

## **1224: Title IX Policy**

### **I. INTRODUCTION AND PURPOSE**

Providence Creek Academy Charter School (“PCA”) is committed to providing a safe, respectful and supportive learning and working environment, free from Sex Discrimination, in which all members of the PCA community can thrive and succeed.

PCA has adopted this Title IX Policy (the “**Policy**”) in order to advance its goal of maintaining an environment free from Sex Discrimination, including Sex-Based Harassment, as well as related Retaliation. PCA encourages individuals who have been affected by Sex Discrimination and/or Retaliation to promptly make a Report to PCA using any of the reporting options described in this Policy. PCA will respond promptly and equitably to all Reports or Complaints of Sex Discrimination and/or Retaliation, and will take appropriate steps to eliminate the behavior, prevent its recurrence, and address its effects.

PCA reserves the right to modify this Policy at any time to take into account changes to applicable local, state, and federal laws, rules, and regulations and/or directives from relevant government agencies. Information on changes, updates, or amendments to this Policy will be provided to Students, parents/guardians, and employees at the start of each school year or from time-to-time as needed.

### **II. SCOPE**

The behavioral expectations of this Policy apply to all PCA Students, employees (including faculty, staff, and employees working pursuant to Collective Bargaining Agreements), trustees, officers, Applicants for admission or employment, volunteers, independent contractors, and other individuals participating or attempting to participate in PCA’s Education Program or Activity. The behavioral expectations of this Policy apply to any alleged Prohibited Conduct that impacts the PCA community and/or PCA’s Education Program or Activity wherever it occurs, including on campus, off campus, and online.

### **III. EFFECTIVE DATE**

This Policy became effective on August 1, 2024. PCA has revised its policies pertaining to Sex Discrimination on several occasions. When a Complaint of past Sex Discrimination is made, PCA will typically apply the Sex Discrimination policy and procedures in place at the time of the alleged Prohibited Conduct. Final decisions regarding which policy and procedures will apply in any specific case are made by the Title IX Coordinator in their discretion and are not appealable.

### **IV. NOTICE OF NON-DISCRIMINATION**

PCA does not discriminate, nor does it permit discrimination, on the basis of sex, including discrimination on the basis of sex stereotypes, sex characteristics, sexual orientation, or gender identity; Parental, Family, or Marital Status; or Pregnancy or Related Conditions in its Education

Program or Activity, including with respect to Applications for enrollment and/or employment. PCA has adopted Grievance Procedures, set forth in this Policy, which provide for the prompt and equitable resolution of Complaints alleging any action which would be prohibited by this Policy or by Title IX of the Education Amendments of 1972 (“**Title IX**”), which provides:

No person in the United States shall, on the basis of 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.

Sex Discrimination is also prohibited by Title VII of the Civil Rights Act of 1964 and state law.

## **V. ROLE OF THE TITLE IX COORDINATOR**

PCA has appointed a Title IX Coordinator to coordinate its compliance with Title IX. Any individual may make a Report of Sex Discrimination, including Sex-Based Harassment, to the Title IX Coordinator. In this Policy, when the term “Title IX Coordinator” is used, it should be understood to include any of the Title IX Coordinator’s designees. The Title IX Coordinator may delegate authority under this Policy to one or more designees, while retaining ultimate oversight over the responsibilities of the Title IX Coordinator role. The responsibilities of the Title IX Coordinator include:

- Taking prompt and effective steps to ensure Sex Discrimination does not continue or recur, and to remedy its effects;
- Monitoring PCA’s Education Program or Activity for barriers to reporting conduct that may constitute Sex Discrimination, and taking steps reasonably calculated to address such barriers;
- Facilitating the provision of a non-discriminatory environment and equal access to individuals experiencing Pregnancy or Related Conditions; and
- When notified of conduct that reasonably may constitute Sex Discrimination:
  - Treating Complainants and Respondents equitably;
  - Offering and coordinating Supportive Measures for the Complainant and, if an Informal Resolution Process or Grievance Procedures are pending, the Respondent;
  - Notifying Complainants or, if different, individuals making Reports, of the Informal Resolution Process and Grievance Procedures, as available and appropriate;
  - Notifying the Respondent of the Informal Resolution Process and Grievance Procedures, as available and appropriate, if a Complaint is made;

- In the event of a Complaint, initiating the Grievance Procedures or, if available and appropriate and requested by all Parties, the Informal Resolution Process; and
- In the absence of a Complaint made by a Complainant, or in the event of the withdrawal of any or all of the allegations in a Complaint, determining whether to initiate a Complaint.

## VI. DEFINITIONS

### A. Prohibited Conduct.

PCA prohibits Sex Discrimination against any member of the PCA community. The following behaviors constitute **Prohibited Conduct** under this Policy.

- **Sex Discrimination.** Subjecting an individual or group to an adverse action—including differential treatment—based on sex, including sex stereotypes, sex characteristics, sexual orientation, and/or gender identity; Parental, Family, or Marital Status; and/or Pregnancy or Related Conditions. Sex-Based Harassment, including Sexual Assault, Dating Violence, Domestic Violence, and Stalking, is a form of Sex Discrimination, but is separately defined under this Policy.
- **Sex-Based Harassment.** Harassment based on sex, including sex stereotypes, sex characteristics, sexual orientation, gender identity, and/or Pregnancy or Related Conditions, that falls into one or more of the following categories:
  - **Quid Pro Quo.** An employee, agent, or other person authorized by PCA to provide an aid, benefit, or service under PCA’s Education Program or Activity explicitly or implicitly conditioning the provision of such an aid, benefit, or service on a person’s participation in unwelcome sexual conduct. It does not matter whether or not the person submits.
  - **Hostile Environment.** Unwelcome sex-based conduct that is sufficiently severe or pervasive that, based on the totality of the circumstances and evaluated subjectively and objectively, the conduct denies or limits a person’s ability to participate in or benefit from PCA’s Education Program or Activity. Determining whether conduct has created a hostile environment is a fact-specific inquiry that may include many factors such as, but not limited to: the degree to which the conduct affected the Complainant’s ability to access PCA’s Education Program or Activity; the type, frequency, and duration of the conduct; the Parties’ ages, roles, previous interactions, and other factors about each Party that may be Relevant to evaluating the effects of the alleged unwelcome conduct; the location and context in which the conduct occurred; and other Sex-Based Harassment in PCA’s Education Program or Activity.

- **Sexual Assault, Dating Violence, Domestic Violence, Stalking.** Sexual Assault, Dating Violence, Domestic Violence, and Stalking are forms of Sex-Based Harassment, just as Sex-Based Harassment is a form of Sex Discrimination. These types of Prohibited Conduct are separately defined below:
  - **Sexual Assault.** Any sexual act directed against another person, without the Consent of the victim, including instances where the victim is incapable of giving Consent (such as incapacitation, age, family relation to the other party, or intellectual or other disability). Sexual Assault can be committed by or against individuals of any sex or gender and can occur between individuals of the same sex/gender or different sexes/genders. Sexual Assault includes:
    - Sexual intercourse with another person, including oral or anal sexual intercourse, or the use of an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without Consent of the victim, including instances where the victim is incapable of giving Consent because of their age or because of their temporary or permanent mental or physical incapacity;
    - Touching of the private body parts of another person for the purpose of sexual gratification, without the Consent of the victim, including instances where the victim is incapable of giving Consent because of their age or because of their temporary or permanent mental or physical incapacity;
    - Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law; or
    - Sexual intercourse with a person who is under the statutory age of Consent.
  - **Dating Violence.** Violence committed by a person:
    - Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
    - Where the existence of such a relationship shall be determined based on a consideration of the following factors: length of relationship, type of relationship, and frequency of interaction between the persons involved.
  - **Domestic Violence.** Includes felony or misdemeanor crimes of violence committed by: a current or former spouse or intimate partner of the victim; by a person with whom the victim shares a child in common; by a person

who is co-habiting with or has co-habited with the victim as a spouse or intimate partner; by a person similarly situated to a spouse of the victim under Delaware domestic or family violence laws; or by any other person against an adult or youth victim who is protected from that person's acts under Delaware domestic or family violence laws.

- **Stalking.** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
  - Fear for their safety or the safety of others; or
  - Suffer substantial emotional distress.

Stalking includes the concept of cyberstalking, in which electronic media such as the Internet, social networks, blogs, cell phones, texts, email, or other similar devices or forms of contact are used to pursue, harass, or to make unwelcome contact with another person in an unsolicited fashion. Stalking must be sex-based to fall within the scope of this Policy.

- **Sexual Exploitation.** Any taking non-consensual or abusive sexual advantage of another person for the benefit of anyone other than the person being taken advantage of, when not otherwise addressed by the definitions of Sex-Based Harassment under this Policy. This may include, but is not limited to: observing a person in a state of undress or engaging in sexual activity without their knowledge and consent (“voyeurism”); taking or disseminating photographs or audio, video, or audiovisual recordings, including “livestreaming,” of another person in a state of undress or engaging in sexual activity without their knowledge and consent; disseminating intimate images taken or received consensually but regarding which consent to share or distribute, including by online “posting,” was not given; prostituting another person; dishonesty or deception regarding the use of condoms (including internal (“female”) condoms) during sexual activity (often referred to as “stealth”); and/or threatening to disseminate intimate images in order to force a person to take or refrain from taking any non-sexual action.
- **Retaliation.** Any intimidation, threats, coercion, or discrimination directed at an individual by PCA, a Student or employee of PCA, or any other person authorized by PCA to provide aid, benefits, or services as part of PCA’s Education Program or Activity, for the purpose of interfering with that individual’s right(s) under this Policy, or because the individual has made a Report or Complaint under this Policy; made a report or complaint to an external agency or to law enforcement; or participated or refused to participate in any investigation, adjudication, or other proceeding under this Policy, including an Informal Resolution Process or the Grievance Procedures.

Retaliation includes Peer Retaliation, but also Retaliation by a Student against an employee, or by an employee against a Student, as well as by an employee against another employee of more or less senior role. An individual need not be a Complainant or Respondent to have committed or been affected by Retaliation.

**It is not Retaliation for PCA to require an employee, or other person authorized by PCA to provide aid, benefits, or services as part of PCA's Education Program or Activity, to participate as a witness in, or otherwise assist with, any investigation or adjudication under this Policy.**

B. Other Definitions.

- **Applicant.** A person applying for admission as a Student or other participant in PCA's Education Program or Activity and/or who is applying for employment at PCA.
- **Advisor.** Any individual who has been chosen by a Complainant or Respondent or designated by PCA to provide support and guidance during the Grievance Procedures.
- **Appeal Officer.** An individual, who will be impartial and free from demonstrated bias, including bias for or against Complainants or Respondents generally or the Parties in a particular matter, and free from any actual conflict of interest, and will disclose any real or reasonably perceived biases or conflicts of interest to the Title IX Coordinator as soon as such conflicts or biases are discovered by the Appeal Officer, who will decide appeals brought under this Policy. The Appeal Officer will be trained under this Policy. The Appeal Officer will not serve as the Investigator, Title IX Coordinator, or Decision-Maker in the same matter
- **Complainant.** Any individual who has reported being or is alleged to be the victim of conduct that could constitute Sex Discrimination.
- **Complaint.** An oral or written request that objectively can be understood as a request for investigation and adjudication of alleged Sex Discrimination. It is the policy of PCA to confirm a Complainant's request in writing prior to initiating the Grievance Procedures. A Complaint can be made by a Complainant<sup>1</sup> or the Title IX Coordinator, subject to the following: A Complainant must have been enrolled, employed, or otherwise participating or attempting to participate in PCA's Education Program or Activity at the time the alleged Sex Discrimination occurred in order to file a Complaint under this Policy, although the Complainant need not be enrolled, employed, or otherwise participating or attempting to participate in PCA's Education Program or Activity at the time the Complaint is made.
- **Consent.** Exists when all parties exchange mutually understandable affirmative words or actions indicating their agreement to participate voluntarily in sexual activity. Consent must be informed, voluntary, and actively given. Resistance by the Complainant is not required.

---

<sup>1</sup> A Complaint may also be brought by a parent, guardian, or other authorized legal representative with the legal right to act on behalf of a Complainant, where applicable.

Consent does not exist if a sexual act was by forcible compulsion, which is the use of physical, intellectual, moral, emotional, or psychological force. Consent does not exist if a person is threatened, unconscious, incapacitated due to the influence of drugs and/or alcohol, or suffers from a mental disability that makes them incapable of giving consent. Consent may be withdrawn by either party at any time. Once withdrawal of Consent has been expressed through words or actions, sexual activity must cease. Delaware defines the age of Consent as age sixteen (16) or above. Children under age twelve (12) cannot Consent to sexual activity. Children between the ages of twelve (12) and fifteen (15) cannot Consent to sexual activity with a person four (4) or more years older than them. Minors aged sixteen (16) or older can legally Consent to sexual activity, as long as the other person does not have authority over them as defined in 11 *Del. C.* § 778.

- **Day.** A business day when PCA is open.
- **Decision-Maker.** A person(s), who will be impartial and free from demonstrated bias, including bias for or against Complainants or Respondents generally or the Parties in a particular matter, and free from any actual conflict of interest, and will disclose any real or reasonably perceived biases or conflicts of interest to the Title IX Coordinator as soon as such conflicts or biases are discovered, assigned by the Title IX Coordinator to: conduct a fair and impartial review of all Relevant evidence to make a determination regarding whether a violation of this Policy occurred. Decision-maker(s) will be trained under this Policy.
- **Disability.** A disability as defined by the Rehabilitation Act of 1973.
- **Education Program or Activity.** Conduct that occurs in PCA's Education Program or Activity includes all conduct subject to PCA's disciplinary authority and which occurred in the United States, including on-campus or, if applicable, in buildings owned or controlled by a student organization officially recognized by PCA. PCA will address conduct contributing to a sex-based hostile environment even if the underlying conduct itself occurred outside PCA's Education Program or Activity, including if it occurred outside the United States. For the avoidance of doubt, this Policy applies to conduct occurring online (via computer and Internet networks or on digital platforms, including social media sites).
- **Grievance Procedures.** A formal resolution process to address reported conduct that may constitute Sex Discrimination in violation of this Policy that begins with the filing of a Complaint.
- **Informal Resolution Process.** A process conducted in lieu of Grievance Procedures after a Formal Complaint has been filed.
- **Investigative Report.** The Investigator's written report submitted to the Title IX Coordinator after the Investigation that fairly summarizes all Relevant evidence.
- **Investigator(s).** Individual(s), who will be impartial and free from demonstrated bias, including bias for or against Complainants or Respondents generally or the Parties in a

particular matter, and free from any actual conflict of interest, and will disclose any real or reasonably perceived biases or conflicts of interest to the Title IX Coordinator as soon as such conflicts or biases are discovered, assigned by the Title IX Coordinator to conduct a prompt, fair, and impartial Investigation into a Complaint. Investigators must be trained under this Policy.

- **Notice of Allegations.** Notice of the allegations in a Complaint potentially constituting Sex Discrimination, including sufficient known details and with sufficient time to prepare a response before any initial interview. Sufficient details include: (a) The identity of the Parties involved, if known; (b) The conduct allegedly constituting Sex Discrimination; and (c) Date(s) and location(s) of the alleged incident(s), if known.
- **Parental, Family, or Marital Status.**
  - Parental Status refers to the status of a person who, with respect to another person under the age of 18, or who is 18 or older but incapable of self-care because of a physical or mental disability, is: a biological parent; adoptive parent; foster parent; stepparent; legal custodian or guardian; in loco parentis; or actively seeking legal custody, guardianship, visitation, or adoption.
  - Family Status refers to the configuration of a person's family or their role in a family.
  - Marital Status refers to whether or not a person is married.

Discrimination based on these statuses must be sex-based in order to constitute Sex Discrimination (such as treating married women more or less favorably than married men, treating an unmarried mother more or less favorably than a married mother based on sex stereotypes, or treating a man who is married to a man more or less favorably than a woman who is married to a man).

- **Party.** The Complainant or Respondent (collectively, the Parties).
- **Peer Retaliation.** Retaliation by a Student against another Student.
- **Pregnancy or Related Conditions.** Pregnancy, childbirth, termination of pregnancy, or lactation, including related medical conditions and/or recovery.
- **Relevant.** Related to the allegations of Sex Discrimination at issue and whether or not the alleged Sex Discrimination occurred. Questions are Relevant if they may aid in showing whether the alleged Prohibited Conduct occurred, and evidence is Relevant if it may aid a decisionmaker in determining whether the alleged Prohibited Conduct occurred. The following evidence is impermissible (and not Relevant) even if it would otherwise be considered Relevant:



- evidence protected under a privilege recognized by federal or state law, unless the person holding the privilege has waived it voluntarily;
- records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to a Party or witness, unless the person has voluntarily consented, in writing, to the use of such records in the Grievance Procedures; and/or
- evidence and questions about the Complainant's sexual interests or prior sexual conduct, unless:
  - offered to prove someone other than the Respondent committed the conduct alleged, or
  - they concern specific incidents of prior sexual activity with the Respondent and are offered to prove Consent.

Such impermissible evidence will not be accessed, considered, disclosed, or used, except to determine whether one of the preceding exceptions applies.

- **Remedies.** Measures provided, as appropriate, to a Complainant or other person whose equal access to PCA's Education Program and/or Activity was determined to have been limited or denied by Sex Discrimination, in order to restore or preserve that person's access to PCA's Education Program or Activity.
- **Report.** Any notice to the Title IX Coordinator of conduct that may constitute Sex Discrimination. A Report may come from any individual, not just a Complainant. Not every Report is or will result in a Complaint.
- **Reporting Adult.** Any PCA employee who has notice that a PCA Student or employee has been subject to conduct that may constitute Sexual Harassment.
- **Respondent.** A person who is alleged to have violated PCA's prohibition on Sex Discrimination. In the event a Complaint alleges a PCA policy or practice discriminates on the basis of sex, PCA is not considered a Respondent. In such cases, PCA will follow this Policy, including the Grievance Procedures, although PCA will, necessarily, not be entitled to certain procedural rights and steps afforded to individual Respondents. In the event a Complaint against an individual Respondent is based on actions the Respondent took in accordance with a PCA policy or practice, the Complaint may, in PCA's sole discretion, be amended to substitute PCA as Respondent. This determination will be made after a consideration of factors including, but not limited to, whether the individual was, in fact, following the PCA policy or practice; what actions the individual took; and whether the individual could be subject to Disciplinary Sanctions.

- **Sanctions.** Consequences imposed on a Respondent following a determination that the Respondent violated PCA's prohibition of Sex Discrimination.
- **Standard of Proof.** A preponderance of the evidence, meaning it is more likely than not, based on all Relevant evidence, the Respondent engaged in the Prohibited Conduct alleged.
- **Student.** A person who has gained admission to PCA. Parents and guardians may act on behalf of Students under the age of 18 for all purposes under this Policy, regardless of whether their child is a Complainant, Respondent, or other individual involved in any processes described herein.
- **Student Employee.** A person who is both a Student and an employee of PCA.
- **Supportive Measures.** 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. Such measures shall be designed to restore or preserve equal access to PCA's Education Program or Activity without unreasonably burdening the other Party, and includes measures designed to protect the parties' safety or the safety of the educational environment, or to deter Sex Discrimination. PCA will take into account the Complainant's wishes with respect to Supportive Measures. Examples of supportive measures may include but are not limited to:
  - Counseling;
  - Extensions of deadlines or other course-related adjustments;
  - Modifications of work or class schedules;
  - Campus escort services;
  - Leaves of absence;
  - Increased security or monitoring of certain parts of campus; and/or
  - Mutual restrictions on contact between individuals.
- **Title IX Coordinator.** PCA's Title IX Coordinator is:

**Rachael Straightiff**  
**Human Resources Coordinator**  
[Rachael.Straightiff@pca.k12.de.us](mailto:Rachael.Straightiff@pca.k12.de.us)  
 302-653-6276 ext. 1007

The Title IX Coordinator's contact information will be posted on PCA's website and provided to Applicants, parents or legal guardians of PCA Students, and unions (as applicable).

## **VII. REPORTING PROHIBITED CONDUCT**

The Title IX Coordinator is available to receive Reports or Complaints about conduct that may constitute Sex Discrimination. The Title IX Coordinator is also available to meet with any individual, including a Complainant, Respondent, or third party, to provide information, on- and off-campus resources, and various procedural options.

***In the event of emergency situations and matters requiring immediate law enforcement assistance, please contact 911.***

Inquiries about the application of Title IX to PCA or questions regarding this Policy may be directed to the Title IX Coordinator, and may also be directed externally to the United States Department of Education's Office for Civil Rights ("OCR"), contact for which follows:

Office for Civil Rights ("OCR")  
U.S. Department of Education  
400 Maryland Avenue, SW Washington, D.C. 20202-1100  
Phone: (800) 421-3481  
Fax: (202) 453-6012  
TDD#: (877) 521-2172  
Email: OCR@ed.gov  
Web: <http://www.ed.gov/ocr>

## **VIII. PRIVACY & CONFIDENTIALITY**

### **A. Privacy Generally.**

Although often conflated, privacy and confidentiality are distinct terms with distinct meanings. Privacy refers to PCA's commitment to sharing information related to any Report, Complaint, Supportive Measures, Informal Resolution Process, or Grievance Procedures under this Policy only:

- With a person possessing a legal right to receive disclosures of information, or with prior written consent;
- When necessary to effectuate this Policy, or to otherwise address conduct which may reasonably constitute Sex Discrimination;
- As required by federal law or regulation, including by the terms and conditions of a federal award (e.g., a grant award or other funding agreement); and/or

- When required or permitted by State or local laws, rules, or regulations or the Family Educational Rights and Privacy Act (“FERPA”).

PCA also provides training to personnel regarding the safeguarding of private information, and instructs Parties and witnesses about PCA’s privacy-related expectations, and will take other reasonable steps to prevent and address the Parties’ and, if applicable, their Advisors’, unauthorized disclosure of information and evidence obtained solely through the Grievance Procedures (*see* “Privacy of Documents,” below).

In any process under this Policy, other than as provided for herein (for example, with respect to the privacy of documents, and with respect to PCA’s prohibition on Retaliation), PCA will not restrict the ability of either Party to discuss the allegations prompting a Report or Complaint, including for the purposes of obtaining and presenting evidence (such as by speaking to witnesses), consulting with family members, Confidential Employees, or advisors, or otherwise preparing for or participating in the Grievance Procedures.

#### B. Privacy of Documents.

In order to preserve the privacy of the Parties and witnesses, documents prepared in connection with an investigation and adjudication (including, but not limited to, Complaints; Notices of Allegations; draft and final Investigative Reports; Notices of Outcome; notices of Sanctions and/or Remedies; and any appeals-related documents), as well as audio and/or audiovisual recordings or transcripts made of any proceedings under this Policy, may not be disclosed by Parties or others acting on their behalf other than as provided for herein, and as may be required or authorized by law. Any violation of this provision may result in discipline.

#### C. Confidential Employees.

Confidential communications are those exchanged with individuals belonging to certain professions (such as healthcare providers, professional counselors, or pastoral counselors) which require maintaining the confidentiality of communications disclosed to the individual in the context of providing professional services. Such individuals cannot disclose the content of those communications, or records of same, to any third party without the disclosing individual’s prior written consent, or if permitted or required by law or relevant professional ethical obligations (such as “duty to warn”). These communications are privileged under federal or state law. PCA employs individuals who serve in such roles (“**Confidential Employees**”).

Confidential Employees are not required to notify the Title IX Coordinator when a person informs them of conduct that may constitute Sex Discrimination if that information is provided while the Confidential Employee is functioning within the scope of their duties to which confidentiality applies.

PCA has also identified some Confidential Employees whose roles do not, by nature, mandate confidentiality, but who PCA has determined are not required to notify the Title IX Coordinator when a person informs them of conduct that may constitute Sex Discrimination. This category

includes individuals designated to provide services to individuals in connection with Sex Discrimination, with respect to information disclosed in the course of providing those services. A list of those confidential employees follows: A licensed therapist /counselor/psychologist contracted by the individual disclosing a potential case of Sex Discrimination who is not working for the school at the time of the report. A Clayton Police Officer who is functioning in his role for the Clayton Police who takes a report who also may function as a contracted support person for the school but who is not actively working for the school during the time of the report.

Importantly, Confidential Employees still must, upon receipt of such information, explain that they are a Confidential Employee; provide contact information for the Title IX Coordinator; explain how to report Sex Discrimination; and inform the disclosing individual that the Title IX Coordinator may be able to offer and coordinate Supportive Measures, as well as initiate an Informal Resolution Process or the Grievance Procedures.

## **IX. PARTICIPATION IN ACTIVITIES BASED ON GENDER IDENTITY**

Under the limited circumstances in which Title IX permits different treatment or separation on the basis of sex (such as sex-related eligibility criteria for male and female athletic teams), individuals may be permitted to participate in a manner consistent with their gender identity, but failure to permit such participation does not constitute Sex Discrimination under Title IX or this Policy. Failure to permit participation consistent with gender identity under all other circumstances subjects an individual to more than de minimis harm and could constitute Sex Discrimination under Title IX and this Policy.

## **X. MANDATORY REPORTING**

Any PCA employee<sup>2</sup> who is not a Confidential Employee is a **Mandatory Reporter** and must notify the Title IX Coordinator upon receipt of information about conduct that may constitute Sex Discrimination.

A Mandatory Reporter need not have learned of reportable information from the individual allegedly affected by Prohibited Conduct for it to be reportable. A Mandatory Reporter must report information they received regardless of the manner of receipt, including through a third party. Mandatory Reporters are not permitted to make anonymous Reports in order to satisfy their obligations as a Mandatory Reporter. Mandatory Reporters must promptly report all known information. It is recommended that Mandatory Reporters be clear about their obligations before

---

<sup>2</sup> With respect to Student Employees, whether the individual is a Mandatory Reporter depends on the context in which the person learns of the alleged Prohibited Conduct. Mandatory Reporter responsibilities are triggered if the person learned of the alleged Prohibited Conduct in the context of an employee role, when they would, in that role, be considered a Mandatory Reporter. Mandatory Reporter responsibilities are not triggered if the person learned of the alleged Prohibited Conduct in the context of their receipt of an education as a Student at PCA.

an individual discloses sensitive information. Any questions regarding Mandatory Reporting responsibilities under this Policy should be directed to the Title IX Coordinator.

Disclosures at public awareness events held on campus or on an online platform sponsored by PCA will not prompt the Title IX Coordinator to take responsive action unless the information reveals an immediate and serious threat to the health or safety of a Complainant, any Students, employees, or other persons, or unless the individual affected by the alleged Prohibited Conduct clearly indicates they desire responsive action be taken. PCA will still use the information disclosed to inform its efforts to prevent Sex Discrimination.

Nothing in this Policy affects an individual's obligations to make reports under Delaware law, including of known or suspected child abuse or criminal acts. In all cases where a report is required by law or other PCA policy, the employee making the report shall simultaneously notify the PCA Head of School.

## **XI. REPORTING GENERALLY**

### **A. Anonymous Reporting.**

Except as set forth herein with respect to Mandatory Reporters, an individual may make an anonymous Report. This means they may report an incident without disclosing their name, for example, or withholding certain details, including, but not limited to, the identity of the Respondent. However, depending on the information available about a reported incident, PCA's ability to respond may be limited. This includes, but is not limited to, the likelihood that PCA will be able to pursue Grievance Procedures against the individual alleged to have engaged in Prohibited Conduct, as typically the identity of the Complainant must be disclosed to the Respondent. When a known Complainant wishes to remain anonymous, PCA will seek to respect the request of the Complainant, and where it cannot do so, will explain why.

### **B. Time Frame.**

There is no time limit on making a Report, but individuals are strongly encouraged to report incidents of alleged Prohibited Conduct as soon as possible. This will enhance PCA's ability to address the conduct at issue, including by extending Supportive Measures, and, if applicable, by conducting an investigation effectively, when Relevant evidence and witnesses are most available.

### **C. Amnesty.**

Individuals who were drinking alcohol or using drugs at the time an incident of alleged Prohibited Conduct occurs may be hesitant to make a Report or Complaint or participate as a Party or witness in an investigation due to concerns about being charged with disciplinary violations. In order to address those concerns, and encourage the prompt reporting of information related to known or suspected Sex Discrimination, PCA will generally not pursue disciplinary action for alcohol or drug offenses when information involving alcohol or drug use is revealed as part of a Report or

Complaint, or an investigation. However, PCA may require individuals to participate in educational interventions related to drugs and alcohol.

D. Presumption of Non-Responsibility.

A Respondent is presumed not responsible for alleged Prohibited Conduct unless and until the Respondent is determined to be responsible for a violation of this Policy at the conclusion of the Grievance Procedures.

E. Good Faith Reporting.

A determination that a Respondent was not responsible for a Policy violation does not, without more, establish that the Complainant or any other Party or witness has made a false allegation or statement in bad faith.

Deliberately false allegations and statements are, however, a violation of PCA policy and individuals, including witnesses, who knowingly make false allegations, provide false statements or evidence, tamper with or destroy evidence they were instructed to preserve or commit similar acts of dishonesty may be subject to disciplinary action.

F. Resources.

Information regarding campus resources could be found at the [Delaware and Health Social Services](#) website. For immediate assistance please call the 24/7 Behavioral Health Services for Kent/Sussex Counties: 800-345-6785.

## **XII. EXTERNAL COORDINATION.**

Complainants who wish to seek medical care and/or report to law enforcement are encouraged to do so.

A. Medical Care.

Medical care may address physical and mental health concerns, including those related to pregnancy and/or sexual transmitted infections. Medical providers may also be able to assist in the collection and preservation of evidence. The ability to collect and preserve evidence of Sexual Assault is limited in time (typically to a window of 72 hours), so it is essential that care be sought as soon as possible.

B. Law Enforcement.

Similarly, making a report to law enforcement does not generally obligate an individual to pursue a criminal complaint, or to participate in any processes contained in this Policy. An individual may choose to participate in the processes contained herein, an external criminal process, both, or neither. In the event that both criminal and disciplinary processes are at issue, PCA may comply

with law enforcement requests for temporary delays in the disciplinary process in order to permit law enforcement to gather evidence for a criminal investigation.

A criminal investigation into allegations of sexual harassment or sexual violence does not relieve PCA of its duty under Title IX to resolve complaints promptly and equitably.

### **XIII. PCA RESPONSE TO REPORTS**

#### **A. Generally.**

PCA will review and respond to all Reports. Upon receiving a Report, the Title IX Coordinator will promptly contact the Complainant to provide information, advise them of the availability of Supportive Measures and on- and off-campus resources, and discuss the procedural options available to the Complainant under this Policy, including the Informal Resolution Process and pursuing Grievance Procedures. PCA will also assess whether there are any immediate threats to health or safety that must be addressed.

Importantly, if the alleged conduct, if established, would not constitute a violation of this Policy, the Title IX Coordinator will inform the Complainant of any other resources and options available, which may include referring the matter for action under a separate policy. Similarly, in cases where the Respondent is not an PCA affiliate and the Grievance Procedures would not be available to the Complainant, the Title IX Coordinator will offer Supportive Measures and take other action as appropriate, if any, to address the behavior at issue.

At all times, PCA will treat Complainants and Respondents equitably.

#### **B. Response to Reports Involving Responsive Personnel.**

In the event of concerns pertaining to the conduct of the Title IX Coordinator or other individuals involved in PCA's response to Sex Discrimination, Reports and/or Complaints may be directed to the Head of School.

#### **C. Challenges to Responding Personnel for Bias or Conflict of Interest.**

If a Party has concerns about bias in favor of or against a specific Complainant or Respondent, bias in favor of or against Complainants or Respondents generally, or a potential conflict of interest which involves the Title IX Coordinator, facilitator of an Informal Resolution Process, Investigator, Decision-Maker, or Appeal Officer, the Party should direct those concerns to Head of School.

#### **D. Consolidation of Complaints.**

In cases in which allegations of Sex Discrimination, including Sex-Based Harassment, are connected to allegations of discrimination or harassment by the Respondent based on another protected category which would ordinarily be addressed by PCA's non-discrimination policies, or are connected to other alleged misconduct by the Respondent which would ordinarily be



addressed by [Student/Employee Handbook, Code of Conduct](#). PCA may, in its sole discretion, address all related conduct in a consolidated manner.

Similarly, PCA may, in its sole discretion, consolidate Complaints of Sex Discrimination brought against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one Party against another Party (“cross complaints”), where the allegations arise out of the same facts or circumstances.

## **XIX. SUPPORTIVE MEASURES**

### **A. Generally.**

Supportive Measures are available before or after the filing of a Complaint, as well as in cases in which no Complaint is ever filed.

Changes in class, work, extracurricular, and/or other activities may be made regardless of whether there is or is not a comparable alternative.

A Party may seek modification or reversal of decisions to provide, deny, modify, or terminate Supportive Measures applicable to that Party. In the event of such challenges, the decisionmaker will be someone other than the person who made the decision regarding the Supportive Measures being challenged, and will have the authority to make requested modifications or reversals. In the event of a material change in circumstances affecting Supportive Measures, subsequent opportunities for review may be sought.

### **B. Confidentiality of Supportive Measures.**

Information about Supportive Measures provided to a person will not be disclosed, including informing one Party of Supportive Measures provided to another Party, except when necessary to provide the Supportive Measures, or restore or preserve a Party’s access to PCA’s Education Program or Activity.

### **C. Accommodations for Individuals with Disabilities.**

If a Party is an Individual with a Disability, that Party is entitled to reasonable accommodations that would enable them to participate in all processes provided for under this Policy, including, but not limited to, making a Report or Complaint, participating in an Informal Resolution Process, and/or participating in an investigation and adjudication under the Grievance Procedures. If an Individual with a Disability requires such reasonable accommodations, they should promptly notify the Title IX Coordinator. In cases in which a Party is an Individual with a Disability, the Title IX Coordinator may consult, as appropriate, with the Party or Human Resource Director or the Head of School.

A Party should not assume the Title IX Coordinator is on notice they are an individual with a Disability, even if the Party is registered to receive accommodations via a PCA academic or administrative unit.

## **XX. EMERGENCY REMOVAL AND ADMINISTRATIVE LEAVE**

### **A. Emergency Removal.**

A Respondent may be removed from PCA's Education Program or Activity, or certain aspects thereof (such as, but not limited to, access to PCA's facilities, classes, and/or student activities), if, after conducting an individualized safety and risk analysis, PCA determines that an immediate and serious threat to the health or safety of a Complainant, any PCA Students, employees, or other persons, arising from the alleged Sex Discrimination, justifies removal. In the event of such a removal, the Respondent is given the opportunity to seek modification or reversal of the removal. An emergency removal is not discipline.

### **B. Administrative Leave.**

With respect to employee Respondents, administrative leave from PCA employment is permitted during the pendency of Grievance Procedures. Administrative leave may include complete removal from the PCA workplace or limitations on access to the workplace, and may be imposed with or without pay. In the event administrative leave is imposed, the Respondent is given the opportunity to seek modification or reversal of the leave. Administrative leave under this section is not discipline.

## **XXI. ADVISORS**

Each Party is entitled to be accompanied by an Advisor of their choosing to any meeting, interview, or proceeding related to a Report or Complaint under this Policy. The Advisor is a non-speaking role present to advise and support the Party and may be, but is not required to be, an attorney.

Delays will not normally be allowed due to scheduling conflicts with Advisors. If, at any point, an Advisor becomes disruptive or fails to comply with the provisions of this Policy or any additional rules of decorum provided by PCA, PCA may remove the Advisor from the meeting, interview, or proceeding, and, if appropriate, any future meetings, interviews, or proceedings. Such a removal of an Advisor is not appealable. If a Party's Advisor is removed, they may choose another Advisor or have one selected and appointed for them by PCA.

## **XXII. INFORMAL RESOLUTION PROCESS**

An Informal Resolution Process may be offered at any time before a determination of whether Sex Discrimination occurred has been made. This includes upon receipt of a Report, or during the pendency of Grievance Procedures. A Complaint need not be made in order to initiate the Informal Resolution Process. An Informal Resolution Process is not permitted if such a process would

conflict with federal, state, or local laws, rules, and regulations. PCA may decline to permit an Informal Resolution Process when it determines the alleged Prohibited Conduct presents a future risk of harm to others.

Both Parties must agree to participate in the Informal Resolution Process, and must agree that it is appropriate. As participation is voluntary, PCA does not require Parties to waive the right to an investigation and adjudication as a condition of (continuing) enrollment or (continuing) employment, or the exercise of any other right. While every Informal Resolution Process will be tailored to the facts and circumstances of an individual matter, in no case will the facilitator of the Informal Resolution Process be the same as the Investigator or Decision-Maker for Grievance Procedures involving the same matter.

Before initiating an Informal Resolution Process, PCA will notify the Parties of:

- the allegations;
- the requirements of the Informal Resolution Process;
- that each Party has the right to withdraw their agreement to participate in the Informal Resolution Process prior to agreeing to a resolution, and can at that time initiate or resume the Grievance Procedures, as applicable;
- that agreement to a resolution at the conclusion of the Informal Resolution Process precludes the Parties from initiating or resuming Grievance Procedures arising from the same allegations;
- the potential terms that may be requested or offered in an Informal Resolution Process agreement, including notice that an Informal Resolution Agreement is binding only on the Parties; and
- which records will be maintained as part of the Informal Resolution Process and circumstances under which such records could be shared in the event the Informal Resolution Process is not completed and Grievance Procedures are initiated or resumed.

Specifically, if the Grievance Procedures are resumed after an attempted Informal Resolution Process:

- neither PCA nor a Party will access, consider, disclose, or otherwise use information, including records, obtained solely through an Informal Resolution Process as part of the investigation or outcome determination, and
- in such cases, the Informal Resolution Process facilitator could serve as a witness for purposes other than providing information obtained solely through the Informal Resolution Process.

## **XXIII. GRIEVANCE PROCEDURES**

### **A. Title IX Coordinator Initiated Complaints.**

As noted, in the absence of a Complaint made by a Complainant, or in the event of the withdrawal of any or all of the allegations in a Complaint, the Title IX Coordinator will determine whether to initiate a Complaint. Such a determination is fact-specific and will be made in consideration of factors including, but not limited to:

- The Complainant's request not to proceed with initiation of a Complaint;
- The Complainant's reasonable safety concerns regarding initiation of a Complaint;
- The risk that additional acts of Sex Discrimination would occur if a Complaint is not initiated;
- The severity of the alleged Sex Discrimination, including whether, if established, PCA would require the removal of the Respondent from campus or impose another Sanction to end the Sex Discrimination and prevent its recurrence;
- The age and relationship of the Parties, including whether the Respondent is an employee;
- The scope of the alleged Sex Discrimination, including information suggesting a pattern, ongoing conduct, or conduct alleged to have impacted multiple individuals;
- The availability of evidence to assist the Decision-Maker in determining whether Sex Discrimination occurred; and
- Whether PCA could end the alleged Sex Discrimination and prevent its recurrence without initiating the Grievance Procedures.

If, after considering these and other relevant factors, the Title IX Coordinator determines the conduct as alleged presents an imminent and serious threat to the health or safety of the Complainant or other person, or the conduct as alleged prevents PCA from ensuring equal access on the basis of sex to its Education Program or Activity, the Title IX Coordinator may initiate a Complaint. Prior to doing so, the Title IX Coordinator will notify the Complainant and appropriately address reasonable concerns about their safety or the safety of others, including by providing Supportive Measures. Regardless of whether a Complaint is initiated, the Title IX Coordinator will take other appropriate prompt and effective steps to ensure that Sex Discrimination does not continue or recur within PCA's Education Program or Activity.

### **B. Dismissal.**

A Complaint may be dismissed, in whole or in part, if it is determined, at any time, that:

- PCA cannot identify the Respondent after taking reasonable steps to do so;
- The Respondent is not, or is no longer, participating in PCA's Education Program or Activity and is not, or is no longer, employed by PCA;
- The Complainant voluntarily withdraws any or all of the allegations in the Complaint, the Title IX Coordinator declines to initiate a Complaint, and without the Complainant's withdrawn allegations, the conduct that remains alleged in the Complaint, if any, would not constitute Sex Discrimination even if established; and/or
- The conduct alleged (after reasonable efforts to clarify have been made, as appropriate), if established, would not constitute Sex Discrimination.

In the event of a dismissal, Supportive Measures may still be provided to the Complainant (and Respondent, if already notified of the Complaint), and the Title IX Coordinator may refer the matter to another, appropriate office for review and response. PCA will provide written notice to the Complainant (and Respondent, if already notified of the Complaint) of the dismissal, the basis for the dismissal, and the right to appeal the dismissal.

#### C. Withdrawal of Complaint by Complainant.

As noted, a Complaint may be dismissed if the Complainant notifies the Title IX Coordinator they would like to withdraw the Complaint. Such notice must be in writing. If a Complainant requests dismissal, they can re-file the Complaint at a later date and request a continuation of the Grievance Procedures or voluntarily agree to an Informal Resolution Process.

The Title IX Coordinator will consider requests in light of the factors laid out in herein (relating to the Title IX Coordinator's decision to initiate a Complaint when the Complainant does not wish to do so). If the Title IX Coordinator refuses a request by a Complainant to dismiss a Complaint, the Title IX Coordinator will notify the Complainant in writing of the decision and rationale.

#### D. Notice of Allegations.

The Grievance Procedures begin with the sending of a Notice of Allegations to the Complainant and Respondent. If the Complaint was signed by the Title IX Coordinator, the Complainant will still receive the Notice of Allegations, but is not required to participate in the investigation or related activities. The Notice of Allegations will include:

- information about the Informal Resolution Process and Grievance Procedures;
- the identities of the Parties involved in the incident(s), the conduct alleged to constitute Sex Discrimination, and the date(s) and location(s) of the alleged incident(s), if known;
- information about PCA's prohibition on Retaliation;

- a statement that the Parties are entitled to an Investigative Report summarizing all Relevant (not otherwise impermissible) evidence and retain the equal right to access such evidence upon request;
- a statement that the Respondent is presumed not responsible for the alleged Sex Discrimination until a determination is made at the conclusion of the Grievance Procedures, after the Parties have had an opportunity to present Relevant (not otherwise impermissible) evidence to a trained, impartial Decision-Maker;
- notice that the Parties have the right to be accompanied by an Advisor of choice who may, but need not, be an attorney;
- notice that knowingly making false statements or submitting false information is prohibited;
- information about Supportive Measures;
- a statement regarding the Standard of Proof to be used in considering the facts and evidence;
- the range of possible Sanctions and Remedies; and
- information about the appeals process.

If, in the course of an investigation, PCA decides to investigate additional allegations of Sex Discrimination not included in the original Notice of Allegations about the Respondent's conduct toward the Complainant, or which are otherwise consolidated with the ongoing investigation, PCA will provide notice of the additional allegations to the Parties whose identities are known. If PCA has reasonable concerns for the safety of any person as a result of providing this Notice of Allegations, it may reasonably delay providing it in order to address the safety concerns appropriately. Reasonable concerns must be based on individualized safety and risk analysis and not on mere speculation or stereotypes.

#### E. Acceptance of Responsibility.

At any time prior to the rendering of a finding as to responsibility by a Decision-Maker, the Respondent may indicate they do not wish to contest the disciplinary case against them and accept responsibility for all or part of the Prohibited Conduct alleged. In the event a Respondent accepts responsibility, the Complainant will be notified in writing. The Complainant and Respondent may each submit, respectively, an impact statement or a mitigation statement which will be reviewed by the decisionmaker of Sanctions and/or Remedies. The Parties will thereafter be notified simultaneously of the Sanctions imposed and whether Remedies will be provided. This decision is not appealable and is final. In the event the Respondent accepts responsibility for only part of the Prohibited Conduct alleged, the remaining allegations will proceed to the

decisionmaker for a finding, and Remedies and Sanctions for all the Prohibited Conduct at issue will be assigned at the conclusion of the matter in its entirety.

F. Investigation.

**a. Time Frames.**

The investigation will be adequate, reliable, fair, and impartial, and will be completed in a reasonably prompt timeframe. Any timelines provided herein create no rights for the Parties and may be extended or changed by PCA for good cause shown, in PCA's sole discretion. In the event a deadline is extended or changed, both Parties will be notified in writing regarding the reason for and expected duration of, the delay.

**b. Fact-Gathering Process.**

PCA will charge the trained Investigator—who may be the Title IX Coordinator—with the task of gathering facts about the allegations raised in the Complaint, objectively evaluating the Relevance of all evidence, and preparing an Investigative Report which contains a fair summary of the Relevant evidence.

The Investigator will meet with each Party and Relevant witnesses. Each individual interviewed will have the opportunity to review a summary of their own statement prior to its inclusion in a draft Investigative Report. Prior to any interviews or meetings with the Parties, the Investigator will provide written notice of the date, time, location, and purpose of the interview or meeting, with sufficient time for the Party to prepare for the interview or meeting. Each Party will have the equal opportunity to gather and present Relevant evidence (both inculpatory and exculpatory) and fact witnesses to the Investigator. However, the burden of gathering evidence, and satisfying the Standard of Proof, is on PCA.

PCA may adopt and apply reasonable rules regarding decorum during any meetings or interviews conducted under this Policy, provided they apply equally to both Parties. PCA has discretion to remove, with or without prior warning, from any meeting or proceeding an involved Party, witness, or Advisor who does not comply with these expectations and any other applicable PCA policies and procedures.

In general, meetings under this section may be attended only by the Investigator, the Party or witness being interviewed (including, as noted, a parent or guardian who may also attend in lieu of their child), and, if applicable, Advisors, subject to the restrictions in this Policy. Additional attendees may be permitted, at the discretion of the Title IX Coordinator, in connection with an approved Disability-related accommodation. All persons present at any time during the Grievance Procedures are expected to maintain the privacy of the proceedings and not discuss or otherwise share information learned as part of the proceedings. Failure to maintain such privacy may subject individuals to discipline.

In connection with meetings and interviews, the Investigator will assess the credibility of the Parties and witnesses, to the extent credibility is both in dispute and Relevant to evaluating the allegations. Any credibility determinations will not be based on a person's status as a Complainant, Respondent, or witness.

Each individual interviewed will have the opportunity to review a summary of their own statement prior to its inclusion in a draft Investigative Report. If the interviewee has corrections or comments to the summary, the interviewee may submit a written response to the Investigator within three (3) business days of receiving the summary reflecting any additions or changes the interviewee believes are necessary to ensure the accuracy of the interviewee's statement. If no response is received from the interviewee by the deadline, the summary will be presumed to be an accurate summary of the interview. In all instances where the Investigator includes an interview summary as an exhibit to the Investigative Report, the Investigator will either adjust the summary as appropriate or include any response provided by the interviewee with the Investigative Report.

Providing information to the investigator through an interview, submission of documents, or both, is voluntary. PCA does not compel Parties or non-employee witnesses to answer questions during the interview or submit documents, although all Parties and witnesses are encouraged to do so. A person's decision not to participate in the investigation, in whole or in part, will be documented in the Investigative Report. PCA employees, and others authorized by PCA to provide aid, benefits, or services as part of PCA's Education Program or Activity, are expected to attend all scheduled meetings and proceedings and, upon request, participate as a witness or otherwise assist with any investigation or adjudication under this Policy.

#### **d. Evidence Review.**

At the conclusion of the fact-gathering process, the Investigator will provide each Party and their Advisor, if any, the opportunity to review all Relevant and not otherwise impermissible evidence gathered.

The purpose of the inspection and review process is to allow each Party the equal opportunity to meaningfully respond to the Relevant evidence prior to conclusion of the investigation (and before an adjudication, if any), to submit any additional Relevant evidence, and provide the names of any additional witnesses with Relevant information. This is the final opportunity to offer Relevant evidence and the names of additional witnesses.

The Parties will have a minimum of ten (10) Days to inspect and review the Relevant evidence and submit a written response to the Investigator. The Investigator will provide access to copies of the Parties' written responses to all Parties and their Advisors, if any. The Title IX Coordinator has discretion to extend the evidence review period based on the volume and nature of evidence or for any other good cause.

At the conclusion of the evidence review process and after considering the Parties' written responses (if any), the Investigator will conduct additional fact-gathering if the Investigator determines, in their sole discretion, such additional fact gathering is necessary. If new, Relevant



evidence is gathered during this second fact-gathering period, the new Relevant evidence will be made available for review by the Parties and their Advisors. The Parties have five (5) Days to provide a response to the newly-gathered Relevant evidence. No new evidence will be accepted as part of any response, except that the Investigator has discretion to accept Relevant evidence that was not previously available or known to exist and that was not previously discoverable with the exercise of reasonable diligence. At this time, the Parties will be given the opportunity to submit an impact statement to the Title IX Coordinator that will be reviewed by the decision-maker of Sanctions and/or Remedies if there is a finding of responsibility.

The Investigator will then draft the Investigative Report. The Investigator will provide each Party and their Advisor with a copy of the draft Investigative Report. Each Party has the opportunity to provide a written response no later than ten (10) Days after receiving the draft Investigative Report. That written response may include submission of additional questions a Party would like asked of another Party. Those questions may or may not be asked at the sole discretion of the Decision-Maker during the adjudication process (described herein).

After considering the Parties' written responses, the Investigator will draft the final Investigative Report. The Investigative Report must contain:

- A description of the allegations of Prohibited Conduct;
- Information regarding all policies and procedures used to evaluate the allegations;
- A description of the procedural steps taken from receipt of the Complaint through the conclusion of the investigation, including any notifications to the Parties, interviews with Parties and witnesses, and methods used to gather other evidence;
- An attachment containing all Relevant evidence gathered during the investigation, as well as all interview notes and interview summaries, showing the original (as sent to each interviewee for review) and the revised version, after corrections or additions by each interviewee; and
- An evaluation of the Relevant and not otherwise impermissible evidence and the rationale for that evaluation.

#### G. Adjudication.

Upon completion of the investigation, the Title IX Coordinator reviews the Investigative Report containing a fair summary of the Relevant evidence collected and within ten (10) Days determines whether PCA will proceed to adjudication, or dismiss the Complaint, as described in Section XXIII(B).

If the Title IX Coordinator determines adjudication is appropriate, the Decision-Maker—who may be the Investigator (including if the Investigator is the Title IX Coordinator)—will objectively

evaluate all Relevant evidence, both inculpatory and exculpatory, and reach a determination regarding responsibility pursuant to the Standard of Proof.

The Decision-Maker will assess the credibility of the Parties and witnesses, to the extent credibility is both in dispute and Relevant to evaluating the allegations. Any credibility determinations will not be based on a person's status as a Complainant, Respondent, or witness. The Decision-Maker may accomplish this through review of the Investigative Report. Or, the Decision-Maker may supplement the investigation by holding meetings, in their discretion, with any Party or witness, at which time additional questions may be posed, including (if the Decision-Maker deems them Relevant and appropriate) any questions included by a Party in their written response to the Investigative Report.

The Decision-Maker will then prepare a written determination. This will typically be done within ten (10) Days of the completion of the final Investigative Report or the Parties' responses thereto, if applicable. The written report will include:

- Findings of fact for each allegation with supporting rationale; and
- Conclusions regarding which section of this Policy or other PCA policies and procedures, if any, the Respondent has or has not violated, with supporting rationale.

The written report will be provided to the Title IX Coordinator.

If the Decision-Maker does not make a finding of responsibility, the Title IX Coordinator shall communicate such finding to each Party, and their Advisor(s) (if applicable), within five (5) Days of the Decision-Maker's written report being provided to the Title IX Coordinator by providing: a copy of the Decision-Maker's written report, a copy of the final Investigative Report, and procedures for appeal.

If a Respondent is found responsible for Sex Discrimination, the Title IX Coordinator will contact the appropriate Sanctioning Officer who, after considering the Parties' impact statements (if any), will determine the appropriate Sanction and notify the Title IX Coordinator of the sanctioning determination. The Title IX Coordinator will then provide each Party, and their Advisor(s) (if applicable), with a written Notice of Outcome (containing the Sanctioning Officer's decision), the written report of the Decision-Maker, and the final Investigative Report within ten (10) Days of the Sanctioning Officer's determination. The Notice of Outcome must contain:

- A statement of, and rationale for, any Sanctions imposed on the Respondent;
- A statement as to whether Remedies will be provided to the Complaint and a description of such Remedies;
- The permitted reasons for the Parties to appeal, including identification of the Appeal Officer; and

- The procedures for challenging participation by the Appeal Officer for bias in favor of or against Complainants or Respondents generally or regarding the specific Parties in the matter or a conflict of interest, which the Title IX Coordinator will resolve in their sole discretion.

The determination regarding responsibility becomes final either on the date PCA provides the Parties with the written determination of the results of any appeal, or, if no appeal is filed, the date on which an appeal would no longer be considered timely. Any Sanctions and/or Remedies will be implemented at that time.

#### E. Sanctions and Remedies.

Sanctions are designed to stop misconduct, prevent its recurrence, and remedy its effects, and will consider factors including the nature and gravity of the misconduct, and any record of prior misconduct, if applicable.

PCA may continue Supportive Measures, and may also provide Remedies to the Complainant or others, in the event their equal access to PCA's Education Program and/or Activity was determined to have been limited or denied by Sex Discrimination. Remedies are designed to restore or preserve a person's access to PCA's Education Program or Activity.

### **XXIV. APPEALS**

Dismissals and determinations regarding responsibility can be appealed based on one or more of the following grounds:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time of the dismissal or the determination regarding responsibility that could affect the outcome of the matter; and/or
- 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 an individual Parties in particular, and that bias affected the outcome of the matter.

Appeals must be submitted in writing to the Appeal Officer within five (5) Days of the date of the written outcome determination or dismissal. The Appeal Officer shall immediately provide notice of any appeal(s) to the other Party, who has five (5) Days to submit a written response, limited to the grounds alleged in the appeal. The Appeal Officer will not be the same individual who, as applicable, conducted the investigation, issued the dismissal, and/or made the finding of responsibility.

The Appeal Officers' review will be based only on the written record, as well as any recordings or transcripts. Any alleged new evidence related to the grounds for the appeal should be appended to the appeal. The appeal is not an opportunity for a re-investigation or re-hearing. The Appeal

Officer will submit a final written decision on the appeal, including a rationale, within fifteen (15) Days of receipt of the appeals materials, which will be simultaneously distributed to both Parties.

For an appeal related to the dismissal of a Complaint, the Appeal Officer will decide whether to approve or reject the decision and, if rejected, return the Complaint to the Title IX Coordinator for further process. For an appeal of a finding of responsibility, the Appeal Officer will decide whether to approve, reject, or modify the decision and/or Sanctions and/or Remedies, and may remand the case for further proceedings consistent with the appeals decision. The Appeal Officer's decision is final.

## **XXV. PROVISIONS PERTAINING TO PARENTAL, FAMILY, OR MARITAL STATUS, AND PREGNANCY OR RELATED CONDITIONS**

### **A. Nondiscrimination of Applicants, Students, and Employees.**

In determining whether a person satisfies any PCA admissions policy or criterion, or in making any offer of employment, PCA will treat Pregnancy or Related Conditions in the same manner and under the same policies as any other temporary medical condition. PCA will not make pre-admission or pre-employment inquiry as to the Marital Status of an Applicant, including whether an Applicant is "Miss or Mrs." PCA may ask an Applicant to self-identify their sex, but only when asking this question of all Applicants. The response will not be used as a basis for discrimination.

PCA will not adopt or apply any policy, practice, or procedure, or take any employment action, concerning the current, potential, or past Parental, Family, or Marital Status of a Student, employee, or Applicant that treats persons differently on the basis of sex, or which is based upon whether an employee or Applicant for employment is the head of household or principal wage earner in such employee's or Applicant's family unit. PCA will not discriminate against, establish or follow any policy, practice, or procedure that discriminates against, or exclude from employment any person on the basis of current, potential, or past Pregnancy or Related Conditions.

### **B. Voluntary Student Participation in Separate Education Programs or Activities.**

PCA may offer Students voluntary participation in a separate portion of its Education Program or Activity when comparable to what is offered to Students who are not experiencing Pregnancy or Related Conditions.

### **C. No Requirement of Medical Certification for Student Participation.**

PCA will not require a Student, due to Pregnancy or Related Conditions, to provide certification from a physician or other licensed healthcare provider that the Student is physically able to participate in classes, programs, or student activities unless necessary, required for all participating Students, and not used as a basis for discrimination.

### **D. Leaves of Absence.**

### **a. Student Leaves of Absence.**

A PCA Student experiencing Pregnancy or Related Conditions is allowed a voluntary leave of absence to cover, at minimum, the period of time deemed medically necessary by the Student's physician or other licensed healthcare provider. If another PCA leave policy allows a greater span of time than this period, the Student is permitted to take leave under that policy instead. Upon return, the Student will be reinstated to the academic and, as practicable, extracurricular status that the Student held when the leave began.

### **b. Employee Leaves of Absence.**

In the event a PCA employee is not qualified for a leave, or if no leave or insufficient leave is available, Pregnancy or Related Conditions is a justification for a voluntary leave of absence without pay for a reasonable period of time, at the conclusion of which the employee shall be reinstated to the status held when the leave began or to a comparable position, without decrease in rate of compensation or loss of promotional opportunities, or any other right or privilege of employment.

### **E. Lactation-Related Accommodations for Students and Employees.**

PCA will provide reasonable break time for a Student or employee to express breast milk or breastfeed as needed, and make available a lactation space, other than a bathroom, that is clean, shielded from view, free from intrusion from others, and may be used by a Student or employee for expressing breast milk or breastfeeding as needed.

### **F. Student and Employee Rights to Reasonable Modifications or Temporary Adjustments.**

Students are entitled to reasonable modifications to PCA's policies, practices, or procedures because of Pregnancy or Related Conditions on an individualized and voluntary basis depending on the Student's needs when necessary to prevent discrimination and ensure equal access, unless the modification would fundamentally alter PCA's Education Program or Activity. These may include, but are not limited to: breaks to attend to health needs, including for expressing breast milk or breastfeeding; excused absences to attend medical appointments; access to online instruction; changes in schedule or course sequence; extensions of time for coursework; rescheduling of tests and examinations; counseling; changes in physical space or supplies; or elevator access. Such modifications will be comparable to the treatment of other temporary disabilities or conditions.

PCA will not require Students to provide supporting documentation unless necessary and reasonable to determine reasonable modifications. It will be not necessary and reasonable when the need for the specific action is obvious; when the Student has previously provided sufficient supporting documentation; when the reasonable modification relates to drinking water, using a bigger desk, and/or the need to sit, stand, or take breaks to eat, drink, or use the restroom; when the Student has lactation needs; or when the requested specific action is

available to Students for reasons other than Pregnancy or Related Conditions without the submission of supporting documentation.

With respect to employees, PCA treats Pregnancy or Related Conditions as any other temporary disability or condition for all job-related purposes, including, where appropriate, the provision of temporary adjustments.

G. Requirement to Provide Information to Students Experiencing Pregnancy or Related Conditions.

When any PCA employee is informed by a Student of that Student's Pregnancy or Related Conditions, the employee must, unless the employee reasonably believes the Title IX Coordinator has already been notified, promptly inform the Student of the Title IX Coordinator's contact information and that the Title IX Coordinator can coordinate specific actions to prevent Sex Discrimination and ensure equal access to the Education Program or Activity by promptly providing the Notice of Non-Discrimination and informing the Student of PCA's obligations. These include:

- Prohibiting Sex Discrimination, including Sex-Based Harassment;
- Allowing access, on a voluntary basis, to any separate and comparable portion of PCA's Education Program or Activity;
- Referring Students experiencing Pregnancy or Related Conditions to the Title IX Coordinator;
- Taking specific actions to promptly and effectively prevent Sex Discrimination and ensure equal access to the Education Program or Activity, including providing the option of making reasonable modifications to PCA's policies, practices, or procedures because of Pregnancy or Related Conditions;
- Allowing a voluntary leave of absence;
- Ensuring the availability of lactation space; and
- Maintaining Grievance Procedures that provide for the prompt and equitable resolution of complaints of Sex Discrimination.

**XXVI. RECORDKEEPING**

There is a seven year record retention period for:

- Reports; Complaints; and records documenting the response to Reports and Complaints, including any Supportive Measures provided, any emergency removals or administrative leave imposed, and any Informal Resolution Process or Grievance Procedures undertaken,

including the resulting outcome (e.g., the result of any Informal Resolution Process, determinations of responsibility, Disciplinary Sanctions imposed on the Respondent, Remedies provided to the Complainant, appeals and the results of such appeals);

- Any records documenting action taken by PCA to address Reports of Sex Discrimination, prevent its recurrence, and remedy its effects; to address any barriers identified to reporting such conduct; and to educate employees about their Mandatory Reporting responsibilities;
- All materials used to provide required training;
- Any audio or audiovisual recording or transcript required to be retained; and
- Any other records documenting the actions taken to satisfy PCA's obligations to prevent discrimination and ensure equal access for individuals due to Pregnancy or Related Conditions, including facilitating reasonable modifications for Students and facilitating temporary adjustments, leave, and/or lactation time and space for employees.

APPROVED BY THE BOARD OF DIRECTORS JULY 29, 2024