedures for the decisionmaker to evaluate the questions and limitations on questions:* The decisionmaker will determine whether a proposed question is relevant and not otherwise impermissible before the question is posed and will explain any decision to exclude a question as not relevant or otherwise impermissible. Questions that are unclear or harassing of the party or witness being questioned will not be permitted. The decisionmaker will give a party an opportunity to clarify or revise a question that the decisionmaker determines is unclear or harassing. If the party sufficiently clarifies or revises the question, the question will be asked.

*Refusal to respond to questions and inferences based on refusal to respond to questions:* The decisionmaker 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. The decisionmaker will not draw an inference about whether sex discrimination occurred based solely on a party's or witness's refusal to respond to such questions.

### **Procedures for a Live Hearing, if offered:**

HVMCPS will conduct the live hearing with the parties physically present in the same geographic location or, at HVMCPS' discretion or upon the request of either party, will conduct the live hearing with the parties physically present in separate locations with technology enabling the decisionmaker and parties to simultaneously see and hear the party or witness while that person is speaking.

HVMCPS will create an audio or audiovisual recording or transcript of any live hearing and make it available to the parties for inspection and review.

### **Determination Whether Sex Discrimination Occurred:**

Follow an investigation and evaluation of all relevant and not otherwise impermissible evidence, HVMCPS will:

- Use the [preponderance of the evidence or, if applicable, clear and convincing] standard of proof to determine whether sex discrimination occurred. The standard of proof requires the decisionmaker to evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the decisionmaker is not persuaded under the applicable standard by the evidence that sex discrimination occurred, whatever the quantity of the evidence is, the decisionmaker will not determine that sex discrimination occurred.
- Notify the parties in writing of the determination whether 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;
- Not impose discipline on a respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the grievance procedures that the respondent engaged in prohibited sex discrimination.
- If there is a determination that sex discrimination occurred, the Title IX Coordinator will, as appropriate:
  - Coordinate the provision and implementation of remedies to a complainant and other people HVMCPS identifies as having had equal access to HVMCPS' education program or activity limited or denied by sex discrimination;
  - Coordinate the imposition of any disciplinary sanctions on a respondent, including notification to the complainant of any such disciplinary sanctions; and
  - Take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within HVMCPS' education program or activity.
- Comply with the grievance procedures before the imposition of any disciplinary sanctions against a respondent; and
- 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 discrimination occurred.



### **Appeal of Determinations, if offered:**

HVMCPS will offer an appeal from a dismissal or determination whether sex discrimination occurred on the following bases:

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available when the determination or dismissal was made; and
- The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

If a party appeals a dismissal or determination whether sex discrimination occurred, HVMCPS will:

- Notify the parties in writing of any appeal, including notice of the allegations, if notice was not previously provided to the respondent;
- Implement appeal procedures equally for the parties;
- Ensure that the decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
- Ensure that the decisionmaker for the appeal has been trained consistent with the Title IX regulations;
- Communicate to the parties in writing that HVMCPS will provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
- Notify the parties in writing of the result of the appeal and the rationale for the result.

Any additional procedures or bases for appeal that HVMCPS offers will be equally available to all parties.

### **Informal Resolution, if offered:**

In lieu of resolving a complaint through HVMCPS' Title IX grievance procedures, the parties may instead elect to participate in an informal resolution process. HVMCPS does not offer informal resolution to resolve a complaint that includes allegations that an employee engaged in sex discrimination of an elementary school or secondary school student, or when such a process would conflict with Federal, State, or local law.

### **Supportive Measures:**

HVMCPS will offer and coordinate supportive measures as appropriate for the complainant and/or respondent to restore or preserve that person's access to HVMCPS' education program or activity or provide support during the HVMCPS Title IX grievance procedures or informal resolution process. For complaints of sex discrimination, these supportive measures may include:

- **Counseling** or access to mental health service

- **Extensions of deadlines** or other academic adjustments
- **Modifications to work or class schedules** to avoid contact between the complainant and respondent
- **Increased security or monitoring** in certain areas of the school.
- **Mutual no-contact orders** between the parties
- **Changes to extracurricular or transportation arrangements**
- **Academic support services**, including tutoring or alternative learning arrangements

These measures are non-punitive, individualized, and offered without fee or charge to either party, maintaining fairness and protecting the confidentiality of all involved, to the extent possible.

For Title IX compliance, particularly for complaints of sex discrimination, these supportive measures reflect current best practices:

- ***Non-Punitive and Individualized***: Supportive measures should be tailored to the specific needs of the complainant and respondent. Best practices ensure that these measures do not assume responsibility for the incident and are non-disciplinary, maintaining fairness for all parties involved.
- ***Focus on Access and Safety***: The core purpose of supportive measures is to ensure both parties maintain access to educational programs without disruption. These include academic accommodations, safety protocols like no-contact orders, and access to counseling services. The goal is to prevent further harm while maintaining educational equity for all.
- ***Confidentiality and Non-Retaliation***: Best practices emphasize confidentiality, ensuring that supportive measures are implemented discreetly. This helps avoid stigmatizing or exposing the parties involved, which could deter reporting or create an unsafe environment.
- ***Range of Measures***: Offering a broad array of supportive measures—such as counseling, changes to schedules or activities, academic support, and safety measures—provides flexibility to meet individual needs. This broad range ensures the school can respond effectively in various circumstances.

### **Disciplinary Sanctions and Remedies:**

Following a determination that sex discrimination occurred, HVMCPS may impose disciplinary sanctions on the respondent. These sanctions will be proportionate to the severity of the misconduct and may include, but are not limited to:

- **Verbal or written warnings.**
- **Mandatory training or education** on harassment prevention or other related topics
- **No-contact orders** between the complainant and respondent
- **Loss of privileges**, such as participation in extracurricular activities or leadership roles
- **Suspension** from school or school-related activities (temporary or permanent)

- **Expulsion** from HVMCPS in severe cases
- **Other disciplinary measures** as deemed appropriate by HVMCPS

HVMCPS may also provide remedies for the complainant to restore or preserve their access to the school's education programs and activities. Remedies may include:

- **Counseling services** or access to external mental health support
- **Adjustments to academic schedules** or class assignments
- **Extensions on assignments or academic support** to address any impact on academic performance
- **Changes to extracurricular activities** or transportation arrangements to ensure the complainant's safety and comfort
- **Increased monitoring or supervision** in certain areas of the school to ensure safety
- **Assistance in obtaining protective orders** or referrals to legal services as needed
- **Ongoing support services** such as tutoring or educational accommodations

These measures aim to both support the complainant and ensure accountability while maintaining fairness in the disciplinary process.