

penrose academy

Title IX Sexual Harassment, Discrimination, and Misconduct Policy

Penrose Academy does not tolerate sexual Misconduct, including sexual harassment. Such conduct harms the well-being of our community members, our learning environments, working environments, and the collegial relationships among students, faculty, and staff that characterize the culture of Penrose Academy. Therefore, all prohibited conduct under this policy is regarded as severe academy offenses, and violations may result in discipline, including the possibility of separation from the Academy.

Penrose Academy does not discriminate based on sex in its education programs or activities. Title IX requires Penrose Academy of the Education Amendments of 1972 (Title IX) and 34 C.F.R. Part 106 not to discriminate in such a manner. The requirement not to discriminate in the education program or activity extends to admissions and employment. Inquiries about the application of Title IX and 34 C.F.R. Part 106 may be referred to Penrose Academy's Title IX coordinators, the United States Department of Education, Office for Civil Rights, Assistant Secretary for Civil Rights, or both.

Further, Penrose Academy is committed to providing safe and non-discriminatory learning and working environments for all members of the Academy's community. Therefore, Penrose Academy does not discriminate based on sex or gender in any of its education or employment programs or activities as outlined in the policy 'Sexual and Gender-Based Harassment and Other Forms of Interpersonal Violence. This policy prohibits behavior that violates Title IX, VAWA, Title VII, and Clery Act, and Penrose Academy's Code of Conduct.

Penrose Academy adopts this policy with a commitment to eliminating, preventing, and addressing the effects of prohibited conduct and fostering a community of trust and mutual respect in which prohibited conduct is not tolerated.

Penrose Academy strives to cultivate a climate where all individuals are well-informed and supported in reporting prohibited conduct, providing a fair and impartial process for all parties.

Title IX

Title IX of the Education Amendments Act of 1972 is a federal law that states: "No person in the United States shall, based on sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance. Penrose Academy adheres to the specifications of Title IX.

Clery Act

The Clery Act or The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (20 U.S.C. § 1092(f)) is the federal law that requires colleges and universities across the United States to disclose information about crime on and around their campuses. Penrose Academy discloses and publishes an Annual Safety and Security Report to current and prospective students and employees **by October 1** of each year. This report provides crime statistics for the prior three years, policy statements regarding various safety and security measures, campus crime prevention descriptions, emergency notifications, missing students, and prevention and procedures to be followed in the investigation and prosecution of alleged sex offenses. In addition, under the Clery Act, any student or employee who

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becomes a victim of dating violence, domestic violence, sexual assault, and stalking (on or off campus) has the right to receive a written explanation of their rights and options.

VAWA

Congress passed the Violence Against Women Act (VAWA) as part of the Violent Crime Control and Law Enforcement Act of 1994 In recognition of the severity of the crimes associated with domestic violence, sexual assault, and stalking.

Title IX Coordinators

Penrose Academy Title IX coordinators Missy Conti, Stephanie Toth, and Andria Young are integral in ensuring that all students have access to the variety of resources that Penrose Academy offers.

Responsibilities of the Title IX Coordinator:

- Oversee the Academy's compliance with Title IX.
- Respond to any report of sexual harassment or violations of Title IX and the code of conduct against any employee or student at Penrose Academy.
- Oversee and participate in resolving any formal complaint of sexual harassment or other violations of Title IX and the Code of Conduct.

Contact Information:

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Title IX Coordinator Training

Penrose Academy's Title IX coordinator and Deputy Title IX coordinators, investigators, and other identified administration members have undergone extensive training in the Title IX policies and regulations through Thompson Coburn Title IX, a module-based training series.

Module 1 – An Introduction to Managing Title IX Sexual Harassment on Campus: [Module 1 - Fundamentals of the Law](#)

Module 2 – Formal Complaints of Title IX Sexual Harassment: [Module 2 - Formal Complaints](#)

Module 3 – Title IX Investigations & Informal Resolutions: [Module 3 - Investigations & Informal Resolutions](#)

Module 4 – Title IX Hearings: [Module 4 - Hearings](#)

Module 5 – Title IX Determinations: [Module 5 - Determinations](#)

Module 6 – Title IX Appeals: [Module 6 - Appeals](#)

Title IX coordinators, investigators, decision-makers, and anyone who facilitates an informal resolution process under these procedures, also receive training on prohibited conduct not constituting sexual harassment as defined in this policy and on the policy and procedures contained herein. All materials used to train Title IX coordinators, investigators, decision-makers, and any person that facilitates an informal resolution process under these procedures, do not rely on sex stereotypes and promote impartial investigations and adjudications of formal complaints of prohibited conduct. Training is provided annually to Title IX coordinators, investigators, decision-makers, and anyone who facilitates an informal resolution process.

Prohibited Conduct

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Penrose Academy is committed to providing safe and non-discriminatory learning and working environments for all the Academy's community members. Penrose Academy does not discriminate based on sex or gender in its education or employment programs and activities.

Penrose Academy strictly prohibits harassment of any kind, including sexual harassment, sexual or gender-based Misconduct, sexual exploitation, retaliation, and involvement (prohibited conduct). Sexual or other unlawful harassment or discrimination includes verbal, physical, or visual conduct based on sex, race, age, national origin, disability, or another legally protected basis. Submission to such conduct is made either explicitly or implicitly, a term or condition of an individual's education or employment.

Submission or rejection of such conduct by an individual is used as a basis for decisions concerning that individual's education or employment. Or it creates a hostile or offensive work environment, which means the alleged conduct is a severe limit or denies a student's ability to participate or benefit from the student's education program.

Unlawful harassment or discrimination may include racial epithets, slurs, derogatory remarks, stereotypes, jokes, posters, or cartoons based on race, national origin, age, disability, marital status, or other legally protected categories.

Sexual harassment is conduct based on sex, whether directed towards a person of the opposite or same sex. Including explicit sexual propositions, sexual innuendo, suggestive comments, sexually-oriented "kidding" or "teasing," practical jokes, jokes about or displays of obscene printed or visual material, questions about sexual fantasies, preferences or history, and physical contact such as patting, pinching, or intentionally brushing against another person's body.

Gender-based harassment, including acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping, is strictly prohibited, even if those acts do not involve conduct of a sexual nature.

These prohibited forms undermine the Academy's character and purpose and will not be tolerated. Penrose Academy will take prompt and equitable action to eliminate prohibited conduct, prevent its recurrence, and remedy its effects.

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

1. An employee of the academy conditioning the provision of aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct. 'Quid Pro Quo.'
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the Academy's education program or activity; or "sexual assault," "dating violence," "domestic violence," or "stalking" as defined for VAWA purposes.
3. Sexual Assault, dating violence, domestic violence, or stalking as defined by federal statutes known as the Clery Act and the Violence Against Women Act (VAWA).
4. Sexual harassment under Title IX includes harassment based on sexual orientation and gender identity.

Penrose Academy's Title IX policy applies to all persons involved in the Academy's operation. It prohibits unlawful harassment by academy employees, students, customers, vendors, or anyone who does business with the Academy. Any employee, student, or contract worker who violates this policy will be subject to disciplinary action. In addition, Penrose Academy will take appropriate action to the extent to which a customer, vendor, or another person with whom Penrose Academy does business engages in unlawful harassment or discrimination.

Penrose Academy shall disseminate this policy to the school community through publications on the Penrose Academy website, Penrose app, new employee and student orientations, and other appropriate communication channels. In addition, the Academy will respond quickly to all reports and take appropriate action to prevent, correct, and, if necessary, discipline behavior that violates this policy. Additional information can be found on the Office of Civil Rights website at www.HHS.gov or call Toll Free: (877)969.6775.

Response to Sexual Harassment

A recipient with actual knowledge of sexual harassment in an education program or activity of the Academy against a person in the United States must respond promptly in a manner that is not deliberately indifferent. A recipient is intentionally indifferent only if their response to sexual harassment is unreasonable considering the known circumstances.

Educational program or activity includes locations, events, or circumstances over which the Academy exercised substantial control over both the respondent and the context in which the sexual harassment occurs and consists of any building owned or controlled by a student organization that a postsecondary institution officially recognizes.

The Academy will treat complainants and respondents equitably. The Title IX coordinator must promptly contact the Complainant to discuss the availability of supportive measures, consider the Complainant's wishes concerning supportive measures, inform the Complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the Complainant the process for filing a formal complaint.

Definitions

Quid Pro Quo Harassment is when a school employee conditions educational benefits on participation in unwelcome sexual conduct.

Sexual Misconduct is defined as sexual assault, sexual harassment, sexual intimidation, dating violence/domestic violence, sexual exploitation, and stalking.

Sexual harassment is defined as unwelcome conduct of a sexual nature. It includes quid pro quo, unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical behavior of a sexual nature. Other unwelcome conduct is so severe or pervasive it interferes or creates a hostile environment. Sexual harassment is conduct that explicitly or implicitly affects a person's employment or education, interferes with a person's work or educational performance, or creates an environment where a reasonable person would find the conduct intimidating, hostile, or offensive. Such behavior only has to happen once to violate the policy. Less severe behaviors violate the policy when pervasive or repeatedly occur, such as sexual comments or requests for dates after the person has already said no.

Sexual intimidation is defined as threatening or coercive behavior of a sexual nature, such as exposing oneself and sexual extortion.

Sexual exploitation is defined as taking sexual advantage of someone without their consent, such as prostituting someone and sharing images.

Sexual violence is physical and sexual acts done without the other person's consent or when the other person cannot consent to the activity. Sexual violence includes sexual assault, rape, battery, sexual coercion, domestic violence, dating violence, and stalking.

Domestic violence is defined as abuse committed against an adult or a minor who is a spouse or former spouse, cohabitant or former cohabitant, or someone with whom the abuser has a child, has an existing dating or engagement relationship, or has had a former dating or engagement relationship.

Dating Violence is defined as abuse committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.

Sexual assault occurs when physical or sexual activity is done without the other person's consent or when the other person cannot consent to the action. The activity or conduct may include physical force, violence, threat, intimidation, ignoring the other person's objections, causing the other person's intoxication or incapacitation through the use of drugs or alcohol, and taking advantage of the other person's incapacitation (including voluntary intoxication).

Stalking is a course of conduct directed at a person that would cause a reasonable person to fear for the person's safety or the safety of others or suffer substantial emotional distress. Such conduct includes physical contact, verbal contact, electronic contact, following someone, and sending unwanted social-media posts.

Consent is a mutual agreement to engage in an activity. Joint engagements are informed, voluntary, and revocable. Consent is an affirmative, unambiguous, and conscious decision by each participant to engage in mutually agreed-upon sexual activity. Consent must be given without coercion, force, threats, or intimidation. Consent must be ongoing throughout a sexual encounter and can be revoked at any time. Once consent is withdrawn, the sexual activity must stop immediately.

Incapacitation is when a person is incapable of giving consent, such as sleep, unconsciousness, intoxication, disabilities, or injuries.

Prevention

Students and employees are required to take the 'Title IX Harassment, Discrimination, Sexual Misconduct, Sexual Harassment, Sexual Violence, Sexual Assault, Sexual Abuse Awareness and Prevention Training.' This training occurs during new hire orientations and new student orientations.

Information on Risk Reduction

At the individual level, there are practical methods and strategies for reducing the risk of sexual Misconduct. However, it is essential to know that no method or strategy would be able to eliminate the risk of sexual Misconduct entirely and that it is never your fault if you are harmed by sexual Misconduct.

Stalking

Below are some practical methods and strategies for reducing the risk of stalking, but it is essential to know that no method or strategy would be able to eliminate the risk of stalking entirely and that it is never your fault if you are stalked.

- Trust your instincts. Tell someone (preferably Title IX Coordinator and law enforcement) if something doesn't feel right.
- Don't post or remove any posting of personal contact information on social media and other websites.
- Don't give your passwords or login information to anyone, including your significant other.
- If someone tells you they don't want to communicate with you, or if they stop responding, take the hint and stop contacting them.
- Change your routes and routines.

Sexual Assault

Below are some practical methods and strategies for reducing the risk of sexual assault. However, it is essential to know that no method or strategy would eliminate the risk of sexual assault entirely and that it is never your fault if you are sexually assaulted.

- Don't accept drinks from anyone you don't know or trust; continuously monitor your drink.
- Trust your gut. Do not hesitate to leave or ask for help if something doesn't feel right.
- Make a pact with your friends to watch out for one another and ensure everyone gets home safely.
- Be an active bystander.

Sexual Harassment

- Below are some practical methods and strategies for reducing the risk of sexual harassment. However, it is essential to know that no method or strategy would eliminate the risk of sexual

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harassment entirely and that it is never your fault if you are sexually harassed. Don't continue to ask someone out if they have already declined.

- Don't touch someone without permission.
- Respect a person's wishes related to contact with them.
- Say, "that wasn't funny," if you hear someone telling an offensive joke.
- Tell someone if you see or hear someone exhibiting behavior that makes you uncomfortable.
- Take a minute to consider the implication of comments, jokes, or stories before sharing them with others.
- Don't post sexually explicit material on social media or public spaces.
- Don't send or post pictures of your or others' genitalia.

Bystander Intervention

Effective bystander programs foster an encouraging environment for others to speak out against sexist attitudes, rape myth beliefs, and sexual violence itself. Confronting sexual violence can help change the social norms of a community and society as a whole. The most commonly used bystander intervention model outlines the following five steps.

1. Recognize signs that an act of sexual violence may occur or is occurring.
2. Identify that the potential victim is at risk and that intervention is appropriate.
3. Decide whether or not to take responsibility for intervening.
4. Decide the most appropriate and safest way to intervene.
5. Implement the decision to intervene safely to diffuse the situation.

Understanding & Obtaining Consent

- Understand that mixing alcohol or drugs with sexual activity is always risky. Do not engage in sexual activity if either or both parties are intoxicated.
- Talk to your partner about your needs, limits, and boundaries.
- Listen and watch for signs that your partner is not consenting. Remember you are looking for an enthusiastic yes!
- If your partner gives anything less than an enthusiastic yes, stop what you are doing and ask your partner if they're okay and want to continue.
- Listen and watch for signs that your partner is not consenting.

Grievance Policy & Procedure

Notify a Title IX coordinator as soon as possible after the incident. Reports of sexual harassment may be verbal or written and received at any time.

A formal Complaint means a document filed by a Complainant and signed by the Title IX coordinator alleging sexual harassment or other violations of the Academy's Title IX policy against a respondent and requesting that the Academy investigate the allegation of sexual harassment and not allow an inappropriate situation to continue, regardless of who is creating the situation. No employee, contract worker, student, vendor, or another person who does business with Penrose Academy is exempt from the prohibitions in this policy. Faculty/Staff will refer all harassment complaints to the Title IX Coordinator for student-related complaints and complaints involving an employee.

To facilitate the investigation, a student complaint should include details of the incident or incidents, names of the individuals involved, and terms of any witnesses. Incident reports and complaint forms can be obtained from the Student Services department or the Title IX coordinator for an Incident Report. The Title IX coordinator can assist students in completing this report and notifying the appropriate authorities, if necessary and requested by the alleged victim. In addition, Penrose Academy ensures that the employee designated to serve as Title IX coordinator has adequate training on what constitutes sexual harassment, including sexual violence, and that students understand how Penrose Academy's complaint procedures operate.

Complainant means an individual alleged to be the victim of conduct that could constitute sexual harassment or other violations of the Academy's Title IX policy. When a formal complaint is filed, a complainant must be participating in or attempting to participate in the education program or activity of the Academy with which the formal complaint is filed.

Respondent means an individual reported to be the perpetrator of conduct that could constitute sexual harassment or other violations of the Academy's Title IX policy. Respondents are always presumed innocent; or, more technically, not responsible for sexual harassment. Respondents may not be sanctioned unless and until an investigation is completed and a final decision rendered.

Advisors

Complainants and respondents may have an advisor. Title IX advisors may be a Penrose Academy faculty or staff member, another Penrose Academy student, a friend, a parent, an attorney, or any other person of the student's choosing.

The student must notify The Title IX coordinator two working days before conducting meetings or hearings if accompanied by an advisor.

Advisors may:

- Accompany you in any conduct proceedings.
- Advise you in the preparation and presentation of sharing of information.
- Advise you in the preparation of any appeals or sanction reviews.

During conduct proceedings, complainants and respondents are expected to ask and respond to questions independently. Advisors may advise but may not make a presentation or represent you. Advisors may consult with you but may not speak on your behalf. Delays in the conduct process will not normally be allowed due to scheduling conflicts with advisors. Advisors may not be disruptive to the operation.

Upon receiving a complainant, the Title IX coordinator will:

- Contact the Complainant as soon as practicable.
- Notify the Complainant of their right to file a formal complaint and the grievance process.
- Discuss and implement supportive measures. Title IX Coordinator will consider supportive measures but is not bound by the Complainant's wishes.
- Dismissal of Formal Complaint

The Title IX Coordinator will dismiss a formal complaint if:

- The allegations do not establish sexual harassment, even if they are true.
- The allegations did not occur in connection with Penrose Academy's programs or services.
- The allegations did not occur in the United States.
- The respondent's employment with or enrollment at Penrose Academy ends.
- Specific circumstances prevent the Academy from gathering sufficient relevant evidence to reach a final decision (e.g., the passage of time, unavailability of witnesses, or other information).

The Title IX coordinator will document the basis for any formal complaint's dismissal.

Disabled Students

A disabled student's status as the respondent does not waive or otherwise affect their protections under the IDEA, the A.D.A., or Section 504. Generally subject to statutory exceptions, an IDEA or Section 504-eligible student may not be disciplined for Misconduct that is a manifestation of their disability.

Retaliation Prohibited

Penrose Academy or another person may not intimidate, threaten, coerce, or discriminate against any individual to interfere with any right or privilege secured by Title IX or because the individual has made a report or complaint, testified, assisted, participated, or refused to participate in any manner in a Title IX investigation, proceeding, or hearing.

Penrose Academy will keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except otherwise noted in regulations.

Charging an individual with a code of conduct violation for making a false statement in bad faith during a grievance proceeding does not constitute retaliation, provided that a determination regarding responsibility alone is not sufficient to conclude that any party made a materially false statement in bad faith.

Temporary Removal

The Academy may remove a respondent from the education program or activity on an emergency basis, provided that the Academy undertakes an individualized safety and risk analysis and 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.

Administrative Leave

A non-student employee respondent may be placed on temporary administrative leave during the pendency of a grievance process.

Supportive Measures

Title IX was enacted to prevent sex discrimination and harassment from adversely affecting access to educational opportunities.

- Supportive measures to restore or ensure continued access to educational opportunities are provided to the Complainant.
- Supportive measures provided to the Complainant will not be punitive or unreasonably burdening to the respondent.
- Non-exclusive examples of supportive measures include no-contact orders, counseling, course modifications, schedule changes, transfers, increased security, and monitoring.

The Title IX coordinator will consider but is not bound by the Complainant's wishes.

Notice of Allegations Upon Receipt of Formal Complaint, the Title IX Coordinator will notify the Complainant and the respondent in writing when a formal complaint is filed. In addition, supplemental notice will be provided to the Complainant and the respondent if new allegations arise during the investigation.

Notice to the respondent include:

- A statement of the allegations in sufficient detail permits the respondent to prepare a response.
- A statement respondent is presumed not responsible until a final decision is rendered.
- The parties' right to inspect the formal complaint and all relevant evidence.
- The parties' right to be represented by an advisor, who may be an attorney.
- Declaration of Student Code of Conduct prohibiting false statements or representations.
- Sufficient details with sufficient time to prepare a response before any initial interview.
- A statement stating the respondent is presumed not responsible and that a determination regarding responsibility is made after the grievance process.

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- The notice must inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney and may inspect and review evidence.
- The notice must inform the parties of any provision in the Academy's code of conduct that prohibits knowingly making false statements or submitting false information during the grievance process.

Procedures for the Investigation of Complaints

The Title IX coordinator or designee may serve as the investigator. Investigators will maintain the presumption of innocence until the investigation is completed.

In response to all complaints, Penrose Academy ensures prompt and equitable resolution through a reliable and impartial investigation of complaints, including the opportunity for both parties to present witnesses, written responses, and other evidence.

The time necessary to investigate will vary based on complexity but will generally be completed within sixty (60) days of receipt of the complaint.

Investigation procedural steps:

- Appoint an investigator
- Pre-Investigation gathering of evidence
- Witness interviews
- Delivery of relevant evidence and written responses
- Investigation report
- Questions and answers period
- Findings of facts & credibility determinations.

Investigation of Complaints

During the investigation, the Academy will provide interim measures, as necessary, to protect the safety and well-being of employees/students involved.

Reasonable academic accommodations will be provided during and after the alleged Title IX or VAWA offense. If the Academy determines that unlawful harassment or sexual violence has occurred, immediate and appropriate corrective action will be taken following the circumstances involved. And the Academy will take steps to prevent the recurrence of any harassment or discrimination.

Any employee or student determined by the Academy to be responsible for unlawful harassment or discrimination will be subject to appropriate disciplinary action, including termination.

Reports of sexual violence should be made to "911" or local law enforcement to initiate a criminal investigation. The criminal process is separate from the Academy's disciplinary process. Suppose an employee or contract worker is not satisfied with the Academy's handling of a harassment or discrimination complaint. In that case, they may also contact the appropriate state or federal enforcement agency for legal relief.

Confidentiality

Penrose Academy shall maintain confidentiality for all parties to the extent possible; absolute confidentiality cannot be guaranteed. In cases where a student/staff member does not consent to an investigation, Penrose Academy will weigh the student/staff member's request for confidentiality against the impact on the Academy to determine whether an investigation must proceed safely.

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Complainants should be aware that, in a formal investigation, due process requires that the charging party's identity and the complaint's substance be revealed to the person charged with the alleged harassment.

Interviews and Information Gathering

Interviewing Complainant and respondent

- The Complainant and respondent will be interviewed in every case.
- The interview will be preceded by written notice that gives the parties adequate time to prepare and identifies the interview's date, time, and place.
- Both parties and their advisors may attend the interview.
- Direct exchanges between the parties and advisors are prohibited.
- The investigator will create a written summary of the interviews as soon as practicable.

Interviewing witnesses

All identified eyewitnesses will be interviewed. Questioning will cover the allegations, relationship to parties, and the identification of other witnesses and information the parties may not know. Investigators will create a summary of the interview as soon as practicable.

Gathering of Information

Relevant Evidence

Title IX does not assume investigators will apply the rules of evidence like lawyers in a trial. Instead, investigators will consider information relevant if it makes the existence of an allegation, or a response to an allegation, more or less likely.

Rape-Shield

A rape shield law is a law that limits the ability to introduce evidence or cross-examine rape complainants about their past sexual behaviors. Information about the complainants' sexual behavior or proclivities is irrelevant unless it is about the Complainant's sexual conduct with the respondent to prove consent.

Privileged Information

Without a party's written consent, the investigator will not seek, access, or rely on privileged information.

When investigating a formal complaint, the Academy will:

- Ensure that the burden of proof and the burden of gathering evidence sufficient to determine responsibility rests on the Academy and not on the parties.
- Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses and other inculpatory and exculpatory evidence.
- Not restrict the ability of either party to discuss the allegations under investigation or to gather and present evidence.
- Provide the parties with the same opportunities to have others present during any grievance proceeding, including an advisor of their choice and relevant evidence.
- Provide, to a party whose participation is invited or expected, written notice of the date, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate.
- Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint. And create an investigative report that fairly summarizes relevant evidence and, at least ten days before a hearing or other time of determination regarding responsibility, send to each party and the party's advisor if any, the investigative report for their review and written response.

Investigative Report

The investigator completes the investigative report within sixty (60) days. The Title IX Coordinator may grant an extension for a good cause. The investigative report does not resolve credibility issues but fairly summarizes the relevant evidence and information that may bear on the decision-makers resolution of credibility issues. Credibility determination may be based on various factors, such as ability and capability to observe, consistency with other known facts, consistency over time, relationship to parties, and others.

The investigative report contains the following documents:

- Cover letter
- Investigative report
- Witness summaries
- Respondent summaries
- Complainant summaries
- Other Relevant Information

Delivery of Investigative Report

The investigator will simultaneously deliver the investigative report to the Title IX coordinator and the parties.

Parties Questions and Responses

After receiving the investigative report, the parties may submit written questions to the opposite party or witnesses and file a response within the time frame permitted by the investigator. The investigator will submit written questions and respond to each party. If the investigator declines to submit a question, they must notify the party who submitted it with an explanation.

Determination Regarding Responsibility

The decision-maker(s), who cannot be the same person(s) as the Title IX Coordinator or the investigator(s), must issue a written determination regarding responsibility. The decision-maker reviews all the information collected during the investigation and concludes that the respondent is or is not responsible for violating Title IX.

The decision-maker may not make credibility determinations based on a person's status as a complainant or respondent. The decision-makers report will be delivered to the parties and the Title IX coordinator.

The Determination Report will be given to both parties simultaneously and will contain the following components:

- Complainant's allegations.
- A description of the procedural steps taken from the receipt of the formal complaint through the determination.
- Site visits or other methods used to gather evidence.
- Findings of fact supporting the determination.
- Penrose Academy's Title IX and Student Code of Conduct Policies.
- A statement and rationale for the result as to each allegation, including determinations of responsibility, disciplinary sanctions, and whether the Complainant will be provided remedies to restore or preserve their equal access to the Academy's education programs and activities.
- The procedure and basis for appeal.

Standard of Proof

The standard of evidence may be the preponderance of the evidence or clear and convincing evidence. Proof by a preponderance of the evidence means the evidence on one side of a question is more convincing than the evidence on the other. This concept is distinguished from the quantity of evidence. Clear and convincing evidence is a higher standard of proof. Evidence is clear and compelling if the evidence on one side of a question is highly and substantially more provable than the evidence on the other side.

The written determination will include:

- Identification of the allegations potentially constituting sexual harassment.
- A description of the procedural steps taken from the receipt of the formal complaint through the determination.
- Findings of fact supporting the determination.
- Conclusions regarding applying the Academy's code of conduct to the facts.
- A statement of and rationale for each allegation's result. And the Academy's procedures and permissible bases for the Complainant and respondent to appeal.
- The Academy will provide the written determination to the parties simultaneously. The Title IX Coordinator is responsible for the effective implementation of any remedies.
- Appeals
- Penrose Academy will offer both parties an appeal from a determination regarding responsibility, and a recipient's dismissal of a formal complaint or any allegations therein, on the following bases:
 - Procedural irregularity that affected the outcome of the matter.
 - New evidence that was not reasonably available at the time of the determination regarding responsibility or dismissal could affect the matter's outcome.
 - Bias or conflict of interest on the part of the investigator or decision-maker.
 - Both the Complainant and the respondent have thirty (30) days to determine whether to appeal.

Resolving Appeals

Penrose Academy will assign an appellate officer to review the appeal and determine whether the request implicates one or more of the bases for appeal. If not, the appeal will be denied. If so, the appellate officer will review the entire record and decide whether to grant the request in whole or part. The appellate officer can affirm or reverse the decision, in whole or part, and if necessary, remand the decision to the investigator or decision-maker for further action. Appeal decisions are not final until the appeal process is over or the thirty days for taking an appeal have passed with no request.

Hearings Procedures for the Title IX Sexual Harassment and Related Conduct Policy

These procedures shall govern the hearing process for the formal resolution of formal complaints of sexual harassment, as outlined in the Academy's Title IX Sexual Harassment and Related Conduct Policy. The parties to each formal complaint have the right to a hearing after the Academy's investigation in cases where the parties do not elect an alternative resolution and the formal complaint is not dismissed.

Pre-Hearing Steps

Selection of Hearing Officer

The hearing will be presided over by a hearing officer selected by the Academy.

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- The hearing officer will receive annual training regarding the Academy's policies and procedures, handling Title IX cases, how to conduct a hearing and issues of relevance. In addition, training includes when questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant and how to serve impartially by, among other things, avoiding prejudgment of the facts at issue, conflicts of interest, and bias; and other relevant matters. The hearing officer will also be trained on any technology used during a hearing.
- The hearing officer will be impartial and free from bias or conflict of interest. The Title IX Coordinator will provide the parties with the hearing officer's name no later than five business days before the hearing.

Objections to the hearing officer must be raised in writing, detailing the rationale for the objections. They must be submitted to the Title IX coordinator as soon as possible and no later than two business days before the hearing. In addition, the Title IX coordinator will give the hearing officer a list of the names of all parties, witnesses, and advisors before the hearing. The hearing officer will notify the Title IX coordinator of potential bias or conflict of interest.

Notice of Hearing

The Complainant and respondent will be notified in writing of the date, time, and location of the hearing; the charges to be reviewed by the hearing officer, including the date, time, place, and essential factual allegations concerning the violation; and the provisions of the policy alleged to have been violated. Generally, the respondent and Complainant will be provided the notice of hearing at least ten (10) business days before the hearing date.

Witnesses

The hearing officer will identify witnesses they wish to hear from at the hearing based on a review of the final investigative report. The Complainant and respondent may each request the presence of any additional witnesses at the hearing, which will be determined based on relevance by the hearing officer.

The Academy cannot compel the attendance of any witness. Only witnesses identified and interviewed as part of the investigation may be called at the hearing. Under minimal circumstances, the Complainant, respondent, or hearing officer may identify a witness with relevant information who has not previously been interviewed. In such a case, the hearing officer will determine whether the new witness' participation at the hearing is relevant and appropriate under the circumstances and, if so, may allow the witness to participate in the hearing or refer the matter to the investigator for additional investigation.

Identification of Hearing Advisor

Parties may have one advisor for all matters leading up to a hearing and a different advisor for the hearing, but no more than one advisor per party may attend the hearing. Irrespective of whether a party plans to change advisors for the hearing or retain the same advisor, all parties must inform the Title IX coordinator at least two business days before the hearing who the party's advisor at the hearing will be and whether that person is an attorney. If a party does not have an advisor for the hearing, the Title IX coordinator will appoint an advisor for the hearing. Selected advisors will be, at no cost to the party, to ask cross-examination questions on behalf of the party.

Pre-Hearing Procedures

The hearing officer or Title IX coordinator may establish additional pre-hearing procedures relating to scheduling, hearing procedures, structure, advance determination of the relevance of specific topics, and other procedural matters. The hearing officer will communicate with the parties about these issues before the hearing and establish reasonable, equitable party participation/input deadlines.

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- The hearing officer may invite the parties to submit the questions or topics they wish to ask or discuss at the hearing so that the hearing officer can rule on their relevance ahead of time. This advance review opportunity does not preclude advisors from asking a question for the first time at the hearing or asking for a reconsideration based on any new information or testimony.
- In advance of the hearing, the hearing officer will consider any argument by a party that evidence identified as relevant in the final investigative report is not, in the party's view, relevant. Similarly, evidence identified as directly related but not appropriate by the investigator(s) may be argued to be relevant.
- The hearing officer may rule on these arguments pre-hearing and share those rulings with the parties to prepare for the hearing. In addition, the hearing officer may consult with the Title IX coordinator to make these determinations before the hearing.

Request to Postpone Hearing

Permission to postpone a hearing may be granted provided that the request to do so is based on a compelling emergency and, where possible, such request is provided to the hearing officer and Title IX coordinator at least 48 hours before the time of the hearing.

Timing

A hearing will be scheduled for at least ten business days after the final investigative report is provided to the parties; typically, a hearing will be held within 15 business days from the date the final investigative information was provided. However, this timeframe may be extended for good cause as the policy offers; if granted, the reason for the extension will be shared with the parties in writing.

Hearing Guidelines

Decorum

The hearing officer has broad discretion over matters of decorum at the hearing, including the authority to excuse participants who are unwilling to observe rules of etiquette from the hearing process. Suppose a party's advisor does not abide by the Academy's rules of decorum (including, but not limited to, those listed below). In that case, the advisor may be subject to removal, and the Academy will appoint a new advisor for a party for the remainder of the hearing.

- The parties and their advisors will always remain seated during the hearing, including during cross-examination.
- The following behaviors will not be tolerated during the hearing: yelling, verbal abuse, disruptive behavior, interrupting or talking over one another, name-calling, or using profane or vulgar language (except where such language is relevant).
- Any participant in the hearing who is not currently involved in questioning should refrain from disrupting the hearing, making gestures, facial expressions, audible comments, or the like as manifestations of approval or disapproval during any testimony.
- When cross-examining a party or witness, advisors shall not repeat, characterize, express an opinion about, editorialize, or otherwise state any response to the answer given by the party or witness except to ask a follow-up question to elicit relevant evidence.

Advisors

While the advisor may be present, the advisor may not speak or otherwise participate in the hearing except for conducting cross-examination when directed by the hearing officer. Other than cross-examination, the advisor may not address the hearing officer and must conduct themselves in a manner that is not disruptive to the hearing or meetings.

Presence and Participation at Hearing

The Complainant or respondent is not required to participate in person for the hearing to proceed.

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- A complainant or respondent may request alternative testimony options that would not require physical proximity to the other party, including testifying via a remote electronic method. This request should be made no fewer than five business days before the hearing.
- If the respondent or Complainant is not in attendance despite being notified of the hearing's date, time, and location, the hearing will proceed. In doing so, the hearing officer will consider the available testimony and evidence. In the absence of clear evidence that emergency circumstances beyond the Complainant's control or respondent prevented the such person from being present, the final determination of the hearing officer will stand.
- If a party or witness elects not to participate in the live hearing or participates in the hearing but refuses to answer questions posed by a party through their advisor, the hearing officer will not rely on any statement of the non-participating party or witness in reaching a determination regarding responsibility. Suppose a party or witness participates in the hearing and answers questions posed by a party through their advisor but refuses to answer questions posed by the hearing officer. In that case, the hearing officer can still rely on that party's or witness's statements when determining.
- "Statements" or purposes of this section means factual assertions made by a party or witness that do not themselves constitute the alleged harassment. Statements might include accurate claims made during an interview or conversation, written by the individual making the assertions (including those found in a Formal Complaint), and memorialized in the writing of another (e.g., in an investigative report, police report, or medical record). Where evidence involves intertwined statements of both parties (e.g., a text message exchange or an email thread) and one party refuses to participate in the hearing or submit to questioning about the evidence. In contrast, the other does participate and answers questions. The statements of only the participating party may be relied on by the hearing officer.
- If a party does not appear for the hearing, their advisor may still occur for cross-examination of the other party and witnesses. Suppose the non-participating party's selected advisor also does not appear for the hearing. The Academy will appoint an advisor to participate in the hearing for cross-examination of the other party on behalf of the non-participating party.

Hearing Format

The hearing officer has broad discretion to designate the hearing format. Subject to the discretion of the hearing officer, hearings will ordinarily begin with introductory remarks by the hearing officer, followed by the hearing officer asking relevant initial questions of the parties as deemed appropriate. During this portion of the hearing, an advisor may confer privately and in a non-disruptive manner with their advisee. However, they are not allowed to make opening statements or address the hearing officer or anyone else at the hearing. After the hearing officer has asked their initial questions of the parties, the hearing officer will permit each party's advisor to ask the other party relevant questions and follow-up questions. The hearing officer may ask follow-up questions as necessary. Subject to the discretion of the hearing officer, questioning of witnesses will generally follow a similar process. Such cross-examination of the parties and witnesses by advisors will be conducted directly, orally, and in real-time by the party's advisor of choice and never by the party personally.

Questioning at the Hearing

The parties' advisors, and not the parties themselves, will be permitted to ask the other party and any witnesses relevant and follow-up questions. The advisor will conduct the questioning directly, orally, and in real-time. Suppose a party does not have an advisor present at the hearing. In that case, the Academy will provide, without fee, an advisor of the Academy's choice to conduct a cross-examination on behalf of that party.

Relevance

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Only a party or witness may ask relevant cross-examination and other questions. Before a complainant, respondent, or witness answers a cross-examination or further inquiry. The hearing officer will first determine whether the question is relevant and explain any decision to exclude a question as not applicable. Advisors are not permitted to object to the hearing officer's findings regarding relevance during a hearing. In general, the hearing officer will not consider statements of personal opinion or views on any party's public reputation for any character trait as relevant.

Prior Sexual History or Disposition

Questions about the Complainant's sexual predisposition or prior sexual behavior are irrelevant unless such questions are intended to elicit evidence that someone other than the respondent committed the alleged conduct. Specific previous sexual behavior with the respondent may be relevant to establishing consent.

Hearing Record

The hearing is closed to the public. However, the Complainant and the respondent can have one advisor of their choice present throughout the hearing. The Academy shall keep a transcript or audio recording of the hearing. Any other recording is prohibited. No camera, T.V., or other equipment, including cellphones, will be permitted in the hearing room except as arranged by the Academy. The parties may inspect and review the transcript or audio recording after completion.

Post-Hearing Process

Determination Regarding Responsibility

After the hearing, the hearing officer will make a finding by the preponderance of the evidence as to whether the respondent(s) violated the policy and create the written notice of outcome as outlined below.

Disciplinary Authority

Suppose the hearing officer determines that the respondent is responsible for violating the policy. In that case, the hearing officer will refer the matter to the appropriate disciplinary authority, who will determine the proper remedies and sanction(s) to be imposed.

- The disciplinary authority is typically the academy administrator with appointing or other authority over the respondent as follows:
- For student respondents, the disciplinary authority is the President or designee.
- For staff respondents, the disciplinary authority is the President or designee, who may consult with the respondent's direct supervisor.
- For a respondent who is both a student and employee, the disciplinary authority is the President, Owner, and Chair or a designee if the respondent's primary status is an enrolled student. Such a respondent may be subject to sanctions applicable to students and employees.
- For faculty respondents, the disciplinary authority is the Director of Education or the President, who may consult with the Owner and Chair.

In determining the appropriate sanction(s) and remedies, the disciplinary authority considers several factors, including:

- The nature of the conduct at issue.
- The impact of the conduct on the Complainant.
- The impact on, or implications of the conduct for, the Academy's community.
- If such information is available and known, prior Misconduct by the respondent, including the respondent's relevant previous discipline history, both at the Academy or elsewhere, and any criminal convictions.
- Any expression of remorse or acceptance of responsibility by a respondent.

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- Maintenance of a safe and respectful environment conducive to learning.
- Protection of the Academy's community.
- The necessity of any specific action to eliminate the Sexual Harassment, prevent its recurrence and remedy its effects on the complainant or other academy community members, and any mitigating, aggravating, or compelling circumstances to reach a just and appropriate resolution in each case.
- The disciplinary authority will also consider beneficial outcomes that evaluate the safety of the Academy's community, allow a respondent to develop insight about their responsibility for the behavior, learn about the impact of the conduct on the Complainant and the community, and identify how to prevent or change the behavior.

A combination of sanctions may be issued:

- The disciplinary authority will provide the hearing officer with a description of any disciplinary sanctions the Academy imposes on the respondent and whether remedies designed to restore or preserve equal access to the Academy's education programs or activities will be provided by the Academy to the Complainant, as applicable.

Written Notice of Outcome

After the hearing, the hearing officer will create a written notice of outcome that will include the following:

1. Identification of the allegations potentially constituting sexual harassment.
2. A description of the procedural steps from receiving 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.
3. Findings of facts supporting the determination.
4. Conclusions regarding the application of this policy to the facts.
5. A statement of, and rationale for, the result of each allegation, including a determination regarding responsibility.
6. Description of any sanctions imposed on the respondent and whether remedies designed to restore or preserve equal access to the Academy's education Programs and Activities will be provided to the Complainant; and
7. Information about the appeal process.
8. Regardless of their participation in the Formal Resolution process, the Title IX coordinator will provide the Complainant and respondent the written notice of outcome issued by the hearing officer simultaneously.
9. Remedial measures and sanctions will not be imposed until any appeal process in the policy is final.

Informal Resolution (I.R.)

1. As an option to resolve a complaint of discrimination or harassment under Title IX, the parties may request to attempt an Informal Resolution ("I.R."). I.R. is a voluntary resolution process that may be pursued after filing a formal complaint that uses alternative dispute resolution mechanisms, such as mediation, facilitated dialogue, alternative resolution, or administrative resolution.
 - a. Both Complainant and the respondent must agree to pursue I.R., and this agreement must be voluntary, informed, and in writing.
 - b. Neither the Complainant nor the respondent is required to engage in I.R. as a condition of enrollment, continuing enrollment, or enjoyment of any other right.
 - c. At any time before the completion of the I.R. process, the Complainant and respondent may withdraw from I.R., and the complaint will/may be addressed through investigation and the formal resolution process per the applicable policy.

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- d. I.R. is never available to resolve allegations that an employee sexually harassed a student.
- e. The Complainant and respondent may have an advisor of their choice attend any meetings as part of the I.R. as a support person. The parties, however, are responsible for presenting their information, and advisors are not permitted to cross-examine or question any party or to participate directly in the I.R. process.
- f. The content of discussions held as part of the I.R. process will be kept confidential and cannot be introduced as evidence in any formal resolution process should I.R. be unsuccessful.

The decision by the Complainant or respondent to participate, refuse to participate, or request to end I.R. and return to the investigation or resolve the complaint using the formal resolution process will not be a factor in any determination made by the decision-maker(s) as to whether a policy violation occurred.

The Complainant and respondent can obtain a request for an I.R. application via the Penrose app and receive a hard copy from the Title IX coordinator. Once a request has been received, the request will be shared with the other party, who may choose to move forward with I.R. or decline to do so. Both parties must consent to I.R. by submitting the online form before any attempts at I.R.

Parties may attempt more than one form of I.R. For example if an attempt is made to participate in facilitated dialogue. Still, the results are unsatisfactory to both parties; the Complainant or respondent may request a transition to formal mediation. If both parties agree, an attempt at formal mediation will be made.

Once I.R. has been finalized, the terms of the agreement are binding on both parties, and failure to abide by the terms of the resolution may be referred to the appropriate academy process for review and possible corrective action or sanction(s).

Types of Informal Resolution

Facilitated Dialogue

This form of I.R. is most appropriate when both parties are comfortable with direct interaction and management of the discussion but prefer the presence of a neutral third party. The process typically begins with a brief conversation between the facilitator and each party to assess the situation. Once these conversations have occurred, the facilitator schedules a meeting with the parties. During this meeting, the Complainant and respondent participate in a facilitated discussion with the purpose being to develop a shared agreement regarding how to correct the harm perceived or realized by the Complainant. The Complainant and respondent work together to create an agreement that resolves the issue and repairs relationships damaged by the conduct. The neutral facilitator acts as a buffer should emotions run high or the parties need assistance in maintaining focus on the primary issue(s). The facilitator may suggest breaks or interject comments/questions designed to redirect dialogue productively.

Formal Mediation

This form of I.R. is most appropriate when the parties are unlikely to solve without support. Mediation involves a neutral mediator who seeks to improve the parties' relationship by assisting them in understanding one another, introducing possible solutions to the problem, and making suggestions for improved communication.

Step 1: Mediator schedules private meetings with each party individually; guidelines for mediation will be presented to both parties.

Step 2: The mediator assesses the appropriateness of mediation as a conflict resolution technique and, if appropriate, schedules a joint meeting with all parties.

Step 3: A meeting is held to allow parties to share their views without interruption, followed by an interactive mediator-guided discussion to determine a resolution, if possible.

Step 4: If a resolution is reached between the parties, each party will review and sign a binding resolution agreement, which will outline the terms of the solution and expectations of the parties moving forward.

Alternative Resolution

Alternative options to facilitated dialogue and formal mediation include the following:

Shuttle Diplomacy

The crafting of an agreement does not require the Complainant and respondent to participate in an in-person meeting. Instead, a member of the Title IX team will work with the parties individually to create an agreement that satisfies both parties.

Acceptance of Responsibility

The respondent can choose to take responsibility for the alleged policy violation(s). When this path is selected, the Title IX coordinator and President work directly with the respondent to determine corrective action(s) and sanctions. Complainant and respondent must agree to this form of I.R., and the parties must also agree to the planned disciplinary/sanctions before I.R.

Voluntary Permanent Separation

The respondent can choose to separate from the Academy voluntarily. If the Title IX team accepts this I.R., the respondent must sign a Voluntary Permanent Separation and General Release Agreement to terminate the complaint resolution process.

Administrative Resolution

In an administrative resolution, the decision-maker will meet separately with the Complainant and the respondent to discuss the allegations. Both parties may have an advisor present for these meetings. The respondent and Complainant may provide a list of questions for the decision-maker to ask the other party. If questions are considered appropriate and relevant by the decision-maker, they may be requested on behalf of the requesting party. In addition, answers to questions will be shared with the requesting party.

The decision-maker will also consider the evidence provided by the investigator, including the investigative report and exhibits. Once the decision-maker has deliberated, they will decide whether the respondent has violated the Academy's policy. Once issued, this determination is binding on both parties. Before the Complainant and respondent can choose this option, both parties must acknowledge that by pursuing an administrative resolution. And they are waiving their rights to a formal solution by a hearing panel unless they choose to end the I.R. process before the decision-makers determination is issued.

The decision maker's determination will be based on the "preponderance" standard of evidence. Ultimately, a decision-maker is balancing probabilities or determining whether it was more likely than not that the alleged conduct occurred. This standard of proof is known as a "preponderance." It only requires that one party can support their position with evidence and credible testimony, "a feather" more than the other. A way to think about the preponderance standard is to picture two people holding shopping bags equal in weight. And each party's supporting evidence and testimony are contained separately in one of the bags. At this point, the parties are balanced at a 50/50 probability. Then, as part of the meeting with the decision-maker, questions are asked that were submitted by the other party.

The information provided in the response is relevant but only slightly crucial to the determination, contributing no more weight to one party's bag than a feather. However, once the information is added, the balance shifts, and the bags are no longer equal. The decision-maker bases their determination on this shift, caused by one piece of evidence or testimony that weighed just a feather but tipped the finding to "more likely than not" favor one party over the other.

The decision-maker has the discretion to determine the relevance of any witness or documentary evidence and may exclude information that is irrelevant, immaterial, cumulative, or more prejudicial than informative.

Possible Sanctions

The sanction of expulsion is not available under an administrative resolution.

Record Keeping

Penrose Academy will maintain records of sexual harassment and other violations of Title IX for seven years. Documents will include investigation records, disciplinary sanctions, remedies, appeals, supportive measures, documentation for why a response was not deliberately indifferent, and measures taken to restore or preserve equal access to educational programs or activities.

Penrose Academy will maintain for a period of seven years records of:

- Each sexual harassment investigation includes any determination regarding responsibility, audio or audiovisual recording or transcript required, disciplinary sanctions imposed on the respondent, and any remedies provided.
- Any appeal and the result from there.
- Any informal resolution and the result from there.
- In response to receipt of actual knowledge of sexual harassment, the Academy will create and maintain, for seven years, records of any actions, including any supportive measures taken in response to a report or formal complaint of sexual Reporting Requirements.