

# St George Academy Grievance Procedures: Title IX

# 1. Policy

1.1 To establish timely and fair procedures that adhere to Title IX law in regard to the grievance process as related to sexual harassment or sexual misconduct or sexual assault allegations as defined by St. George Academy's General Title IX policy.

## 2. Definition of Terms:

2.1 **Complainant** is the person who is alleging an incident of sexual harassment or sexual misconduct or sexual assault.

2.2 **Respondent** is the person accused of the alleged incident of sexual harassment or sexual misconduct or sexual assault.

2.3 **Actual Knowledge** is defined as knowledge or awareness of sexual harassment, or allegations of sexual harassment, incident of sexual misconduct or allegations of an incident of sexual misconduct reported to the Title IX coordinator or any school employee as required by Utah State Mandatory Reporting Law.

2.4 **Formal Complaint** is a document filed by a Complainant alleging an incident of sexual harassment or misconduct or assault that requests the school investigate said allegation. At the time of filing the complaint, the Complainant must be participating or attempting to participate in an activity or educational program sponsored by SGA.

2.5 **Title IX Coordinator** is the person assigned to receive Formal Complaints. The Title IX coordinator can be the Primary Investigator but not the Decision Maker.

2.6 **Primary Investigator** is the person assigned to investigate, gather evidence, arrange meetings, and complete the investigation report for any Formal Complaint.

2.7 **Decision Maker** is the person or committee who, after reviewing the evidence, assigns responsibility and any sanctions or remedies toward the allegations.

2.8 **Inculpatory Evidence** is evidence that shows, or tends to show, a person's involvement in an act, or evidence that can establish guilt.

2.9 **Exculpatory Evidence** is evidence that tends to show a person's innocence.

2.10 **Informal Resolution** is a process where both parties agree to resolve the issue in lieu of the formal grievance process.

2.11 **Facilitator** is the person who facilitates during an Informal Resolution.

2.12 **Advisor** is defined as a trusted adult, parent/guardian, mentor, medical and/or licensed professional or attorney.

2.13 **Supportive Measures** are non-disciplinary, non-punitive individualized services offered as appropriate, reasonably available and without fee or charge to both the Complainant and

Respondent. These measures are designed to preserve the Complainant's access to education without unreasonably burdening the Respondent. These measures should be kept confidential.

### 3. Activation of an Investigation:

3.1 Activation of an investigation occurs when the Title IX coordinator has actual knowledge of an incident, regardless of whether or not the Complainant was the original reporter.

3.1.2 The alleged Complainant will be contacted immediately and be offered supportive measures and given instruction on how to file a Formal Complaint.

3.1.3 The parent or guardian of the alleged Complainant will be contacted if the alleged Complainant is a student and informed of the possible supportive measures available for their student and given instruction on how to file a Formal Complaint.

3.1.3 The alleged Complainant and/or their parent or guardian has the final say on whether or not a Formal Complaint will be filed.

3.1.4 If the alleged Complainant chooses not to file a Formal Complaint, SGA will conduct an informal investigation and gather statements from all parties involved, which will then be transcribed and signed and made available to all parties.

3.1.4 The alleged Respondent will be contacted and offered supportive measures.

3.1.5 If SGA does not provide supportive measures to both the alleged Complainant and Respondent, then the Title IX coordinator must document why supportive measures were not provided in a written statement and defend why the decision to not provide supportive measures does not constitute deliberate indifference.

3.2 An investigation of a Formal Complaint will be conducted with the following procedure:

3.2.1 The title IX Coordinator providing written notice to both parties.

3.2.2 Assembling the investigation team.

3.2.3 Evaluate all Inculpatory and Exculpatory evidence by the investigation team. Hearings are not required for SGA because it falls inside the K-12 category.

3.2.4 After evidence is evaluated, the investigator will prepare an investigative report.

3.2.5 The investigative report will be sent to the parties.

3.2.5 The Decision Maker will allow sufficient time for both parties to submit written questions that either party wants asked of any party or witness, provide answers to the written questions, and allow limited follow up questions.

3.2.6 The Decision Maker will make a determination of responsibility and provide both parties with written results simultaneously.

3.2.7 Written results must include the rationale for determination of responsibility, disciplinary sanctions on the responsible party and remedies provided to the Complainant.

## 4. Equitable Treatment of Parties:

4.1 The Complainant and Respondent will be treated equitably regardless of race, sex, or protected class as defined by law.

4.2 The practices in this policy will apply equally to both parties.

4.3 Both parties will be given equal access to the school's academic programs and activities.

4.4 Equal opportunity will be given to both parties to name witnesses and provide evidence, including expert witnesses for the investigative team to interview as well as provide inculpatory or exculpatory evidence.

4.5 The school may not restrict either party to discuss the allegations under investigation with administration nor to gather or present relevant evidence within FERPA compliance.

4.6 Discussions between Complainant and Respondent are not to be conducted in person.

4.7 Both parties must be given the same opportunities to have others present during the grievance process, including but not limited to an advisor of choice, parent, guardian or attorney for meetings and discussions. The Advisor may provide support and encouragement but may not speak on behalf of the Complainant or Respondent during investigative interviews.

4.8 Both parties must be given equal access and time to inspect and review the evidence obtained by the investigator as long as it is directly relevant to the allegations of the complaint.

4.9 The school is required to provide both parties with written notice of scheduled meetings 3 school business days before each meeting occurs.

## 5. Objective Evaluation of Evidence:

5.1 Investigator, Decision Maker and any team members will be free of bias and conflict of interest while gathering and evaluating evidence.

5.2 Investigator and Decision Maker will adhere to Title IX policies regarding the evaluation, reporting and sharing of evidence.

## 6. Training and Conflict of Interest:

6.1 All training for Formal Complaint investigations for the Title IX Coordinator, Primary Investigator and Decision Maker must be posted online, cannot contain stereotypes, and must promote impartiality.

6.2 All members of the Title IX team must undergo training with regards to their assigned duties.

6.3 All members of the team must be free from conflict of interest and bias.

## 7. Presumption of Innocence:

7.1 All parties involved in the Formal Complaint will have equal rights and protections throughout the grievance process and be allowed due process.

## 8. Reasonably Prompt Timeframes:

8.1 Once an investigation has been activated, SGA officials will respond within a reasonable time frame as defined by the following requirements:

8.1.2 Response will be implemented in a reasonably prompt and equitable manner that is not deliberately indifferent.

8.1.3 Evidence will be provided to the responded at least 10 school business days before response is formalized and determinization of responsibility is assigned.

8.1.4 All parties will have access to evidence and reporting during the investigation process in compliance with FERPA law.

8.1.5 Respondent will be given sufficient time to prepare a response.

8.1.6 An Investigation Report will be written which summarizes all relevant evidence in a fair manner and submitted to all parties within 5 school business days prior to the investigation's determination of responsibility.

8.2 Temporary delays to this process may be implemented by the primary investigator and/or decision maker to accommodate parallel law enforcement investigations, good cause, or supportive measures for the complainant

## 9. Description of Range of Outcomes:

9.1 Mandatory dismissal of the complaint must occur if:

9.1.2 The complaint does not describe conduct that meets the definition of sexual harassment or misconduct or assault as defined by St George Academy's General Title IX Policy or

9.1.3 The complaint alleges sexual harassment or misconduct or assault that did not occur within the school's education program or activity or

9.1.4 The complaint alleges sexual harassment or misconduct or assault that happened outside the United States or

9.1.5 The complaint allegations can be addressed under the school's code of conduct.

9.2 Discretionary dismissal may occur:

9.2.1 If the Complainant notifies the Title IX Coordinator in writing that he/she/they wishes to withdraw the formal complaint or some of its allegations or

9.2.2 If the Respondent is no longer enrolled in the school or

9.2.3 If circumstances prevent the school from gathering evidence sufficient to reach a determination about the allegations in the complaint.

9.3 Informal Resolution of the complaint may occur if:

9.3.1 Each party enters the process voluntarily and

9.3.2 The school provides a facilitator who is free from conflict of interest and is formally trained in facilitator duties and

9.3.3 The school provides both parties of notice of allegations, notice of rights, information about whether the informal process is confidential, and about withdrawing from the informal process if a request is made of either party.

9.4 Determination of Responsibility results in the following actions:

9.4.1 Disciplinary sanctions for the responsible party and/or

9.4.2 Acceptable remedies for the Complainant.

## 10. Standard of Evidence:

10.1 The standard of evidence that St George Academy will use is a preponderance of evidence standard which includes

10.1.1 A majority of the evidence proves a fact and

10.1.2 Mathematically, 50% of the evidence or more supports the fact.

10.2 FERPA compliance includes,

10.2.1 Parties must be given access to all evidence directly related to the allegations, however,

10.2.2 The school may not access, consider, disclose or otherwise use a party's records made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the school obtains that party's voluntary, written consent to do so.

10.2.3 The parties have the right to have an advisor of their choice present with them during all meetings and interviews that take place as part of the grievance process. This advisor will be privy to information shared during the meetings and interviews but may not speak on behalf of

the parties. Also, the advisor must be provided with copies of the evidence and investigation report that will be provided to the parties.

## 11. Right to Appeal:

11.1 If the Complainant disagrees with a decision of responsibility, they may appeal on the following grounds:

11.1.2 A procedural irregularity that affected the outcome of the resolution or

11.1.3 New evidence that has been discovered that was not reasonably available at the time of responsibility or dismissal or

11.1.4 Determination that someone on the school's grievance proceedings team illustrated a Conflict of Interest or

11.1.5 Other additional grounds so long as they apply equally to both parties.

11.2 The Appeals process is as follows:

11.2.1 Title IX Coordinator will notify both parties of the appeals process in writing and

11.2.2 Proceedings will be implemented to both parties equally and

11.2.3 Both parties have equal opportunity to submit a written statement of support or disagreement with the appeal and

11.2.4 The Decision Maker for the appeal cannot be the same person who reached the original determination, or the investigator or Title IX Coordinator and

11.2.5 The Decision Maker for the appeal will be chosen from an outside institution's Title IX team and

11.2.6 After reviewing written statements and investigation report the new decision maker is required to issue a determination of responsibility to the parties simultaneously and

11.2.7 Written results must include the rationale for determination of responsibility, disciplinary sanctions on the responsible party and remedies provided to the complainant and

11.2.8 After an appeal, determination of responsibility is final.

## 12. Description of Range of Supportive Measures:

12.1 The Title IX Coordinator will contact the complainant to discuss the availability of supportive measures.

12.2 Supportive Measures include, no contact orders, academic accommodations, counseling, health and mental health services, and disability services.

12.3 Range of measures are non-punitive, individualized, not unreasonably burdensome and are designed to protect the safety of the parties and educational environment and discourage harassment.

12.4 The coordinator will consider the complainant's wishes in regard to supportive measures.

12.5 The coordinator will also inform the complainant of the availability of supportive measures with or without the filing of a formal complaint.

12.6 The coordinator will explain SGA's process for filing a formal complaint.

12.7 Emergency removals will be enacted if the respondent poses an immediate threat to the complainant's physical health or safety.

12.7.1 In order to enact an emergency removal of the respondent, the Title IX coordinator or investigator must perform a risk analysis, and

12.7.2 Provide the respondent with notice and opportunity to challenge the decision immediately following removal and

12.7.3 Comply with all IDEA/504/ADA policies and law and

12.7.4 Consult with the director to determine what qualifies as an immediate threat.

### 13. Details Required in Written Notice:

13.1 Written notice must include the actual allegations and facts that constitute sexual harassment or misconduct or assault and

13.2 The presumption of innocence for both parties and that both have equal rights and protections and

13.3 That both parties are entitled to have an advisor of their choice during the grievance process and

13.4 That both parties can request to inspect or review evidence pertaining to the allegations of the complaint within the bounds of FERPA law and

13.5 Information pertaining to the school's code of conduct and policy on false statements and

13.6 Inform the parties that there is an opportunity for Informal Resolution and

13.7 Both parties have a right to appeal if there is a determination of dismissal and

13.8 The range of possible outcomes following a determination of responsibility and

13.9 Which standard of evidence will be used to reach the determination.

## 14. Records preservation:

14.1 St. George Academy will transcribe or record all formal interviews within an investigation, document meetings and adhere to all Title IX records keeping procedures as defined by law during the Title IX Grievance process.

14.2 All records, both electronic and hard copy, pertaining to the Title IX grievance procedures will be kept confidential and secure as required by Title IX law.

## 15. Retaliation Strictly Prohibited:

15.1 Retaliation of any kind may not intimidate, threaten, coerce, or discriminate against an individual for the purpose of interfering with their Title IX rights or because the individual filed a complaint, testified, participated in, or refused to participate in a Title IX proceeding.