

SECTION: 4000

Policy Code: 4230

**STUDENTS AND PARENTS NON-TITLE
IX BULLYING & NON-DISCRIMINATION
REPORTING AND GRIEVANCE POLICY**

**Approved: 6.14.23
Revised: 2.21.24**

**Non-Title IX
Prohibition Against Discrimination, Harassment, and Bullying
And Complaint Process**

No student or School employee shall be subjected to bullying or harassing behavior by School employees or students as defined and set forth below. Brevard Academy takes seriously all complaints of discrimination, harassment, and bullying. The process provided in this policy is designed for those individuals who believe that they may have been discriminated against unlawfully, bullied, or harassed in violation of Brevard Academy's Non-Title IX Prohibition Against Discrimination, Harassment, and Bullying Policy. Individuals who have witnessed or have reliable information that another person has been subject to unlawful discrimination, harassment, or bullying also should report such violations in the manner provided in this policy. Reports may be made anonymously. This policy does not apply where an individual seeks to assert allegations regarding or related to the identification, evaluation, educational placement, or free appropriate public education of a student under Section 504 or the IDEA, such allegations may be raised through the procedures governing such matter. This Policy also does not apply to Title IX complaints, behavior falling within Title IX or Title VII complaints. Please refer to the corresponding School's policies for Title IX and VII matters.

Definitions:

"Discrimination" means any act or failure to act that unreasonably and unfavorably differentiates treatment of others based solely on their membership in a socially distinct group or category, such as race, ethnicity, sex, gender, sexual orientation, pregnancy, religion, age, or disability.

"Gender-Based Harassment" includes acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on gender, sex or sex/gender-stereotyping but not involving conduct of a sexual nature.

"Sexual harassment" includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

a) submission to the conduct is made, either explicitly or implicitly, a term or condition of an individual's employment, academic progress, or completion of a school-related activity;

b) submission to or rejection of such conduct is used as the basis for employment decisions affecting the individual, or in the case of a student, submission to or rejection of such conduct is used in evaluating the student's performance within a course of study or other school-related activity; or

c) such conduct is sufficiently severe, persistent, or pervasive that it has the purpose or effect of unreasonably interfering with an employee's work or performance or a student's educational performance, limiting a student's ability to participate in or benefit from an educational program or environment, or creating an abusive, intimidating, hostile, or offensive work or educational environment.

"Cyber-bullying and cyber-harassment" are any words, actions, or conduct that meet the definitions of bullying or harassing behavior described in this policy, and are conveyed via email, text message, Internet message boards, interactions on social media, or other electronic media.

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"Bullying or harassing behavior" is any pattern of gestures or written, electronic (includes cyber-bullying/harassment), or verbal communications, or any physical act or any threatening communication, that takes place on school property, at any school-sponsored function, or on a school bus, and that:

(1) Places a student or school employee in actual and reasonable fear of harm to his or her person or damage to his or her property; or

(2) Creates or is certain to create a hostile environment by substantially interfering with or impairing a student's educational performance, opportunities, or benefits. For purposes of this section, "hostile environment" means that the victim subjectively views the conduct as bullying or harassing behavior and the conduct is objectively severe or pervasive enough that a reasonable person would agree that it is bullying or harassing behavior.

Bullying or harassing behavior includes, but is not limited to, acts reasonably perceived as being motivated by any actual or perceived differentiating characteristic, such as race, color, religion, ancestry, national origin, gender, socioeconomic status, academic status, gender identity, physical appearance, sexual orientation, or mental, physical, developmental, or sensory disability, or by association with a person who has or is perceived to have one or more of these characteristics.

A. Reporting by Employees or Other Third Parties**1. Mandatory Reporting by School Employees**

Any employee who witnessed or who has reliable information or reason to believe that an individual may have been discriminated against, harassed, or bullied in violation of School Non-Title IX Prohibition Against Discrimination, Harassment, and Bullying Policy must report the offense immediately to an appropriate individual designated in subsection B.1., below. An employee who does not promptly report possible discrimination, harassment, or bullying shall be subject to disciplinary action.

2. Reporting by Other Third Parties

All members of the school community including students, parents, volunteers, and visitors are also strongly encouraged to report any act that may constitute an incident of discrimination, harassment, or bullying.

3. Anonymous Reporting

Reports of discrimination, harassment, or bullying may be made anonymously, but formal disciplinary action may not be taken solely on the basis of an anonymous report.

4. Investigation of Reports

Reports of discrimination, harassment, or bullying under this policy will be investigated sufficiently to determine whether further action under this policy or otherwise is necessary, and school officials shall take such action as appropriate under the circumstances. At the option of the alleged victim, the report may be treated as a complaint by the alleged victim under this policy.

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B. Complaints Brought by Alleged Victims of Discrimination, Harassment, or Bullying

1. Filing a Complaint

Any individual who believes that he or she has been discriminated against, harassed, or bullied in violation of Brevard Academy's Non-Title IX Prohibition Against Discrimination, Harassment, and Bullying Policy is strongly encouraged to file a complaint orally or in writing to the following individuals as applicable:

- a. the school counselor, teacher, dean of students, School Director for any claim of discrimination, harassment or bullying, including Title VI complaints;
- d. the Title IX coordinator for claims of sex discrimination or sexual harassment;
- c. the Section 504 coordinator or the ADA coordinator for claims of discrimination on the basis of a disability; or
- d. any member of the Board if the alleged perpetrator is the School Director.

2. Time Period for Filing a Complaint

A complaint should be filed as soon as possible but no later than 30 days after disclosure or discovery of the facts giving rise to the complaint. Complaints submitted after the 30-day period may be investigated at the discretion of school officials and outside the formal process described in Section C of this policy; however, individuals should recognize that delays in reporting may significantly impair the ability of school officials to investigate and respond to such complaints.

3. Informal Resolution

Brevard Academy acknowledges that many complaints may be addressed informally through such methods as conferences or mediation. Brevard Academy encourages the use of informal procedures such as mediation to the extent possible; however, mediation or other informal procedures will not be used to resolve complaints alleging sexual assault or sexual violence or complaints by a student of sexual harassment perpetrated by an employee. Informal procedures may be used only if the parties involved voluntarily agree. Any informal process should be completed within a reasonable period of time, not to exceed 30 days unless special circumstances necessitate more time.

C. Process for Addressing Complaints of Alleged Incidents of Discrimination, Harassment, or Bullying

1. Initiating the Investigation

- a. Whoever receives a complaint of discrimination, harassment, or bullying pursuant to subsection B.1. shall immediately notify the School Director, who shall investigate or designate an individual to conduct an investigation and respond to the complaint. An investigator may be a school employee or outside consultant.
- b. As applicable, the investigator shall immediately notify the Title IX , or other relevant coordinator of the complaint, and, as appropriate, may designate the coordinator to conduct the investigation.
- c. The investigator shall explain the process of the investigation to the complainant and the alleged perpetrator.

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d. Written documentation of all formal reports and complaints, as well as Brevard Academy's response, must be maintained in accordance with Brevard Academy's Non-Title IX Prohibition Against Discrimination, Harassment, and Bullying Policy.

e. Failure to report, investigate, and/or address claims of discrimination, harassment, or bullying may result in disciplinary action.

2. Conducting the Investigation

a. The investigator is responsible for determining whether the alleged act(s) constitutes a violation of the Non-Title IX Prohibition Against Discrimination, Harassment, and Bullying Policy. In so doing, the investigator shall impartially, promptly, and thoroughly investigate the complaint. The investigator shall interview (1) the complainant; (2) the alleged perpetrator(s); (3) individuals identified as witnesses by the complainant or alleged perpetrator(s); and (4) any other individuals, including other possible victims, deemed likely to have relevant information. The alleged perpetrator shall be notified of the general nature of the allegations. The investigation will include a review of all evidence presented by the complainant or alleged perpetrator.

If the investigator, after receipt of the complaint, an interview with the complainant, and consultation with the board attorney, determines that the allegations submitted, even if factual, do not constitute discrimination, harassment, or bullying as defined in School's Non-Title IX Prohibition Against Discrimination, Harassment, and Bullying Policy, the matter will be treated outside the scope of this policy. Information regarding the investigator's determination and the process for addressing the complaint will be provided to the complainant.

b. The complaint and investigation will be kept confidential to the extent possible. Information may be shared only with individuals who need the information in order to investigate and address the complaint appropriately and those with a legal right to access the information. Any requests by the complainant for further confidentiality will be evaluated within the context of the legal responsibilities of Brevard Academy.

c. The investigator shall review the factual information gathered through the investigation to determine whether, based on a preponderance of the evidence, the alleged conduct constitutes discrimination, harassment, or bullying, giving consideration to all factual information, the context in which the alleged incidents occurred, the age, and maturity of the complainant and alleged perpetrator(s), and any other relevant circumstances.

3. Notice to Complainant and Alleged Perpetrator

a. The investigator shall provide written notification to the complainant of the results of the investigation within 15 days of receiving the complaint, unless additional time is necessary to conduct an impartial, thorough investigation. The investigator shall specify whether the complaint was substantiated and, if so, shall also specify:

1) reasonable, timely, age-appropriate, corrective action intended to end the discrimination, harassment, or bullying, and prevent it from recurring;

2) as needed, reasonable steps to address the effects of the discrimination, harassment, or bullying on the complainant; and

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3) as needed, reasonable steps to protect the complainant from retaliation as a result of communicating the complaint.

b. Information regarding specific disciplinary action imposed on the alleged perpetrator(s) will not be given to the complainant unless the information relates directly to the complainant (e.g., an order requiring the perpetrator not to have contact with the complainant).

c. If the investigator determines that the complaint was substantiated, in whole or in part, the perpetrator(s) shall be subject to consequences and appropriate remedial action for such bullying and/or harassment, as set forth in School's code of conduct. If the corrective steps involve actions outside the scope of the investigator's authority, the School Director or designee will be notified so that responsibility for taking the corrective steps may be delegated to the appropriate individual.

d. The alleged perpetrator will be provided with a written summary of the results of the investigation in regard to whether the complaint was substantiated, whether the alleged perpetrator violated relevant law or School policies by his or her actions, and what, if any, disciplinary actions or consequences may be imposed upon the perpetrator in accordance with School policy. The perpetrator may appeal any disciplinary action or consequence in accordance with School policy and law. However, an appeal by the perpetrator of disciplinary action does not preclude school officials from taking appropriate action to address the discrimination, harassment, or bullying.

4. Appeal

a. If the complainant is dissatisfied with the results of the investigation, he or she may appeal the decision to the School Director. The appeal must be submitted in writing within ten (10) days of receiving the notice of the results of the investigation. The appeal must state with particularity whether the complainant is appealing (1) the investigator's determination of whether the alleged conduct constitutes discrimination, harassment, or bullying in violation of Brevard Academy's Non-Title IX Prohibition Against Discrimination, Harassment, and Bullying Policy, or (2) Brevard Academy's response to any violation, including the appropriateness of any remedial measures taken by Brevard Academy. If the complainant is appealing pursuant to option (2), he or she must state what additional measures the complainant believes should have been taken by the district. The School Director or designee may review the documents, conduct any further investigation necessary, or take any other steps the School Director or designee determines to be appropriate in order to respond to the complaint. The School Director or designee shall provide a written response within 10 days after receiving the appeal, unless further investigation is needed. The School Director's decision is final and there is no appeal to the Board of Directors.

b. If the alleged perpetrator is the School Director or the School Director declines to hear the appeal and refers it to the Board of Directors, the complainant may appeal the decision in writing within ten days of receipt directly to the Board of Directors. The appeal must state with particularity whether the complainant is appealing the School Director's decision with regard to (1) the investigator's determination of whether the alleged conduct constitutes discrimination, harassment, or bullying in violation of School's Non-Title IX Prohibition Against Discrimination, Harassment, and Bullying

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Policy, or (2) Brevard Academy's response to any violation, including the appropriateness of any remedial measures taken by Brevard Academy. If the complainant is appealing pursuant to option (2), he or she must state what additional measures the complainant believes Brevard Academy should have taken. Upon receipt of the appeal, the Board Chair shall appoint a panel of not less than two members of the Board to decide the appeal. The panel shall make reasonable efforts to meet and consider the appeal within twenty (20) days after the chairperson refers the grievance to the panel. The panel shall review the complaint on the record unless it determines that additional information may be presented. No new evidence, written or verbal, may be presented without the prior knowledge and consent of both parties. At the Board Panel's discretion, they may hold a hearing and ask each party may make a brief oral presentation of no more than twenty minutes to summarize his or her position. The panel has the authority to ask questions, extend time limits, exclude extraneous or duplicative information, and otherwise maintain an efficient and fair appeal hearing. If a hearing is held, it will be recorded and shall be held in closed session. The Board panel may affirm, reverse or modify the decision. The Board panel shall use the preponderance of the evidence standard in reaching its decision. The Board panel will provide a final written decision within twenty (20) days after the Board hearing unless the panel determines that additional time is needed for further review. The decision of the Board panel shall be final.

D. Timeliness of Process

If any school official charged with investigating the complaint or reviewing the investigation fails at any step in the process to communicate a decision within the specified time limit, the complainant will be entitled to appeal the complaint to the next step unless the official has notified the complainant of the delay and the reason for the delay. A Brevard Academy official shall make reasonable efforts to keep the complainant apprised of progress being made during any period of delay. Delays that interfere with the exercise of any legal rights are not permitted.

Failure by the complainant at any step in the process to appeal to the next step within the specified time or to attend a scheduled meeting or hearing under this policy will be considered acceptance of the results of the investigation and Brevard Academy's response to the complaint, unless the complainant provided notice of the delay and the reason for the delay and the district consented in writing to the delay.

E. General Requirements

1. No person shall engage in any act of reprisal or retaliation against a victim, witness, or a person with reliable information about an act of bullying or harassing behavior. Any student who engages in such conduct will be disciplined in accordance with Brevard Academy's Code of Conduct. Any employee who engages in such conduct will be disciplined up to and including termination. Any parent/guardian who engages in such conduct may be permanently banned from Brevard Academy's campus and events.
2. Disciplinary or other action may be taken against the complainant or other individual if the person knew or had reason to believe that the complaint or report was false or knowingly provided false information.
3. All meetings and hearings conducted pursuant to this policy will be private.

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4. The complainant may be represented by an advocate, such as an attorney, at any meeting with the school under this policy. Should the complainant choose to be represented by an attorney, an attorney for Brevard Academy may also be present.
5. Nothing in this policy shall prevent the School Director or Board from suspending the alleged perpetrator without pay during the course of the investigation or taking any other action deemed appropriate.
6. Nothing in this policy prevents the School Director from taking steps to protect students and/or the school community, as well as providing supportive measures to the complainant or other students.

F. Records

Records will be maintained as required by School's Non-Title IX Prohibition Against Discrimination, Harassment, and Bullying Policy.

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