

As of March 6, 2024



WISH Community School & WISH Academy High School
TITLE IX GRIEVANCE PROCEDURES
(Pending approval and adoption by the WISH Board of Directors¹)

WISH Community & Academy High Schools (WISH) are committed to providing an environment that is free from all forms of sex discrimination, which includes discrimination based on gender, gender identity, sexual orientation, sexual harassment, and sexual violence, as regulated by Title IX, and to ensuring the accessibility of appropriate grievance procedures for addressing all complaints regarding all forms of sex discrimination and sexual harassment.

WISH reserves the authority to address sex discrimination and sexual harassment whenever becoming aware of their potential existence, regardless of whether or not a complaint has been lodged in accordance with our grievance procedure as set forth below. WISH reserves the authority to address sex discrimination and sexual harassment even if the same, similar, or related circumstances are also being addressed under another policy by WISH schools or another entity. Furthermore, WISH reserves the right to pursue sexual misconduct violations that fall outside of the scope of Title IX based on the determination of WISH's assigned Title IX Coordinator who may deem that the alleged actions are contrary to any part of its code of conduct.

INFORMATION AND ASSISTANCE

¹ WISH's Title IX Grievance Procedures are issued pursuant to revisions to Title IX proposed by the US Department of Education in February 2024 and are subject to formal adoption and approval by the WISH Board of Directors at their regular March 2024 Board Meeting or promptly thereafter.

Sex Discrimination and Sexual Harassment means conduct of a sexual nature that meets, but may not be limited to, any of the following:

Sex discrimination occurs when a person, because of their sex or gender identity, is denied participation in or the benefits of any education program or activity that receives federal financial assistance.

Sexual harassment means conduct based on sex that satisfies one or more of the following:

1. A school employee making conditional certain education benefits on participation in unwelcome sexual conduct (i.e., quid pro quo); or
2. Unwelcome conduct that a *reasonable person* would determine is so **severe, pervasive, and objectively offensive** that it effectively denies a person equal access to the school's education program or activity; or
3. Sexual assault (as defined in the **Clery Act**), dating violence, domestic violence, or stalking as defined in the Violence Against Women Act (VAWA). Sexual harassment can be verbal, nonverbal, or physical.

Any individual, who believes they may have experienced any form of sex discrimination or sexual harassment, or who believes that they have observed such actions taking place, may receive information and assistance regarding the School's policies and reporting procedures from any of the following:

TITLE IX COORDINATORS: WISH schools have designated their School Counselors as Title IX Coordinators, with the WISH Compliance Manager serving as backup in case of absence or conflict. These roles are currently filled by the following staff members:

- WISH TK - 5th Grade: Ms. Trisha Lee
- WISH Middle 6 - 8th Grade: Ms. Tyler Posey
- WISH Academy High School: Ms. Sheree Rhaburn & Ms. Anna Szczubelek
- WISH Schools TK - 12: Kimberlie Traceski (Compliance Manager)

Any student, parent/guardian, current or prospective employee, or other individual within the school community who believes they have experienced and/or observed and/or is

aware of sex discrimination or sexual harassment (“Complainant”) should promptly report the matter to the school’s Title IX Coordinator, a school counselor, principal or other school administrator.

A “**formal complaint**” is a document filed by a complainant **or** signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the school investigate the allegation of sexual harassment. A “**non-formal complaint**” is any notification regardless if by mail, telephone, or email, not utilizing the formal complaint form or not signed by a Complainant **or** by the Title IX Coordinator.

Response to a Formal Complaint

In response to a formal complaint, the school will follow the defined grievance process within this procedure. With or without a formal complaint, the school, if it has actual knowledge of sexual harassment against a person in an education program or activity, will take certain steps such as offering supportive measures to the Complainant to address student safety and provide equal access to the education program or activity while preserving the recipient’s discretion to address facts or circumstances present by a particular situation.

Complaints of alleged sex discrimination, including sexual harassment, brought forth by students, parents/guardians, current or prospective employees, and other members of the school community will be promptly investigated in an impartial and in as confidential a manner as reasonably possible, so that corrective action can be taken if necessary.

Privacy Protections

The school will never use or attempt to use questions or evidence that is protected by a legally recognized privilege unless the person holding the privilege has waived that privilege. The school cannot unilaterally access or consider a party’s records, if those records are made or maintained by a physician, psychiatrist, or other recognized professional and made for the purpose of providing treatment to the party. These records can only be accessed with a party’s voluntary written consent.

During the grievance process, questions or evidence about the Complainant’s prior sexual behavior – even with the Respondent accused of sexual harassment, and even in the cases where the Respondent already possesses evidence about sexual history – are never deemed relevant.

GRIEVANCE PROCEDURES:

It is the express policy of WISH Community and Academy High Schools to encourage the prompt reporting of claims of sex discrimination and/or sexual harassment. Once the school has “actual knowledge” of sexual harassment or allegations of sexual harassment, the school will respond within 24 hours. “Actual knowledge” means notice or allegations received by the Title IX Coordinator, school official with authority to institute corrective measures on behalf of the school, or any school employee.

1. The school must treat a person as a Complainant any time the school has notice that the person is alleged to be the victim of conduct that could constitute sexual harassment (regardless of whether the person reported the harassment themselves or a third party reported the sexual harassment), and irrespective of whether the Complainant ever chooses to file a formal complaint. Further, it should be noted that there is no time limit or statute of limitations on a Complainant’s decision to file a formal complaint.
2. At the time the complaint is filed, the Complainant shall promptly be given a copy of these grievance procedures and a description of the supportive measures offered by the school. A formal complaint form for such purpose can be found on our website and will also be provided to the Complainant upon notification of such complaint. It is the responsibility of the Title IX Coordinator or designee to explain these procedures and measures and answer any questions. As it pertains to students, in appropriate circumstances, due to the age of the student making the complaint, a parent/guardian or school administrator may be permitted to fill out the form on the student’s behalf. In addition, if the Complainant is a minor student, the Title IX Coordinator should consider whether a child abuse report should be completed in accordance with WISH’s Mandated Reporter policy.
3. The Title IX Coordinator will provide written notice to the parties identified in the complaint (Respondent). The written notice will include, the allegations and facts that may constitute sexual harassment, the presumption that the Respondent did not engage in prohibited conduct, notice that parties are entitled to an advisor of their choice, parties can request to inspect and review certain evidence, a copy of the code of conduct, false statements (if any), the opportunity to engage in informal resolution, the right to appeal, the range of possible remedies and disciplinary sanctions following determination of responsibility, and which standard of evidence will be used to reach a determination.
4. The Title IX Coordinator shall also provide for and arrange support services that are individualized, non-disciplinary, non-punitive, and protect the safety of both

the Complainant and the Respondent(s). All services must be offered equitably protecting the educational environment and deter harassment of both parties, and are not unreasonably burdensome. Such support services may include, but are not limited to: no contact orders, academic accommodations, health and mental health services, disability services, confidential counseling, or training where appropriate.

5. WISH Community & Academy High Schools have assigned individuals other than the Title IX Coordinator to serve in the role of the Investigator. The Title IX Investigator will investigate the allegations as promptly as practicable but in no case more than ten (10) school days from the date the complaint was received. The Title IX Investigator shall have the complete cooperation of all persons during the investigation.
6. The Title IX Investigator shall meet with all individuals reasonably believed to have relevant information, including the Complainant and the individual(s) against whom the complaint was lodged - the Respondent - and any person who may have witnessed or have information regarding the alleged conduct. The investigation shall be carried out by the school with discretion, maintaining confidentiality insofar as reasonably possible while conducting an effective investigation. The investigator will objectively and without bias evaluate all relevant evidence. Where facts discovered during the investigation are in conflict, credibility determinations can be made by the Investigator. Credibility determinations will also be made without bias and will not take into consideration a person's status as a Complainant, Respondent, or witness. Following a full evaluation of the allegations, the Investigator will prepare an investigative report.
7. Prior to sharing the investigative report, the Title IX Investigator must provide all parties with a copy of the evidence used to form the basis of the report, and allow all parties 10 school days to submit a written response. All written responses received will be reviewed with objectivity. Furthermore, the Title IX Investigator must afford each party the opportunity to submit written, relevant questions that they want to have asked of any other party or witness who participated in the investigation, and provide each party with the answers, and allow for additional, limited follow-up questions from each party. Once both the Complainant and the Respondent are satisfied with the question and answer period, the Title IX Investigator will provide a completed report to the school's Title IX Decision Maker.

8. WISH Schools have designated that the school principals will serve as the Title IX Decision Makers. As the Title IX Decision Maker, the principal will review the investigative report, make a determination and will then provide a written determination of responsibility to both the Complainant and the Respondents simultaneously. The written determination will include:
 - a. Identification of the allegations potentially constituting sexual harassment as defined in §106.30; 2027
 - b. A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
 - c. Findings of facts supporting the determination;
 - d. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions to be imposed on the recipient, and whether remedies designed to restore or preserve equal access to the recipient's education program or activity will be provided by the recipient to the complainant; and
 - e. The recipient's procedures and permissible bases for the Complainant and Respondent to appeal.
9. If after an investigation, the Decision-Maker determines that there is reasonable cause to believe that sex discrimination or sexual harassment in violation of the school's policy has occurred, WISH Community & Academy High Schools shall take appropriate corrective action in an effort to ensure that the conduct ceases and will not recur.

DETERMINATION & STANDARD OF EVIDENCE

WISH Community & Academy High Schools will consistently apply the same "standard of evidence" for all formal complaints in making a determination of responsibility. Per Title IX regulations, there are two "standard of evidence" options,

- **Preponderance of evidence** – a majority of the evidence proves a fact. Mathematically, it would be more than 50% of the evidence.
- **Clear and convincing evidence** – a heightened standard that requires more than a *preponderance of evidence* to prove a fact. One definition of *clear and convincing* evidence is something that is highly and substantially more probable than not.

WISH will apply the following **clear & convincing evidence** as the standard of evidence in all Title IX procedures. The same standard of evidence for formal complaints will be applied for formal complaints against all parties, including but not limited to students, employees, and teachers.

DISCIPLINARY SANCTIONS & REMEDIES

A range of different disciplinary sanctions or remedies may be implemented by the school following a determination of responsibility. Due to the unique nature of the situation and individual needs, the following is a non-exhaustive list of possible actions,

- support services may be warranted and may include: no contact orders, academic accommodations, health and mental health services, disability services, confidential counseling or training where appropriate
- verbal or written warning
- altered schedules to eliminate interaction opportunities
- exclusions from certain school activities
- access to recorded class sessions in lieu of live participation
- suspension or expulsion

APPEAL PROCESS

Under § 106.45(b)(1)(viii), all parties have the right to appeal for specific reasons. Appeals must be submitted within 30 calendar days following the initial determination. This equal right amongst the Complainant and the Respondent will promote a fair process that will benefit everyone and ensure parity between the parties. Thus, when a Complainant or a Respondent disagrees with a decision of responsibility, they have the right to appeal on the basis of the following conditions:

- 1) procedural irregularity that may have affected the outcome;
- 2) new evidence that was not reasonably available when the determination of responsibility was made that could affect the outcome; or
- 3) the Title IX Coordinator, Investigator, or Decision-Maker had a conflict of interest or bias that affected the outcome

Any written appeal request must be made to the Title IX Coordinator citing evidence of one or more of the aforementioned conditions. Upon receipt of a written appeal request the Title IX Coordinator will:

1. notify all parties in writing and implement appeal procedures equally and without bias,

2. provide all parties the equal opportunity to submit a written statement of support or disagreement to the appeal,
3. identify a new and impartial Decision-Maker to review the original and newly submitted evidence, and
4. after reviewing the new written statements, the new Decision-Maker will issue a decision to the parties simultaneously within 10 school days.

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

Where deadlines are set forth in the grievance process, a temporary delay of the grievance process or the limited extension of time frames for good cause are permitted with written notice by the Title IX Coordinator to the Complainant and the Respondent of the delay or extension and the reasons for the action. Good causes may include, but are not limited to, considerations such as the absence of a party or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

RECORD RETENTION

The Title IX Coordinator shall make all records of Title IX complaints and their disposition for a period of seven years.

RETALIATION

Retaliation against an individual for filing a complaint or cooperating in an investigation is strictly prohibited, and WISH will take actions necessary to prevent such retaliation.

DISSEMINATION OF INFORMATION

WISH must provide name, title, contact information of the identified Title IX Coordinator on the school's website. Further, the school shall notify applicants for admission and employment, students, parents/guardians of elementary and secondary school students, employees, sources of referral of applicants for admission and employment, and all unions or other professional organizations with a collective bargaining agreement with the institution that it does not discriminate on the basis of sex in the educational programs or activities which it operates, and that it is required by Title IX and its administrative regulations not to discriminate in such a manner. The notification shall be made in the form and manner required by law or regulation.