

**Literacy First Charter Schools**

**Title IX Policy and Grievance Procedures**

**Literacy First Charter Schools’ Title IX Coordinator (“Coordinator”)**:

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**Definitions**

**Sexual Harassment**

In accordance with Title IX (20 U.S.C. § 1681 *et seq.*; 34 C.F.R. Part 106) and California law, discrimination and harassment on the basis of sex in education institutions, including in the education institution’s admissions and employment practices, is prohibited. All persons, regardless of sex, are afforded equal rights and opportunities and freedom from unlawful discrimination and harassment in education programs or activities conducted by LFCS.

Literacy First Charter Schools (“LFCS”) is committed to providing a work and educational environment free of sexual harassment and considers such harassment to be a major offense, which may result in disciplinary action. Inquiries about the application of Title IX and 34 C.F.R. Part 106 may be referred to the Coordinator, the Assistant Secretary for Civil Rights of the U.S. Department of Education, or both.

Under Title IX, “sexual harassment” means conduct on the basis of sex that satisfies one or more of the following:

* An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;
* 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 recipient's education program or activity; or
* “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).

Under California Education Code section 212.5, sexual harassment consists of conduct on the basis of sex, including but not limited to unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct on the basis of sex, regardless of whether or not the conduct is motivated by sexual desire, when: (a) Submission to the conduct is explicitly or implicitly made a term or a condition of an individual’s employment, education, academic status, or progress; (b) submission to, or rejection of, the conduct by the individual is used as the basis of employment, educational or academic decisions affecting the individual; (c) the conduct has the purpose or effect of having a negative impact upon the individual’s work or academic performance, or of creating an intimidating, hostile, or offensive work or educational environment; and/or (d) submission to, or rejection of, the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through the educational institution.

Examples of conduct that may fall within the Title IX definition of sexual harassment, the Education Code definition of sexual harassment, or both:

* Physical assaults of a sexual nature, such as:
  + Rape, sexual battery, molestation or attempts to commit these assaults.
  + Intentional physical conduct that is sexual in nature, such as touching, pinching, patting, grabbing, brushing against another’s body, or poking another’s body.
* Unwanted sexual advances, propositions or other sexual comments, such as:
  + Sexually oriented gestures, notices, remarks, jokes, or comments about a person’s sexuality or sexual experience.
  + Preferential treatment or promises of preferential treatment to an individual for submitting to sexual conduct, including soliciting or attempting to solicit any individual to engage in sexual activity for compensation or reward or deferential treatment for rejecting sexual conduct.
  + Subjecting or threats of subjecting a student or employee to unwelcome sexual attention or conduct or intentionally making the student’s or employee’s performance more difficult because of the student’s or the employee’s sex.
* Sexual or discriminatory displays or publications anywhere in the work or educational environment, such as:
  + Displaying pictures, cartoons, posters, calendars, graffiti, objections, promotional materials, reading materials, or other materials that are sexually suggestive, sexually demeaning or pornographic or bringing or possessing any such material to read, display or view in the work or educational environment.
  + Reading publicly or otherwise publicizing in the work or educational environment materials that are in any way sexually revealing, sexually suggestive, sexually demeaning or pornographic.
  + Displaying signs or other materials purporting to segregate an individual by sex in an area of the work or educational environment (other than restrooms or similar rooms).

The illustrations of harassment and sexual harassment above are not to be construed as an all-inclusive list of prohibited acts under this Policy.

**Formal Complaint of Sexual Harassment** means a written document filed and signed by a complainant who is participating in or attempting to participate in LFCS’s education program or activity or signed by the Coordinator alleging sexual harassment against a respondent and requesting that LFCS investigate the allegation of sexual harassment. At the time of filing a formal complaint of sexual harassment, a complainant must be participating in or attempting to participate in LFCS’s education program or activity.

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

**Grievance Procedures**

**Scope of Grievance Procedures**

For formal complaints of sexual harassment under Title IX, LFCS will utilize the sexual harassment grievance procedures listed below in addition to its Uniform Complaint Policy when applicable.

**Submitting a Report or Complaint**

All staff are expected to provide appropriate supervision to enforce standards of conduct and, if they observe or become aware of misconduct prohibited by this Policy, to intervene when safe to do so, call for assistance, and report such incidents. The Board requires staff to follow the procedures in this Policy for reporting alleged acts of misconduct prohibited by this Policy.

Reports and complaints of misconduct prohibited by this Policy shall be submitted to the Coordinator (or the Executive Director if the complaint is against the Coordinator) as soon as possible after the incidents giving rise to the report or complaint.

Complaints regarding such misconduct may also be made to the U.S. Department of Education, Office for Civil Rights. Civil law remedies, including, but not limited to, injunctions, restraining orders, or other remedies or orders may also be available to complainants.

While submission of a written report is not required, the reporting party is encouraged to submit a written report to the Coordinator. LFCS will investigate and respond to all oral and written reports of misconduct prohibited by this Policy in a manner that is not deliberately indifferent. Reports may be made anonymously, but formal disciplinary action cannot be based solely on an anonymous report.

Students are expected to report all incidents of misconduct prohibited by this Policy. Any student who feels they are a target of such behavior should immediately contact a teacher, counselor, the Executive Director, Coordinator, a staff person or a family member so that the student can get assistance in resolving the issue in a manner that is consistent with this Policy.

LFCS acknowledges and respects every individual’s right to privacy. All reports and complaints shall be investigated in a manner that protects the confidentiality of the parties and the integrity of the process to the greatest extent possible. This includes keeping the identity of the reporter and/or complainant confidential, as appropriate, except to the extent necessary to comply with applicable law, carry out the investigation and/or to resolve the issue, as determined by LFCS on a case-by-case basis.

LFCS prohibits any form of retaliation against any individual who files a report or complaint, testifies, assists, participates, or refuses to participate in any investigation or proceeding related to misconduct prohibited by this Policy. Such participation or lack of participation shall not in any way affect the status, grades, or work assignments of the individual. Individuals alleging retaliation in violation of this Policy may file a grievance using the procedures set forth in this Policy. Knowingly making false statements or knowingly submitting false information during the grievance process is prohibited and may result in disciplinary action.

All supervisors of staff will receive sexual harassment training within six (6) months of their assumption of a supervisory position and will receive further training once every two (2) years thereafter. All staff, and any individual designated as a Title IX Coordinator, investigator or decision-maker and any person who facilitates an informal resolution process will receive Title IX training and/or instruction concerning sexual harassment as required by law.

**Supportive Measures Under Title IX**

Upon the receipt of a report of sexual harassment or a formal complaint of sexual harassment, the Coordinator will promptly contact the complainant to discuss the availability of supportive measures. The Coordinator will 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 of sexual harassment, and explain the process for filing a formal complaint of sexual harassment.

Supportive measures are 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 of sexual harassment or where no formal complaint of sexual harassment has been filed. Such measures are designed to restore or preserve equal access to LFCS’s education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or LFCS’s educational environment, or deter sexual harassment. Supportive measures available to complainants and respondents may include but are not limited to counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. LFCS will 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 LFCS to provide the supportive measures.

**Investigation and Response**

Upon receipt of a report or complaint of misconduct prohibited by this Policy, the Coordinator or designee will promptly initiate an investigation. In most cases, a thorough investigation will take no more than thirty (30) school days.

At the conclusion of the investigation, the Coordinator or designee will, to the extent possible with respect to confidentiality laws, provide the complainant with information about the investigation, including any actions necessary to resolve the incident/situation. However, the Coordinator or designee will not reveal confidential information related to other students or employees.

If the complaint is against the Coordinator, the Executive Director or designee will conduct a fact-finding investigation and provide the complainant with information about the investigation and resolution of the incident/situation.

For investigations of and responses to formal complaints of sexual harassment under Title IX, the following grievance procedures will apply:

* Notice of the Allegations
  + Upon receipt of a formal complaint of sexual harassment, the Coordinator will give all known parties written notice of its grievance process, including any voluntary informal resolution process. The notice will include:
    - A description of the allegations of sexual harassment at issue and to the extent known, the identities of the parties involved in the incident, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident;
    - A statement that the respondent is presumed not responsible for the alleged conduct until a final decision is reached;
    - A statement that the parties may have an advisor of their choice, who may be an attorney, and may inspect and review evidence; and
    - A statement that LFCS prohibits an individual from knowingly making false statements or knowingly submitting false information during the grievance process.
* Emergency Removal
  + LFCS may place a non-student employee respondent on administrative leave during the pendency of a formal complaint of sexual harassment grievance process in accordance with LFCS’s policies.
  + LFCS may remove a respondent from LFCS’s education program or activity on an emergency basis, in accordance with LFCS’s policies, provided that LFCS 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 harassment justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal.
  + This provision may not be construed to modify any rights under the IDEA, Section 504, or the ADA.
* Informal Resolution
  + If a formal complaint of sexual harassment is filed, LFCS may offer a voluntary informal resolution process, such as mediation, to the parties at any time prior to reaching a determination regarding responsibility. If LFCS offers such a process, it will do the following:
    - Provide the parties with advance written notice of:
      * The allegations;
      * The requirements of the voluntary informal resolution process including the circumstances under which the parties are precluded from resuming a formal complaint of sexual harassment arising from the same allegations;
      * The parties’ right to withdraw from the voluntary informal resolution process and resume the grievance process at any time prior to agreeing to a resolution; and
      * Any consequences resulting from participating in the voluntary informal resolution process, including the records that will be maintained or could be shared; and
    - Obtain the parties’ advance voluntary, written consent to the informal resolution process.
  + LFCS will not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.
* Investigation Process
  + The decision-maker will not be the same person(s) as the Coordinator or the investigator. LFCS shall ensure that all decision-makers and investigators do not have a conflict of interest or bias for or against complainants or respondents.
  + In most cases, a thorough investigation will take no more than thirty (30) school days. If the investigator determines that an investigation will take longer than thirty (30) school days and needs to be delayed or extended due to good cause, the investigator will inform the complainant and any respondents in writing of the reasons for the delay or extension and provide an approximate date when the investigation will be complete. The entire Title IX process, including informal resolution, opportunities to respond, and determination of responsibility may take ninety (90) calendar days or longer, depending on the complexity of the investigation and the issues raised.
  + The parties will be provided with an equal opportunity to present witnesses, to inspect and review any evidence obtained that is directly related to the allegations raised, and to have an advisor present during any investigative meeting or interview.
  + The parties will not be prohibited from discussing the allegations under investigation or to gather and present relevant evidence.
  + A party whose participation is invited or expected at an investigative meeting or interview will receive written notice of the date, time, location, participants, and purpose of the meeting or interview with sufficient time for the party to prepare to participate.
  + Prior to completion of the investigative report, LFCS will send to each party and the party’s advisor, if any, a copy of the evidence subject to inspection and review, and the parties will have at least ten (10) days to submit a written response for the investigator’s consideration prior to the completion of the investigation report.
  + The investigator will complete an investigation report that fairly summarizes all relevant evidence and send a copy of the report to each party and the party’s advisor, if any, at least ten (10) days prior to the determination of responsibility.
* Dismissal of a Formal Complaint of Sexual Harassment
  + If the investigation reveals that the alleged harassment did not occur in LFCS’s educational program in the United States or would not constitute sexual harassment even if proved, the formal complaint with regard to that conduct must be dismissed. However, such a dismissal does not preclude action under another applicable LFCS policy.
  + LFCS may dismiss a formal complaint of sexual harassment if:
    - The complainant provides a written withdrawal of the complaint to the Coordinator;
    - The respondent is no longer employed or enrolled at LFCS; or
    - The specific circumstances prevent LFCS from gathering evidence sufficient to reach a decision on the formal complaint or the allegations therein.
  + If a formal complaint of sexual harassment or any of the claims therein are dismissed, LFCS will promptly send written notice of the dismissal and the reason(s) for the dismissal simultaneously to the parties.
* Determination of Responsibility
  + The standard of evidence used to determine responsibility is the preponderance of the evidence standard.
  + Determinations will be based on an objective evaluation of all relevant evidence and credibility determinations will not be based on a person’s status as a complainant, respondent, or witness.
  + LFCS will send a written decision on the formal complaint to the complainant and respondent simultaneously that describes:
    - The allegations in the formal complaint of sexual harassment;
    - All procedural steps taken including any notifications to the parties, interviews with parties and witnesses, site visits, and methods used to gather other evidence;
    - The findings of facts supporting the determination;
    - The conclusions about the application of LFCS’s code of conduct to the facts;
    - The decision and rationale for each allegation;
    - Any disciplinary sanctions the recipient imposes on the respondent, and whether remedies designed to restore or preserve equal access to the education program or activity will be provided to the complainant; and
    - The procedures and permissible bases for appeals.

**Consequences**

Students or employees who engage in misconduct prohibited by this Policy, knowingly make false statements or knowingly submit false information during the grievance process may be subject to disciplinary action up to and including expulsion from LFCS or termination of employment. The Coordinator is responsible for effective implementation of any remedies ordered by LFCS in response to a formal complaint of sexual harassment.

**Right of Appeal**

The following appeal rights and procedures will apply to formal complaints of sexual harassment under Title IX:

* The complainant and the respondent shall have the same appeal rights and LFCS will implement appeal procedures equally for both parties.
* Within five (5) business days of LFCS’s written decision or dismissal of the complaint, the complainant or respondent may submit a written appeal to the Coordinator.
* The decision-maker(s) for the appeal will not be the same person(s) as the Coordinator, the investigator or the initial decision-maker(s).
* The complainant and respondent may appeal from a determination regarding responsibility, and from LFCS’s dismissal of a formal complaint or any allegations therein, on the following bases:
  + Procedural irregularity that affected the outcome of the matter;
  + 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
  + 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.
* LFCS will notify the other party in writing when an appeal is filed.
* The decision-maker for the appeal will: 1) give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome; 2) issue a written decision describing the result of the appeal and the rationale for the result; and 3) provide the written decision simultaneously to both parties.

**Recordkeeping**

All records related to any investigation of complaints under this Policy are maintained in a secure location.

LFCS will maintain the following records for at least seven (7) years:

* Records of each sexual harassment investigation, including any determination of responsibility; any audio or audiovisual recording or transcript; any disciplinary sanctions imposed on the respondent; and any remedies provided to the complainant.
* Records of any appeal of a formal sexual harassment complaint and the results of that appeal.
* Records of any informal resolution of a sexual harassment complaint and the results of that informal resolution.
* All materials used to train Title IX coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process.
* Records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment.



# Literacy first charter schools TITLE IX COMPLAINT FORM

Your Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date of Alleged Incident(s): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name of Person(s) you have a complaint against: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

List any witnesses that were present: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Where did the incident(s) occur? \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Please describe the events or conduct that are the basis of your complaint by providing as much factual detail as possible (i.e., specific statements and conduct; what, if any, physical contact was involved; any verbal statements; etc.) (Attach additional pages, if needed):

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**I hereby authorize LFCS to disclose the information I have provided as it finds necessary in pursuing its investigation. I hereby certify that the information I have provided in this complaint is true and correct and complete to the best of my knowledge and belief. I further understand that providing false information in this regard could result in disciplinary action up to and including termination or expulsion from LFCS.**

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

Signature of Complainant

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Print Name

**To be completed by LFCS:**

Received by: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Follow up Meeting with Complainant held on: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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