

Infinity Charter School

**SECTION: BOARD POLICIES &
PROCEDURES**

**TITLE: Educational Equity and Non-
Discrimination in School and
Classroom Practices**

APPROVED: September 8, 2020

REVISED:

No. 104 - Educational Equity and Non-Discrimination in School and Classroom Practices

I. Title IX – Generally

Title IX of the Education Amendments of 1972, 20 U.S.C. §1681 *et seq.* (“Title IX”), protects students from discrimination based on sex in educational programs or activities that receive federal financial assistance. Title IX states: “No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity operated by a recipient which receives Federal financial assistance.”

Title IX and its regulations, 34 C.F.R. Chapter 106, require Infinity Charter School (“Charter School”) not to discriminate on the basis of sex in its educational program or activities. The Charter School does not discriminate in this manner. The requirement not to discriminate in the Charter School’s education program or activities extends to admission and to employment.

Inquiries regarding the application of Title IX and its regulations, 34 C.F.R. Chapter 106, to the Charter School may be referred to the Charter School’s Title IX Coordinator, to the Assistant Secretary at the U.S. Department of Education, or both.

II. Educational Equity and Non-Discrimination in School and Classroom Practices

A. Purpose

The purpose of this policy is to ensure that equitable opportunities are provided for all students.

B. Authority

The Charter School’s Board of Trustees (“Board”) adopts this policy to provide equitable opportunities for all students to achieve their maximum potential through the programs offered in the Charter School regardless of actual or perceived race, color, age,

creed, religion, gender, sexual orientation, gender identity, gender expression, ancestry, national origin, or disability.

C. Definition

Educational equity - Ensuring systems are in place that promote fairness and access for all students to achieve their maximum potential.

D. Delegation of Responsibility

The CEO or his or her designee shall be responsible for ensuring the implementation of this Policy. Further, the Board designates the Director/CEO as the Charter School's Title IX Coordinator.

Title IX Coordinator
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The Title IX Coordinator shall publish and disseminate this policy and applicable grievance processes and procedures referenced below at least annually to students, parents, employees and the public. Nondiscrimination statements shall include the position, office address and telephone number of the Title IX Coordinator.

E. Guidelines

1. Cultivating a Climate of Educational Equity

- a. The Charter School is committed to the success of every student and to achieving our vision of ensuring all students achieve success with equitable opportunities. We believe the responsibility for student success is broadly shared by the Charter School's administrators, faculty, families and the community. The Charter School is committed to sustaining a learning community that provides equitable opportunities for all students. Additionally, we believe it is the right of every student to have an equitable educational experience within the Charter School.
- b. The concept of educational equity requires each student receives what they need to succeed. Educational equity benefits all students, and our entire community. Strategies to achieve this shall include the following:
 - i. providing every student with equitable access to a high-quality curriculum, instruction, facilities and other educational resources, differentiating resource allocation as needed;
 - ii. establishing policies which support the promotion of equity;

- iii. establishing recruitment and retention strategies to promote diversity in the Charter School workforce;
- iv. creating a welcoming culture and inclusive environment;

- v. partnering with families and the community as sources of expertise in promoting an inclusive educational system;
- vi. providing multiple pathways to success to meet the needs of our diverse student body;
- vii. providing training and professional development in cultural proficiency; and
- viii. providing instructional materials and assessments that reflect diverse cultural perspectives.

The CEO, as part of the annual report to the Board, shall address the progress achieved in cultivating a climate of educational equity.

The Charter School shall provide to all students, without discrimination, course offerings, counseling, assistance, employment, athletics and extracurricular activities.

The Board encourages students and third parties who have been subject to discrimination to promptly report such incidents to its employees.

The Board directs that complaints of discrimination shall be investigated promptly, and corrective action be taken when allegations are substantiated. Confidentiality of all parties shall be maintained, consistent with the Charter School's legal and investigative obligations.

No reprisals nor retaliation shall occur as a result of good faith charges of discrimination.

III. Prohibited Harassment/Sexual Harassment

A. Purpose

In order to maintain a working environment that promotes self-worth and respect for the dignity and worth of others, it is the policy of the Charter School to prohibit sexual and other forms of harassment based on membership in designated classifications identified below (referred to as "Prohibited Harassment" and more specifically defined below), to provide education about the problem of Prohibited Harassment, and to provide guidelines for a prompt and appropriate response to allegations of Prohibited Harassment, as well as guidelines for a prompt and appropriate remedy of any instance of Prohibited Harassment. This policy applies to all students, to all Charter School employees, to all Charter School Board Members, and to all Charter School contractors and consultants, and to all Charter School volunteers (collectively, "members of school community").

This policy only applies to behavior defined specifically as Prohibited Harassment; other policies may apply to other forms of behavior.

B. Definitions

1. “Prohibited Harassment” means verbal, written, graphic or physical conduct relating to an actual or perceived race, color, age, creed, religion, gender, sexual orientation, gender identity, gender expression, ancestry, national origin, or disability when such conduct:
 - a. Is sufficiently severe, persistent or pervasive that it affects an individual’s performance or creates an intimidating, threatening or abusive working environment; and/or,
 - b. Has the purpose or effect of unreasonably interfering with an individual’s performance; and/or,
 - c. Adversely affects an individual’s employment opportunities or other Charter School-related responsibilities.

The term Prohibited Harassment includes but is not limited to slurs, jokes, bullying, hazing or other verbal, graphic or physical conduct relating to an individual’s handicap/disability, race, color, age, creed, religion, sex, sexual orientation, gender identity, gender expression, ethnicity or national origin.

“Sexual harassment” is one specific form of Prohibited Harassment and refers to conduct on the basis of sex that satisfies one or more of the following:

1. An employee of the Charter School conditioning the provision of an aid, benefit, or service of the Charter School on an individual’s participation in unwelcome sexual conduct;
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 Charter School’s education program or activity; or
3. “Sexual assault” as defined in 20 U.S.C. §1092(f)(6)(A)(v), “dating violence” as defined in 34 U.S.C. §12291(a)(10), “domestic violence” as defined in 34 U.S.C. §12291(a)(8), or “stalking” as defined in 34 U.S.C. §12291(a)(30).

C. Prohibitions and Guidelines

Prohibited Harassment is unacceptable conduct in the educational and work environment and is prohibited. It is a violation of this policy for any Charter School employee or another member of the school community to harass a Charter School student, employee, or another member of the school community.

D. Retaliation Prohibited

Retaliation against an individual who files a good faith complaint in accordance with either the formal or informal procedures, or against an individual who participates in or cooperates with an investigation, is prohibited. Such retaliation can result in the same disciplinary action applicable to one who engages in harassment. However, the exercise of rights protected under the First Amendment does not constitute prohibited retaliation. Reporting harassment will not affect the reporting individual's status with respect to either an employee's future employment or work assignments or a student's future academic opportunity, progress or record.

E. Intentionally False Accusations Prohibited

False accusations of harassment can have serious effects on innocent men and women, boys and girls. Therefore, it is prohibited to intentionally falsely accuse an individual of harassment. Such intentionally false accusations will result in disciplinary action.

F. Procedures for Reporting and Investigating Prohibited Harassment

1. The Board shall report the circumstances of Prohibited Harassment to law enforcement officials and the district attorney's office as required by law. The CEO will conduct an independent investigation and recommend disciplinary action as appropriate.
2. The Board directs that complaints of Prohibited Harassment shall be investigated promptly pursuant to the applicable complaint procedure referenced below and corrective action shall be taken when allegations are verified.
3. The Charter School shall inform students, staff, parents, independent contractors and volunteers that Prohibited Harassment of students will not be tolerated, by a variety of methods including publication in handbooks and presentations to students and staff when appropriate.
4. Each staff member shall maintain an educational environment free from all forms of Prohibited Harassment.

5. Each student shall respect the rights of other students with the goal of creating and maintaining an atmosphere free from all forms of Prohibited Harassment. Students shall be informed that they may choose to report Prohibited Harassment complaints to the building principal, teachers, counselors, nurses, administrators or other trusted adult employee. All employees should be trained to refer complaints of Prohibited Harassment to the principal or other designated employees.

IV. Grievance Process

A. Upon receipt of a complaint, the Title IX Coordinator will promptly contact the complainant to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint.

1. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed.
 - a. Such measures are designed to restore or preserve equal access to the Charter School's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the Charter School's educational environment, or deter sexual harassment.
 - b. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.
 - c. The Charter School is required to maintain as confidential any supportive measures provided to the complainant or respondent, to the extent maintaining such confidentiality would not impair the ability of the recipient to provide the supportive measures.

2. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.
- B.** The Charter School will treat complainants and respondents equitably by providing remedies to a complainant where a determination of responsibility for sexual harassment has been made against the respondent consistent with Title IX regulations, before the imposition of any disciplinary sanctions against a respondent.
 - C.** The Charter School shall undertake an objective evaluation of all relevant evidence, including both inculpatory and exculpatory evidence. The Charter School may not base credibility determinations on a person's status as a complainant, respondent, or witness.
 - D.** The Title IX Coordinator, investigator, decision-maker, or any person designated by the Charter School to facilitate an informal resolution process, shall not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.
 - E.** The Charter School presumes the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.
 - F.** The Charter School shall conclude the grievance process within a reasonable period, including acting with reasonable promptness for filing and resolving appeals and informal resolution processes. The Charter School shall allow for temporary delay of the grievance process or the limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.
 - G.** The range of possible disciplinary sanctions and remedies the Charter School may implement following any determination of responsibility is disciplinary action, up to and including suspension or expulsion.
 - H.** The standard of evidence to be used to determine responsibility is a preponderance of the evidence standard, which shall apply to formal complaints against students as well as employees, including faculty.
 - I.** The Charter School shall not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a

legally recognized privilege, unless the person holding such privilege has waived the privilege.

J. Resolution

1. The Charter School may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment consistent with this section.
2. The Charter School may not require the parties to participate in an informal resolution process under this section and may not offer an informal resolution process unless a formal complaint is filed. However, at any time prior to reaching a determination regarding responsibility, the Charter School may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, if the Charter School:
 - a. provides the parties with written notice disclosing: the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;
 - b. obtains the parties' voluntary, written consent to the informal resolution process; and
 - c. does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.
3. Upon receipt of a formal complaint, the Charter School must provide the following written notice to the parties who are known:
 - a. notice of the Charter School's grievance process, including any informal resolution process;
 - b. notice of the allegations of sexual harassment potentially constituting sexual harassment, including sufficient details known at the time and with sufficient time to prepare a response before

any initial interview (sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident, if known);

- c. a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;
 - d. notice that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence;
 - e. notice that the Charter School's code of conduct prohibits knowingly making false statements or knowingly submitting false information during the grievance process.
4. If, in the course of an investigation, the Charter School decides to investigate allegations about the complainant or respondent that are not included in the notice, the Charter School will provide notice of the additional allegations to the parties whose identities are known.
5. If the conduct alleged in the formal complaint would not constitute sexual harassment, even if proved, did not occur in the Charter School's education program or activity, or did not occur against a person in the United States, the Charter School must dismiss the formal complaint with regard to that conduct for purposes of sexual harassment under Title IX and its regulations; such a dismissal does not preclude action under another provision of the Charter School's code of conduct.
6. The Charter School may dismiss the formal complaint or any allegations therein, if at any time during the investigation or hearing:
- a. a complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein;
 - b. the respondent is no longer enrolled or employed by the Charter School; or
 - c. specific circumstances prevent the Charter School from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon a dismissal required or permitted pursuant to these provisions, the Charter School will promptly send written notice of the dismissal and reason(s) therefore simultaneously to the parties.

7. The Charter School may consolidate formal complaints as to allegations of sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances.
8. When investigating a formal complaint and throughout the grievance process, the Charter School must:
 - a. ensure the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the Charter School and not on the parties;
 - b. not access, consider, disclose, or otherwise use a party's records that are 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 Charter School obtains that party's voluntary, written consent to do so for a grievance process under this section;
 - c. provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence;
 - d. not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence;
 - e. provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the complainant or respondent in any meeting or grievance proceeding; however, the Charter School may establish restrictions regarding the extent to which the advisor may participate in the

proceedings, as long as the restrictions apply equally to both parties;

- f. provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate;
- g. 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, including the evidence upon which the Charter School does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so each party can meaningfully respond to the evidence prior to conclusion of the investigation
- h. prior to completion of the investigative report, the Charter School must send each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least 10 days to submit a written response, which the investigator will consider prior to completion of the investigative report; the Charter School must make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination; and
- i. create an investigative report that fairly summarizes relevant evidence and, at least 10 days prior to a hearing or other time of determination regarding responsibility, send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response.

9. The Charter School is permitted, but not required, to conduct a live hearing.

- a. With or without a hearing, after the Charter School has sent the investigative report to the parties and before reaching a determination regarding responsibility, the decision-maker(s) must afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party;

- b. With or without a hearing, questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. The decision-maker(s) must explain to the party proposing the questions any decision to exclude a question as not relevant.

V. Determination regarding responsibility

- A. 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 based on the preponderance of the evidence standard. The written determination must include—
 - i. identification of the allegations potentially constituting sexual harassment;
 - ii. description of the procedural steps taken by the Charter School from the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
 - iii. findings of fact supporting the determination;
 - iv. conclusions regarding the application of the Charter School's code of conduct to the facts; and
 - v. a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the Charter School imposes on the respondent, and whether remedies designed to restore or preserve equal access to the Charter School's education program or activity will be provided by the recipient to the complainant; and
 - vi. the Charter School's procedures and permissible bases for the complainant and respondent to appeal.

1. the Charter School must provide the written determination to the parties simultaneously; the determination regarding responsibility becomes final either on the date the Charter School provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely;
2. the Title IX Coordinator is responsible for effective implementation of any remedies.

VI. Appeals

A. Both parties have the right to appeal from a determination regarding responsibility, and from a Charter School's dismissal of a formal complaint or any allegations therein, on the following bases:

- i. procedural irregularity that affected the outcome of the matter;
- ii. new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
- iii. the Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.
- iv. additional bases as determined by the Charter School

B. As to all appeals, the Charter School will:

1. notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
2. ensure the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator;
3. ensure the decision-maker(s) for the appeal does not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent;

4. give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
5. issue a written decision describing the result of the appeal and the rationale for the result; and
6. provide the written decision simultaneously to both parties.

VII. Confidentiality

In all phases of the resolution process, the Charter School will make every reasonable effort to maintain the confidentiality and protect the privacy of all parties, consistent with the Charter School's responsibility to investigate and address such complaints.

VIII. Employees and Agents

- A. A substantiated charge against a Charter School employee or agent will subject such employee or agent to disciplinary action, up to and including discharge.
- B. Supervisors who either condone or fail to act to correct Prohibited Harassment brought to their attention also may be subject to disciplinary action.
- C. Staff members who become aware of Prohibited Harassment involving a student and fail to report the complaint to the building principal will be subject to disciplinary action.

IX. Students

- A. A substantiated charge against a student shall subject such student to disciplinary action, up to and including suspension or expulsion.
- B. The CEO is responsible for implementing this policy. Implementation will include, but is not limited to, the following activities:

1. Education

- a. The CEO or his or her designee will plan and implement appropriate programs to educate staff and students about Prohibited Harassment, and about this policy and its procedures.

- b. Programs for staff will include mandatory training seminars or in-service programs which will reach all professional and support staff.
- c. Programs for students will be age appropriate.

2. Communication

The CEO or his or her designee will implement a plan to communicate the policy and written procedures to students, parents or guardians and Charter School employees and agents. Information about Prohibited Harassment and this policy shall be distributed with such frequency and in such a form as to ensure that all students and Charter School employees and agents are aware of the various forms that Prohibited Harassment can take, the Charter School's prohibition of Prohibited Harassment, and the procedures that are available to enforce the policy.

X. Grievance Procedure

A. Purpose

The Board recognizes that students have the right to request redress of complaints. In addition, the Board believes that the inculcation of respect for established procedures is an important part of the educational process. Accordingly, individual and group complaints shall be recognized, and appropriate appeal procedures shall be provided.

B. Definition

For purposes of this policy, a student complaint shall be one that relates to the Charter School's policies, procedures, or practices. The Charter School will utilize the procedure contained in this section for receiving and responding to complaints of unlawful discrimination that are: (1) Title IX complaints other than formal complaints of Title IX sexual harassment; (2) based on protected classes other than sex; or (3) based on nondiscrimination laws other than Title IX.

C. Authority

The Board and its employees will recognize the complaints of students, provided that such complaints are submitted according to the guidelines established by Board policy.

There shall be no reprisals of any kind against any students or their representatives because of participation in a complaint or support thereof, and under no circumstances will the procedure constitute a reflection on the records of the complainant

D. Guidelines

The student should first make the complaint known to the staff member most closely involved or, if none is identifiable, a guidance counselor; and both shall attempt to resolve the issue informally and directly.

For complaints that must proceed beyond the first step, the student shall prepare a written statement of his or her complaint which shall set forth:

1. The specific nature of the complaint and a brief statement of relevant facts.
2. The manner and extent to which the student believes he or she has been adversely affected.
3. The relief sought by the student.
4. The reasons why the student feels entitled to the relief sought.

The complaint may then be submitted, in turn, to the building principal, the CEO and the Board, within a reasonable time period, allowed at each level for hearing of the complaint and preparation of a response.

At each level the student shall be afforded the opportunity to be heard personally by the Charter School.

At each step beyond the first, the Charter School may call in the student's parent/guardian.

The student may seek the help of a parent/guardian at any step.