



## 2023 Title IX Policy

Sexual harassment is prohibited in any form. Pathways will take all necessary and appropriate action to eliminate it. Individuals who violate this Policy are subject to discipline, up to and including expulsion or termination.

Pathways does not discriminate on the basis of sex in the education program or activity that it operates, and is required by Title IX and 34 C.F.R. ch. 106 not to discriminate in this manner. The requirement not to discriminate in Pathways' education program or activity extends to admission (as applicable) and to employment.

Inquiries about the application of Title IX and 34 C.F.R. ch. 106 (i.e., the federal Title IX regulations) to Pathways may be referred to Pathways Title IX Coordinator, to the Assistant Secretary at the U.S. Department of Education, or both.

Pathways has designated the following individual(s) as the Title IX Coordinator:

**Serina Jamison**, [sjamison@pathwayshigh.org](mailto:sjamison@pathwayshigh.org) 414-943-2891, 3022 W. Wisconsin Ave. Milwaukee Wi. 53208

**Chris Kjaer**, [ckjaer@pathwayshigh.org](mailto:ckjaer@pathwayshigh.org), 414-943-2891, 3022 W. Wisconsin Ave. Milwaukee Wi. 53208

"Sexual harassment" is defined as conduct on the basis of sex that satisfies one or more of the following:

- a. A school employee conditioning education benefits on participation of unwelcome sexual conduct (i.e. quid pro quo);
- b. Unwelcome conduct that a reasonable person would find so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school's education program or activity; or
- c. Sexual assault (as defined in the Clery Act), dating violence, domestic violence, or stalking as defined in the Violence Against Women Act.

A hostile environment may be created by a single incident, by repetition of a particular type of behavior, or by a pattern of related behaviors. A hostile environment may be created not only for the targeted individual, but also for others who witness the conduct. A hostile environment may be created even if it is not the harasser's intention to do so. The harasser may be a person of the same or opposite sex as the targeted individual. For the purposes of this policy, the sexual harassment must occur during a school educational program or activity, which includes locations, events, or circumstances over which the school exercised substantial control over both the respondent and the context in which the sexual harassment occurred, whether on or off-campus. This includes but is not limited to instances of student and employee complaints.

Even if it is consensual and would not otherwise violate this Policy, a sexual relationship between staff and students under any circumstances, in or out of the workplace, is strictly prohibited.

Individuals who experience sexual harassment should make it clear to the harasser that such behavior is offensive to them and they may process a complaint pursuant to this policy. There shall be no retaliation against any individual pursuing a sexual harassment complaint made in good faith. Any individual who retaliates against a complainant will be subject to disciplinary action.

Any person who believes he or she has been sexually harassed by a student, employee, other person should report the incident(s) in accordance with the complaint procedures below. Pathways will promptly investigate the complaint and will take appropriate action based on the findings of the investigation.

## **1. Policy Dissemination**

- a. Every employee will receive a copy of the policy by direct distribution each year.

- b. Each student enrolled in Pathways' instructional programs will receive a copy of the policy through various district and building publications on an annual basis.
- c. In each work site, a copy of this policy shall be posted to advise staff, students, parents, volunteers, agents, visitors, and consultants of the policy and procedures for filing a complaint. Staff will ensure that any regular volunteers are familiar with the policy.
- d. In addition to the dissemination of the written policy, each program coordinator and/or supervisor will annually inform each enrolled student and employee of the policy by making direct verbal reference to the policy and the consequences.

## **2. Confidentiality**

All staff of Pathways involved with the investigation, determination or other handling of a complaint of sexual harassment will make every effort to keep the identities of the complainant and the accused harasser confidential, consistent with the requirements of conducting a fair, impartial and thorough investigation, in order to protect the parties involved. However, in certain situations, it may be necessary to reveal the content and source of the complaint in order to properly investigate and resolve the complaint.

## **3. Complaint/Grievance Procedures and Investigations**

The following procedures are adopted to provide for the resolution of employee, student, applicant, or volunteer complaints alleging any sexual harassment.

When making a determination of responsibility, Pathways adopts a preponderance of the evidence evidentiary standard. This standard is applied to all formal complaints of sexual harassment, whether the respondent is a student or an employee.

All timelines in the complaint/grievance process are intended to be guidelines to assure that the investigation and grievance process proceeds with all deliberate efficiency. Timelines may be extended by Pathways for good cause.

### **a. Step One: Filing a Report**

Pathways is required to respond to all reports of sexual harassment. Any person with actual knowledge of sexual harassment that occurred in an education program or activity against a person in the United States must report the sexual harassment to the Title IX Coordinator. A report may be made either orally or in writing to the Title IX Coordinator by phone, email, mail, or any other means to ensure the receipt of the report. The Title IX Coordinator(s) is listed below.

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Upon receipt of a report of sexual harassment, the Title IX Coordinator will confidentially contact the complainant/victim to discuss the availability of supportive measures and explain the process for filing a formal complaint. Supportive measures are individual services reasonably available that are non-punitive and non-disciplinary, that are designed to provide equal access, protect safety of complainants and respondents, and deter sexual harassment. In emergency situations involving an imminent threat to the health or safety of others, the Title IX Coordinator will also determine whether interim measures are necessary, such as the removal of a student or placing an employee on administrative leave. Such measures may be implemented regardless of whether a complaint is pending. In making such a determination, the Title IX Coordinator should consult the complainant to assess his/her position to the proposed action. If the complainant is unwilling to consent to the proposed change, the Title IX Coordinator may still take whatever actions s/he deems appropriate in consultation with the Principal or Director. No temporary arrangements shall be disciplinary to either the complainant or respondent. For the purposes of this policy, the complainant is an individual who is alleged to be the victim of conduct that could constitute sexual harassment.

#### **b. Step Two: Filing a Formal Complaint**

An individual who believes s/he has been subjected to sexual harassment hereinafter referred to as the "complainant," may file a formal complaint, either orally or in writing with the Title IX Coordinator. If the complaint is regarding a Title IX Coordinator, the complaint shall be reported to the Director, who shall assume the role of the Title IX Coordinator for such complaints.

A formal complaint is a document written and signed by the complainant/victim or signed by the Title IX Coordinator. The complaint should include the following information to the extent possible: the date(s) of the incident(s); a description of the incident(s); the identity of the alleged harasser; the identity of any witnesses to the alleged harassment; and the name, home address, e-mail address, and phone number of the complainant. At the time of filing the formal complaint, the complainant must be participating in or attempting to participate in the education program or activity of the recipient.

The Title IX Coordinator will take the complainant's wishes with respect to whether Pathways conducts a formal investigation into the allegations. The Title IX Coordinator will sign the complaint if the Title IX Coordinator determines it would be clearly unreasonable in light of the circumstances not to conduct a formal investigation. When the Title IX Coordinator determines that an investigation is necessary even where the complainant (i.e., the alleged victim) does not want such an investigation, the grievance process can proceed without the complainant's participation; however, the complainant will still be treated as a party in the grievance process.

Upon receipt of a formal complaint, the Title IX Coordinator must provide written notice to the complainant and the respondent of the allegations contained in the complaint. The notice shall include: (1) a description of the allegations of sexual harassment potentially constituting sexual harassment; (2) a statement that the accused is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made after the grievance process; (3) a statement that the complainant and the accused may have an advisor of their choice, who may be, but is not required to be, an attorney; (4) a statement that the complainant and the accused may inspect and review evidence collected during the investigation; and (5) a reference to a provision in Pathways' code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

The Title IX Coordinator shall inform the respondent of the requirements of this policy, which may include providing the respondent with a copy of this policy or information about where to find it. The respondent shall be afforded the opportunity to submit a written response to the complaint. The Title IX Coordinator shall inform the respondent of the respondent's deadline to provide the Title IX Coordinator with the written response to the allegations in the complaint.

### **c. Step Three: The Grievance and Investigation Process**

All timelines contained in this process are approximate. However, the full process will be completed with a written determination no later than 90 days after the complaint is filed.

After receipt of a formal complaint containing allegations of sexual harassment, the Title IX Coordinator will assign an investigator. The investigator shall be assigned within ten (10) working days of receiving the complaint. The Title IX Coordinator may assign himself/herself as the investigator.

The investigator shall promptly investigate the complaint. The investigation shall include an interview of the alleged harasser, witnesses identified by the complainant, and other individuals deemed appropriate by the investigator.

Prior to any investigatory interviews, meetings, or hearings the investigator must send each party a written notice of the date, time, and location of such interviews or meetings. Throughout the investigation, the investigator must send the parties and their advisors all evidence directly related to the investigation, allowing the parties at least ten (10) days to respond. The parties will have an equal opportunity to present fact and expert witnesses in addition to other inculpatory and exculpatory evidence. The parties are not restricted from discussing the allegations or gathering evidence. Evidence of any party's medical, psychological, or similar records may not be accessed or used, unless the party provides voluntary, written consent to do so. Evidence regarding prior sexual history shall not be offered, unless to prove consent or someone other than the respondent committed the alleged misconduct.

Within approximately fifteen (15) working days of receiving the written complaint, the investigator shall complete the investigation and prepare an investigatory report that summarizes evidence. Prior to completion of the investigative report, the recipient must send to each party and the party's advisor, if any, the evidence subject to inspection in an electronic format or hard copy, and the parties will have ten (10) calendar days to submit a written response. The investigator shall consider the response of both parties and complete the report. The report must fairly summarize the relevant evidence gathered during the investigation and make recommendations. The investigator's recommendations must be based upon the totality of the circumstances, including

the ages and maturity levels of those involved. The report will also identify the decision-maker who will make a determination regarding responsibility. The final report will be sent simultaneously to the parties, the parties' advisors, if any, and the decision-maker.

The parties will have approximately ten (10) calendar days after the investigative report is sent to review the final report, submit a written response to the decision-maker, and submit written relevant questions to the decision-maker that the party wants asked of any party or witness. The decision-maker must explain to the party proposing the questions any decision to exclude a question as not relevant. The decision-maker will provide each party with the answers, and the parties will have two (2) calendar days to submit limited follow-up questions.

It may be necessary to extend the fifteen (15) day timeline in certain circumstances (e.g., there are multiple incidents of alleged harassment to investigate, witnesses are unavailable, etc.).

Within approximately fifteen (15) business days from receipt of the investigatory report, the decision-maker (Director) shall issue a final written decision as to whether the allegations of sexual harassment are substantiated, including any disciplinary sanctions or remedies imposed on the parties. A copy of the decision-maker's final decision will be delivered to both the complainant and the respondent simultaneously, and will provide information regarding the appeals process.

#### **d. Step Four: Appeal to the Board of Directors**

If either party is not satisfied with the resolution of the complaint, s/he may appeal to the Board of Directors or designee within approximately fifteen (15) working days of receiving the final decision. The appeal must be in writing and include a statement explaining why the complainant disagrees with the investigator's resolution of the complaint.

The Board of Directors or designee shall review the record and, at his/her discretion, may meet with the complainant and other individuals. Within approximately fifteen (15) working days of receiving the appeal, the Board of Directors or designee shall determine what action to take, if any, and shall issue a written appeals determination.

Nothing in this policy shall be construed to prevent an employee from bringing a complaint before the Equal Employment Opportunity Commission or the Wisconsin Equal Rights Division.

#### **4. Dismissal of Complaints**

If the conduct alleged in the formal complaint does not constitute sexual harassment under Title IX, did not occur during a Pathways educational program or activity, or did not occur in the United States, Pathways must dismiss the complaint for the purposes of Title IX. The dismissal of a formal complaint for the purposes of Title IX does not preclude Pathways from taking action under other Pathways policies.

Pathways may dismiss a formal complaint if the complainant informs the Title IX Coordinator in writing that s/he wishes to withdraw the complaint, if the respondent is no longer enrolled or employed by the school, or if circumstances prevent Pathways from gathering evidence to reach a determination.

In the event of a dismissal, Pathways must provide the parties written notice of the dismissal and the reasons for the dismissal.

#### **5. Informal Resolution**

Pathways may offer an informal resolution process so long as both parties give voluntary and informed written consent. An informal resolution process may only be offered after a formal complaint is filed. If an informal resolution process has begun, any party has the right to withdraw from the informal resolution process and resume the above stated grievance process.

Pathways may not require waiver of the right to formal investigation and adjudication as a condition of enrollment or employment.

Informal resolution processes cannot be offered to resolve allegations that an employee sexually harassed a student.

#### **6. Disciplinary Procedures and Retaliation**

Students who engage in any form of harassment under this policy or any act of retaliation in violation of this



policy shall be subject to disciplinary action, which may include dismissal and expulsion or removal from Pathways' educational program or activity. Students who engage in harassment under this policy may be referred to the proper legal authorities.

Employees who engage in any form of harassment under this policy or any act of retaliation in violation of this policy shall be subject to discipline up to and including termination or removal from Pathways' educational program or activity. Employees who engage in harassment under this policy may be subject to having their contract or agreement with Pathways terminated and referral to proper legal authorities.

Agents or volunteers who engage in sexual harassment under this policy will be subject to having their contract or agreement with Pathways terminated and referral to proper legal authorities.

*NOTE: Voluntary resolution of a complaint shall not necessarily preclude disciplinary action against a harasser if such disciplinary action is necessary to ensure that the academic and work environment is free from harassment.*

## **7. Miscellaneous**

Pathways shall conspicuously post a notice including this policy against harassment in each school in a place accessible to students, staff, and members of the public. This notice shall also include the name, mailing address, email address and telephone number of the Title IX Coordinators, the name, mailing address and telephone number of the State agency responsible for investigating allegations of discrimination in educational opportunities, and the mailing address and telephone number of the United States Department of Education, Office for Civil Rights.

A summary of this policy and any related administrative procedures shall appear in the student and employee handbooks and shall be made available on Pathways' website.

Pathways will train investigators and decision-makers on issues of relevance and how to apply the rape shield protections afforded to complainants. The rape shield protections deem any questions or evidence about a victim's prior sexual behavior irrelevant, unless offered to prove that someone other than the respondent committed the alleged misconduct or offered to prove consent. All training materials will be made available to the public on the District website.

This policy shall be reviewed at least annually for compliance with local, State, and Federal law. Pathways will respect the privacy of the complainant, the individuals against whom the complaint is filed, and the witnesses as much as practicable, consistent with Pathways' legal obligations to investigate, to take appropriate action, and to conform with any discovery, disclosure, or other legal obligations.

## **8. Retention of Investigatory Records and Materials**

All individuals charged with conducting investigations under this policy shall retain all information, documents, electronically stored information ("ESI"), and electronic media created and received as part of an investigation.

The information, documents, ESI, and electronic media retained may include public records and records exempt from disclosure under Federal and/or State law (e.g., student records).

The information, documents, ESI, and electronic media created or received as part of an investigation shall be retained for not less than seven (7) years, but longer if required by Pathways' records retention schedule.