

Board Policy: Students # 518



TITLE IX, HARASSMENT, INTIMIDATION, DISCRIMINATION, AND BULLYING POLICY #518

Discrimination, sexual harassment, harassment, intimidation, and bullying are all disruptive behaviors, which interfere with students' ability to learn, ~~and~~ negatively affect student engagement, diminish school safety, and contribute to a hostile school environment. As such, University Preparation Charter School at CSU Channel Islands ("UPCS") prohibits any acts of discrimination, sexual harassment, harassment, intimidation, and bullying altogether. This policy is inclusive of instances that occur on any area of the school campus, at school-sponsored events and activities, regardless of location, through school-owned technology, and through other electronic means.

As used in this policy, discrimination, sexual harassment, harassment, intimidation, and bullying are described as the intentional conduct, including verbal, physical, written communication or cyber-bullying, including cyber sexual bullying, based on the actual or perceived characteristics of mental or physical disability, sex (including pregnancy, childbirth or related medical conditions, and parental status), gender, gender identity, gender expression, immigration status, nationality (including national origin, country of origin, and citizenship), ancestry, race or ethnicity (including ancestry, color, ethnic group identification, ethnic background, and traits historically associated with race, including, but not limited to, hair texture and protective hairstyles such as braids, locks, and twist), religion (including agnosticism and atheism), religious affiliation, sexual orientation, medical condition, genetic information, childbirth or related medical conditions, marital status, age, or association with a person or group with one or more of these actual or perceived characteristics or any other basis based on any other characteristic protected by under applicable federal, state, local law, ordinance or regulation. ~~In addition, bullying encompasses any conduct described in the definitions set forth in this Policy.~~ Hereafter, such actions are referred to as "misconduct prohibited by this Policy."

To the extent possible, UPCS will make reasonable efforts to prevent students from being discriminated against, harassed, intimidated, and/or bullied, and will take action to investigate, respond, address and report on such behaviors in a timely manner. UPCS school staff that witness acts of misconduct prohibited by this Policy will take immediate steps to intervene when safe to do so.

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Commented [C1]: Per AB 34 and 543, this policy 1) must be posted in a prominent and readily accessible location on the School's website; 2) should be included in the School's "regular policy statement"; 3) shall be provided as part of any orientation program conducted for new and continuing pupils at the beginning of each quarter, semester, or summer session, as applicable; 4) shall be provided for each faculty member, all members of the administrative staff, and all members of the support staff at the beginning of the first quarter or semester of the school year, or at the time that there is a new employee hired; 5) and shall appear in any publication of the institution that sets forth the comprehensive rules, regulations, procedures, and standards of conduct for the institution (i.e. student handbook); and 6) shall be displayed in a prominent location in the main administrative building or other area of the campus or schoolsite where other similar notices/policies are posted.

Please note that in addition to this policy, the School is legally required to have Title IX language on the School's website in compliance with Education Code section 221.61 including a link to the CDE's Title IX information, the definition of discrimination and harassment based on sex as described in Section 230, and the rights set forth in Section 221.8. I will provide you with some updated sample language for the website posting.

Please do not hesitate to reach out with additional questions regarding posting requirements.

Commented [C2]: I made updates to this policy to align with the requirements of the recent amendments to the Title IX regulations.

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Moreover, UPCS will not condone or tolerate misconduct prohibited by this Policy by any employee, independent contractor or other person with ~~which-whom~~ UPCS does business, or any other individual, student, or volunteer. This policy applies to all employee, student, or volunteer actions and relationships, regardless of position or gender. UPCS will promptly and thoroughly investigate and respond to any complaint of ~~such~~ misconduct prohibited by this Policy in a manner that is not deliberately indifferent and take appropriate corrective action, if warranted. UPCS complies with all applicable state and federal laws and regulations and local ordinances in its investigation of and response to reports of misconduct prohibited by this Policy.

Title IX, Harassment, Intimidation, Discrimination and Bullying Coordinator ("Coordinator"):

Executive Director
University Preparation Charter School at CSU Channel Islands
550 Temple Ave
Camarillo, CA 93010

Definitions

Prohibited Unlawful Harassment

- Verbal conduct such as epithets, derogatory jokes or comments or slurs
- Physical conduct including assault, unwanted touching, intentionally blocking normal movement or interfering with work or school because of sex, race or any other protected basis
- Retaliation for reporting or threatening to report harassment
- Deferential or preferential treatment based on any of the protected ~~classes~~ characteristics listed above

Prohibited Unlawful Harassment under Title IX

Title IX (20 U.S.C. § 1681 *et. seq.*; 34 C.F.R. § 106.1 *et. seq.*) and California state law prohibit discrimination and harassment on the basis of sex. ~~In~~ accordance with these existing laws, 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 UPCS.

UPCS is committed to providing a workplace 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.

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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 of a sexual nature 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.

It is also unlawful to retaliate in any way against an individual who has articulated a good faith concern about sexual harassment against him/herselves or against another individual.

Commented [C3]: I have changed the his/hers and him/her references to be more gender neutral.

Sexual harassment may include, but is not limited to:

- Physical assaults of a sexual nature, such as:
 - Rape, sexual battery, molestation or attempts to commit these assaults ~~and~~
 - 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 ~~of the employee's job~~ more difficult because of ~~the employee's~~ the student's or the employee's sex
- Sexual or discriminatory displays or publications anywhere in the workplace 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

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any such material to read, display or view ~~at-in the~~ work or ~~the~~-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, and
- Displaying signs or other materials purporting to segregate an individual by sex in an area of the workplace 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.

Prohibited Bullying

Bullying is defined as any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act. Bullying includes one or more acts committed by a student ~~group~~ or group of students that may constitute ~~as~~-sexual harassment, hate violence, or creates an intimidating and/or hostile educational environment, directed toward one or more students that has or can be reasonably predicted to have the effect of one or more of the following:

1. Placing a reasonable pupil* or pupils in fear of harm to that pupil's or those pupils' person or property.
2. Causing a reasonable pupil to experience a substantially detrimental effect on his or her physical or mental health.
3. Causing a reasonable pupil to experience a substantial interference with his or her academic performance.
4. Causing a reasonable pupil to experience a substantial interference with his or her ability to participate in or benefit from the services, activities, or privileges provided by UPCS.

* "Reasonable pupil" is defined as a pupil, including, but not limited to, an exceptional needs pupil, who exercises care, skill and judgment in conduct for a person of his or her age, or for a person of his or her age with his or her exceptional needs.

Cyberbullying is an electronic act that includes the transmission of harassing communication, direct threats, or other harmful texts, sounds, or images on the Internet, social media, or other technologies using a telephone, computer, or any wireless communication device. Cyberbullying also includes breaking into another person's electronic account and assuming that person's identity in order to damage that person's reputation.

Electronic act means the creation and transmission originated on or off the schoolsite, by means of an electronic device, including, but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager, of a communication, including, but not limited to, any of the following:

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1. A message, text, sound, video, or image.
2. A post on a social network Internet Web site including, but not limited to:
 - a. Posting to or creating a burn page. A “burn page” means an Internet Web site created for the purpose of having one or more of the effects as listed in the definition of “bullying,” above
 - b. Creating a credible impersonation of another actual pupil for the purpose of having one or more of the effects listed in the definition of “bullying,” above. “Credible impersonation” means to knowingly and without consent impersonate a pupil for the purpose of bullying the pupil and such that another pupil would reasonably believe, or has reasonably believed, that the pupil was or is the pupil who was impersonated
 - c. Creating a false profile for the purpose of having one or more of the effects listed in the definition of “bullying,” above. “False profile” means a profile of a fictitious pupil or a profile using the likeness or attributes of an actual pupil other than the pupil who created the false profile.
3. An act of “Cyber sexual bullying” including, but not limited to:
 - a. The dissemination of, or the solicitation or incitement to disseminate, a photograph or other visual recording by a pupil to another pupil or to school personnel by means of an electronic act that has or can be reasonably predicted to have one or more of the effects described in definition of “bullying,” above. A photograph or other visual recording, as described above, shall include the depiction of a nude, semi-nude, or sexually explicit photograph or other visual recording of a minor where the minor is identifiable from the photograph, visual recording, or other electronic act.
 - b. “Cyber sexual bullying” does not include a depiction, portrayal, or image that has any serious literary, artistic, educational, political, or scientific value or that involves athletic events or school-sanctioned activities.
4. Notwithstanding the definitions of “bullying” and “electronic act” above, an electronic act shall not constitute pervasive conduct solely on the basis that it has been transmitted on the Internet or is currently posted on the Internet

Formal Complaint of Sexual Harassment means a written document filed and signed by a complainant who is participating in or attempting to participate in UPCS’s education program or activity or signed by the Coordinator alleging sexual harassment against a respondent and requesting that UPCS investigate the allegation of sexual harassment.

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

Bullying and Cyberbullying Prevention Procedures

Commented [C4]: This section has been added pursuant to Education Code section 234.4 (AB 2291), which requires LEAs including charter schools to adopt, on or before December 31, 2019, “procedures for preventing acts of bullying, including cyberbullying.”

The law doesn’t specify the exact bullying prevention procedures that must be adopted by schools. However, since the law requires schools to provide the CDE’s bullying module to its staff who interact with students, the bullying prevention procedures developed by the School should be consistent with those outlined in the CDE’s online bullying module, which include education and professional development components.

To develop these procedures, we used the CDE’s bullying module and Stopbullying.gov–Bullying Training Prevention Center’s bullying module, which is also recommended by the CDE and available at:

<https://www.stopbullying.gov/prevention/training-center/index.html>

Please let us know if these proposed procedures do not work for the School logistically or if they are inconsistent with the procedures the School plans to implement. We can work with the School to further tailor the procedures to align with the School’s program.

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UPCS has adopted the following procedures for preventing acts of bullying, including cyberbullying.

1. Cyberbullying Prevention Procedures

UPCS advises students:

- a. To never share passwords, personal data, or private photos online.
- b. To think about what they are doing carefully before posting and by emphasizing that comments cannot be retracted once they are posted.
- c. That personal information revealed on social media can be shared with anyone including parents, teachers, administrators, and potential employers. Students should never reveal information that would make them uncomfortable if the world had access to it.
- d. To consider how it would feel receiving such comments before making comments about others online.

UPCS informs Charter School employees, students, and parents/guardians of UPCS's policies regarding the use of technology in and out of the classroom. UPCS encourages parents/guardians to discuss these policies with their children to ensure their children understand and comply with such policies.

2. Education

UPCS employees cannot always be present when bullying incidents occur, so educating students about bullying is a key prevention technique to limit bullying from happening. UPCS advises students that hateful and/or demeaning behavior is inappropriate and unacceptable in our society and at UPCS and encourages students to practice compassion and respect each other.

Charter School educates students to accept all student peers regardless of protected characteristics (including but not limited to actual or perceived sexual orientation, gender identification, physical or cognitive disabilities, race, ethnicity, religion, and immigration status) and about the negative impact of bullying other students based on protected characteristics.

UPCS's bullying prevention education also discusses the differences between appropriate and inappropriate behaviors and includes sample situations to help students learn and practice appropriate behavior and to develop techniques and strategies to respond in a non-aggressive way to bullying-type behaviors. Students will also develop confidence and learn how to advocate for themselves and others, and when to go to an adult for help.

UPCS informs UPCS employees, students, and parents/guardians of this Policy and encourages parents/guardians to discuss this Policy with their children to ensure their children understand and comply with this Policy.

Commented [C5]: Please ensure the School's technology use policies align with the cyberbullying prevention procedures adopted by the School as part of this policy. If the School doesn't have a technology use policy, we can provide the School with a starting place draft for this policy upon request. These cyber-bullying prevention procedures were developed from the CDE's bullying module.

Commented [C6]: Teaching students about the difference between appropriate and inappropriate behaviors, how to advocate for themselves and others, and when to go to an adult for help are listed as recommended bullying prevention procedures in the CDE's bullying module. Please ensure the School's bullying prevention education aligns with the procedures adopted by the School in this Policy.

Commented [C7]: The CDE recommends bullying prevention procedures be placed within the parent/student handbook, school safety plan, and the bullying prevention policy. (pg. 12)

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3. Professional Development

UPCS annually makes available the online training module developed by the California Department of Education pursuant Education Code section 32283.5(a) to its certificated employees and all other UPCS employees who have regular interaction with students.

UPCS informs certificated employees about the common signs that a student is a target of bullying including:

- Physical cuts or injuries
- Lost or broken personal items
- Fear of going to school/practice/games
- Loss of interest in school, activities, or friends
- Trouble sleeping or eating
- Anxious/sick/nervous behavior or distracted appearance
- Self-destructiveness or displays of odd behavior
- Decreased self-esteem

Charter School also informs certificated employees about the groups of students determined by UPCS, and available research, to be at elevated risk for bullying. These groups include but are not limited to:

- Students who are lesbian, gay, bisexual, transgender, or questioning youth ("LGBTQ") and those youth perceived as LGBTQ; and
- Students with physical or learning disabilities.

UPCS encourages its employees to demonstrate effective problem-solving, anger management, and self-confidence skills for UPCS's students.

Grievance Procedures

1. Scope of Grievance Procedures

UPCS will comply with its Uniform Complaint Procedures ("UCP") policy when investigating and responding to complaints alleging unlawful harassment, discrimination, intimidation or bullying against a protected group or on the basis of a person's association with a person or group with one or more of the protected characteristics set forth in the UCP that:

- a. Are written and signed;
- b. Filed by an individual who alleges that that individual has personally suffered unlawful discrimination, harassment, intimidation or bullying, or by one who believes any specific class of individuals has been subjected to discrimination, harassment, intimidation or bullying prohibited by this part, or by a duly authorized representative who alleges that

Commented [C8]: This is required per Ed. Code section 32283.5 (effective 1/1/19). The CDE's bullying module and online training module are currently located here:

<https://www.cde.ca.gov/ls/ss/se/bullyres.asp>

Commented [C9]: If the complainant is unable to put the complaint in writing, due to conditions such as a disability or illiteracy, the School must assist the complainant in the filing of the complaint.

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an individual student has been subjected to discrimination, harassment, intimidation, or bullying; and

- c. Submitted to the UPCS UCP Compliance Officer not later than six (6) months from the date the alleged unlawful discrimination, harassment, intimidation or bullying occurred, or the date the complainant first obtained knowledge of the facts of the alleged discrimination, harassment, intimidation or bullying.

The following grievance procedures shall be utilized for reports of misconduct prohibited by this Policy that do not comply with the writing, timeline, or other formal filing requirements of a uniform complaint. For formal complaints of sexual harassment, UPCS will utilize the following grievance procedures in addition to its UCP when applicable.

2. Reporting

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 ~~as soon as~~ when it is 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.

Any employee or student who believes they have been subject to misconduct prohibited by this Policy or has witnessed such prohibited misconduct is encouraged to immediately report such misconduct to the Coordinator:

Executive Director
University Preparation Charter School at CSU Channel Islands
550 Temple Ave
Camarillo, CA 93010

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. -UPCS 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 Oral reports shall also be considered official reports. 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 or other verbal, or physical abuses. Any student who feels ~~she/he~~ they are is a target of such behavior should immediately contact a teacher, counselor, the ~~Principal~~ Director, Coordinator, a staff person or a family member so that ~~she/he~~ the student can get assistance in resolving the issue in a manner that is consistent with this Policy.

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Commented [C10]: For Title IX complaints, the decision-maker cannot be the same person(s) as the Coordinator or the investigator. We can discuss the options if you would like to change the Coordinator in light of the new Title IX regulations.

Commented [C11]: For a complaint of discrimination, bullying, harassment, discrimination or intimidation to fall under the UCP, it must be a written complaint. However, all reports of harassment/discrimination/bullying must be investigated even if they are oral or outside the UCP timelines, and appropriate action must be taken when necessary according to the results of the investigation.

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UPCS acknowledges and respects every individual's right to privacy. All reports 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 confidential, as appropriate, except to the extent necessary to comply with the law, to carry out the investigation and/or to resolve the issue, as determined by the Coordinator or administrative designee on a case-by-case basis.

UPCS prohibits any form of retaliation against any ~~reporter in the reporting process, including but not limited to individual who files a reporter's filing of a report or complaint or the reporting of instances of~~, 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 reporter 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.

~~reporter in the reporting process, including but not limited to a reporter's filing of a complaint or the reporting of instances of misconduct prohibited by this Policy. Such participation shall not in any way affect the status, grades, or work assignments of the reporter.~~

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 coordinator, investigator or decision-maker will receive sexual harassment training and/or instruction concerning sexual harassment ~~in the workplace~~ as required by law.

32. -Supportive Measures

Upon the receipt of an informal or 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 UPCS's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or

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UPCS'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. UPCS 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 UPCS to provide the supportive measures.

4. Investigation and Response

Upon receipt of a report of misconduct prohibited by this Policy from a student, staff member, parent, volunteer, visitor or affiliate of UPCS, the Coordinator or administrative designee will promptly initiate an investigation. In most cases, a thorough investigation will take no more than ~~seven (7)~~twenty-five (25) school days. If the Coordinator, ~~(or administrative designee)~~ determines that an investigation will take longer than ~~twenty-five (25) school days~~seven (7) school days and needs to be delayed or extended due to good cause, the Coordinator, ~~he or she~~ (or administrative designee) will inform the complainant and any other relevant parties of the reasons for the delay or extension and provide an approximate date when the investigation will be complete.

At the conclusion of the investigation, the Coordinator ~~(or administrative designee)~~ will meet with the complainant and, 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, ~~in no case may~~ the Coordinator ~~(or administrative designee)~~ will not reveal confidential information related to other students or employees, ~~including the type and extent of discipline issued against such students or employees.~~

For investigations of and responses to formal complaints of sexual harassment, 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

Commented [C12]: EC 234.1 and the Title IX regulations do not include a specific timeline for the investigation but requires that this policy include a timeline and the timeline be reasonable. We have included a suggested timeline of 25 school days (or about 5 weeks unless over a break) or less, but have left flexibility in the event the investigation will take longer. Note that under the UCP, for complaints alleging discrimination, harassment, intimidation or bullying against a group based on protected characteristics or on the basis of a person's association with a person or group with one or more of these actual or perceived characteristics, a written response including specific elements must be provided to the complainant within 60 days from the receipt of the complaint.

Commented [C13]: If, in the course of an investigation, the School decides to investigate allegations about the complainant or respondent that are not included in this notice, the School must provide notice of the additional allegations to the parties whose identities are known.

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- A statement that UPCS prohibits an individual from knowingly making false statements or knowingly submitting false information during the grievance process.
- Emergency Removal
 - UPCS 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 UPCS's policies.
 - UPCS may remove a respondent from UPCS's education program or activity on an emergency basis, in accordance with UPCS's policies, provided that UPCS 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, UPCS may offer a voluntary informal resolution process, such as mediation, to the parties at any time prior to reaching a determination regarding responsibility. If UPCS 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.
 - UPCS 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. UPCS 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 twenty-five (25) school days. If the investigator determines that an investigation will take longer

Commented [C14]: Regardless of any determination on whether to remove a student or employee on an emergency basis, the School still must follow the grievance process required for formal complaints of sexual harassment before imposing any disciplinary sanctions or other actions that are not supportive measures (e.g., terminations or expulsions) against a respondent. Emergency removal is not a substitute for reaching a determination as to a respondent's responsibility for the sexual harassment allegations; rather, emergency removal is for the purpose of addressing imminent threats posed to any person's physical health or safety, which might arise out of the sexual harassment allegations. Emergency removals allow schools to address emergency situations, whether or not a grievance process is underway, provided that the school first undertakes an individualized safety and risk analysis and provides the respondent notice and opportunity to challenge the removal decision.

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- than twenty-five (25) 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.
 - o 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.
 - o The parties will not be prohibited from discussing the allegations under investigation or to gather and present relevant evidence.
 - o 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.
 - o Prior to completion of the investigative report, UPCS 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.
 - o The investigator will complete an investigation report that fairly summarizes 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
 - o If the investigation reveals that the alleged harassment did not occur in UPCS'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 UPCS policy.
 - o UPCS 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 UPCS; or
 - The specific circumstances prevent UPCS from gathering evidence sufficient to reach a decision on the formal complaint or the allegations therein.
 - o If a formal complaint of sexual harassment or any of the claims therein are dismissed, UPCS will promptly send written notice of the dismissal and the reason(s) for the dismissal simultaneously to the parties.
- Determination of Responsibility
 - o The standard of evidence used to determine responsibility is the preponderance of the evidence standard.
 - o UPCS will send a written decision on the formal complaint to the complainant and respondent simultaneously that describes:

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- 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 UPCS'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.

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

53. 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 UPCS or termination of employment. The Coordinator is responsible for effective implementation of any remedies ordered by UPCS in response to a formal complaint of sexual harassment.
~~will be subject to disciplinary action.~~

4. Uniform Complaint Procedures

~~When harassment or bullying is based upon one of the protected characteristics set forth in this Policy, a complainant may also fill out a Uniform Complaint Procedures ("UCP") complaint form at any time during the process, consistent with the procedures laid out in the UCP.~~

65. Right of Appeal

Should the reporting individual find UPCS's resolution unsatisfactory, the reporting individual may, within five (5) business days of notice of UPCS's decision or resolution, submit a written appeal to the President of the UPCS Board, who will review the investigation and render a final decision.

The following appeal rights and procedures will also apply to formal complaints of sexual harassment:

- The complainant and the respondent shall have the same appeal rights and UPCS will implement appeal procedures equally for both parties.
- UPCS will notify the other party in writing when an appeal is filed.
- The decision-maker for the appeal will give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome; issue a written decision describing the result of the appeal and the rationale for the result; and provide the written decision simultaneously to both parties.

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Commented [C15]: We changed this process to try to make it more streamlined and to comply with the Title IX regulation requirements.

Commented [C16]: The School may change this reference to an administrator at the School who is in a position above the person making the initial decision as long as it is not the same person as the Coordinator or the investigator. The School could also use the Board to make the appeal decision, which may ultimately delay the process, but anyone on the Board who participated in the investigation or initial decision or who serves as the Coordinator would need to recuse themselves.

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~~Should the Complainant find the Coordinator's resolution unsatisfactory, he/she may, within five (5) school days, file an appeal with the Designated Appeals Committee. In such cases, at least three (3) certificated School employees who are unfamiliar with the case and who have been previously designated and trained for this purpose shall be assembled to conduct a confidential review of the Complainant's appeal and render a final decision.~~

7. Recordkeeping

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

~~3. Consequences~~

~~Students or employees who engage in misconduct prohibited by this PolicyUPCS will be subject to 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 action; sanctions imposed on the respondent; and any remedies provided to the complainant.~~

~~4. Uniform Complaint Procedures~~

~~When harassment or bullying is based upon one of the protected characteristics set forth in this Policy, a complainant may also fill out a Uniform Complaint Procedures ("UCP") complaint form at any time during the process, consistent with the procedures laid out in the UCP.~~

~~5. Right of Appeal~~

~~Should the Complainant find the Coordinator's resolution unsatisfactory, he/she may, within five (5) school days, file an appeal with the Designated Appeals Committee. In such cases, at least three (3) certificated School employees who are unfamiliar with the case and who have been previously designated and trained for this purpose shall be assembled to conduct a confidential review of the Complainant's appeal and render a final decision.~~

Commented [CF17]: UPCS's dispute resolution policy was contained in its comprehensive complaint policy, which we are now replacing with the policies provided herewith.

Commented [CE18R17]:

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University Preparation Charter School at CSU Channel Islands

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.

Commented [C19]: The School must make these training materials publicly available on its website or, if it does not have a website, make them available for inspection by the general public upon request.

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UNIVERSITY PREPARATION CHARTER SCHOOL AT CSU CHANNEL ISLANDS

TITLE IX, HARASSMENT, INTIMIDATION, DISCRIMINATION & BULLYING 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; what, if any, physical contact was involved; any verbal statements; what did you do to avoid the situation, etc.) (Attach additional pages, if needed):

I hereby authorize UPCS 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 providing false information in this regard could result in disciplinary action up to and including termination.

Signature of Complainant Date: _____

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Print Name

To be completed by UPCS:

Received by: _____ Date: _____

Follow up Meeting with

held on: _____

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