



## TITLE IX POLICY

### **A. Nondiscrimination Policy & Notice of Nondiscrimination ((34 C.F.R. § 106.8(b)–(c))**

Title IX provides that “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.”

The SCHOOL does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX, including in admissions and employment.

It is the policy of Mountain City Public Montessori that students and employees must not be subjected to forms of unlawful discrimination or harassment, while at school or school-sponsored activities. Furthermore, the policy’s intent is to address the issue in a proactive manner through the establishment of a system for educating students and staff at Mountain City Public Montessori regarding the identification, prevention, intervention, and reporting of such antisocial acts. Mountain City Public Montessori acknowledges the dignity and worth of all students and strives to create a safe, orderly, caring and inviting school environment to facilitate student learning and achievement. Mountain City Public Montessori strives to model an inclusive environment and prohibits discrimination and harassment on the basis of sex, which includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity. Mountain City Public Montessori will not tolerate any form of unlawful discrimination or harassment in any of its educational or employment activities or programs based on such protected classifications.

Inquiries about Title IX may be referred to Mountain City Public Montessori’s Title IX Coordinator, the U.S. Department of Education’s Office for Civil Rights, or both.

Mountain City Public Montessori’s Title IX Coordinator is Brittany Wager, Operations and Finance Director and can be reached at 828-570-5554 / [info@mcpublic.org](mailto:info@mcpublic.org) / 27 Church Street, Asheville, NC 28801

Mountain City Public Montessori’s nondiscrimination policy and grievance procedures can be located at [https://mountaincitypublic.org/?page\\_id=1495](https://mountaincitypublic.org/?page_id=1495)

To report information about conduct that may constitute sex discrimination or make a complaint of sex discrimination under Title IX, please go to [https://mountaincitypublic.org/?page\\_id=1495](https://mountaincitypublic.org/?page_id=1495)

### **B. Purpose**

Mountain City Public Montessori prohibits discrimination on the basis of sex and gender, including any form of sexual harassment as that term is defined under Title IX, in any education program or activity of Mountain City Public Montessori. Mountain City Public Montessori takes seriously all reports and Formal Complaints of sexual harassment. Mountain City Public Montessori does not discriminate on the basis of sex and gender in its education programs or activities, including admission and employment, in accordance with Title IX of the Education Amendments Act of 1972 and federal regulations. Any person with questions about this policy should contact Mountain City Public Montessori's Title IX Coordinator whose information is listed at [https://mountaincitypublic.org/?page\\_id=1495](https://mountaincitypublic.org/?page_id=1495)

### **C. Prohibited Behaviors**

Students, employees, contractors, volunteers and visitors are expected to behave in a civil and respectful manner. In accordance with Title IX, Mountain City Public Montessori expressly prohibits discrimination or harassment, based on sex or gender and prohibits sexual harassment (including sexual violence) and gender-based harassment. Sexual harassment is unwelcome conduct of a sexual nature. It includes unwelcome conduct on the basis of sex, requests for sexual favors in exchange for benefits (quid pro quo), and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual violence is a form of sexual harassment. Sexual violence refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent. A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, sexual abuse, and sexual coercion. In accordance with Title IX, Mountain City Public Montessori also prohibits gender-based harassment, which is unwelcome conduct based on a student's sex or gender, or harassing conduct based on a student's nonconformity.

Sex-based harassment can be carried out by school employees, other students, and third parties. All students and employees can experience sex-based harassment, including male and female students and employees, LGBTQ+ students and employees, students and employees with disabilities, and students and employees of different races, national origins, and ages. Title IX protects all students and employees from sex-based harassment, regardless of the sex of the parties, including when they are members of the same sex.

### **D. Retaliation Prohibited**

Mountain City Public Montessori prohibits intimidation, threats, coercion, or discrimination against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under Title IX. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or

formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX, constitutes retaliation. As such, Mountain City Public Montessori prohibits reprisal or retaliation against any person for reporting or intending to report violations of this policy, supporting someone for reporting or intending to report a violation of this policy, or participating in the investigation of reported violations of this policy. After consideration of the nature and circumstances of the reprisal or retaliation and in accordance with applicable laws, policies, and regulations, the School Leadership or designee shall determine the consequences and remedial action for a person found to have engaged in reprisal or retaliation.

The exercise of rights protected under the First Amendment does not constitute retaliation. Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under Title IX does not constitute retaliation prohibited under this policy, provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

#### **E. Application Of Policy**

This policy prohibits unlawful discrimination or harassment by students, employees, volunteers, contractors, and visitors. This policy is intended to apply to students vis-a-vis other students, faculty, staff, volunteers/visitors, or contractors. This policy also applies to employees, volunteers/visitors, and contractors. This policy applies to behavior that takes place within Mountain City Public Montessori's "education program or activity," which includes, but is not necessarily limited to, behavior:

1. in any school building or on any school premises before, during or after school hours;
2. on any bus or other vehicle as part of any school activity;
3. at any bus stop;
4. during any school-sponsored activity or extracurricular activity;
5. at any time or place when the individual is subject to the oversight and authority of school personnel;
6. at any time or place when the behavior has a direct and immediate effect on maintaining order and discipline in Mountain City Public Montessori; and
7. while using school or personal electronic communications, including employee and student emails, text messaging, instant messaging, chat rooms, blogging, websites and social networking websites (i.e., Snapchat or Instagram).

#### **F. Title IX Coordinator**

The Title IX Coordinator is responsible for monitoring the overall implementation of Title IX for Mountain City Public Montessori and coordinating the institution's compliance with Title IX in all areas covered by the implementing regulations. The major responsibility is the prevention of sexual harassment and discrimination. Other major monitoring duties include, but are not limited to, the following recruitment and admissions, educational programs and activities, hiring and employment. Other areas of consideration include:

- Participating in the development and implementation of Mountain City Public Montessori's sexual harassment policy.
- Assisting faculty, counselors and administrators in complying with Title IX, and when a need arises, planning remedial actions.

- Making your presence known in the community by disseminating civil rights information or by speaking at parent-teacher group meetings, social or professional organization meetings, and other community functions.
- Serving as a resource on Title IX/gender issues.
- Monitoring and evaluating Mountain City Public Montessori's Title IX compliance efforts and making recommendations for any appropriate changes.
- Providing updated information to schools on Title IX implementation and issues.
- Identifying and disseminating information about Title IX educational resources (organizations, individuals, print, internet, and audio-visual)

#### **G. Notice of Nondiscrimination**

The designated Title IX Coordinator is responsible for providing effective notice to job applicants, student applicants, students, parents, and employees of the procedures for reporting and investigating complaints of unlawful sex/gender discrimination and harassment. This policy will be posted on Mountain City Public Montessori's website, and copies of the policy are available at the front office. Notice of this policy will appear in all job applicant information, admissions information, student and employee handbooks, and in any School publication that sets forth the comprehensive rules, procedures, and standards of conduct for students and employees.

#### **H. Confidentiality**

The recipient, whether a School employee, staff member, contractor, or the Title IX Coordinator, must keep confidential the identity of any individual who has made a report or complaint of sex/gender discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted by the Family Education Rights and Privacy Act (FERPA) or as required by law, or to carry out the purposes of Title IX, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder. Complaints alleging retaliation may be filed according to the Title IX grievance procedures.

The Title IX Coordinator shall maintain confidential records of complaints or reports of unlawful discrimination or harassment. The records will identify the names of all individuals accused of such offenses and the resolution of such complaints or reports. The Title IX Coordinator also shall maintain records of training conducted and corrective action(s) or other steps taken by Mountain City Public Montessori to provide an environment free of unlawful discrimination or harassment. The Co-Directors shall report to the Board all verified cases of unlawful discrimination or harassment under Mountain City Public Montessori's Title IX Policy.

#### **I. Remedies and Disciplinary Sanctions**

When a Respondent is found responsible for sexual harassment, Mountain City Public Montessori will offer all remedies needed to eliminate the harm to the Complainant and Mountain City Public Montessori community and prevent the recurrence of sexual harassment. Simply sanctioning a Respondent found responsible, in some cases, may be

insufficient to eliminate a hostile environment. Rather, in addition to sanctions, Mountain City Public Montessori may consider offering appropriate remedies for the broader student/staff population after the final outcome, including the following:

- Training or retraining school employees on Mountain City Public Montessori's responsibilities to address allegations of sexual violence and how to conduct Title IX investigations;
- Developing materials on sexual harassment, which should be distributed to all staff and students;
- Conducting bystander intervention and sexual harassment prevention programs with students and/or staff;
- Issuing policy statements or taking other steps that clearly communicate that Mountain City Public Montessori does not tolerate sexual harassment and will respond to any incidents and to any student who reports such incidents;
- Conducting, in conjunction with student leaders, a School climate check to assess the effectiveness of efforts to ensure that Mountain City Public Montessori is free from sexual violence, and using that information to inform future proactive steps that Mountain City Public Montessori will take;
- Targeted training for a group of students if, for example, the sexual harassment created a hostile environment (i.e., on an athletic team);
- When a school is unable to conduct a full investigation into a particular incident (i.e., when it received a general report of sexual violence without any personally identifying information), it should consider remedies for the broader student population in response.
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**Disciplinary sanctions include:**

- A. For Students found responsible: verbal warning, written warning, interim suspension, restitution, suspension, exclusion, expulsion, required participation in appropriate training, counseling, required completion of a probationary period without additional infractions, or requiring the respondent to stay away from the complainant for a period of time.
- B. For Employees found responsible: sanctions for violations of Title IX vary depending on severity from formal written warning to dismissal.

**J. Policy Application**

This policy shall remain in effect as long as required by law.

## **Title IX Grievance Procedures**

### **I. Introduction and Scope**

Mountain City Public Montessori has adopted grievance procedures that provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating or attempting to participate in its education program or activity, or by the Title IX Coordinator, alleging an action that would be prohibited by Title IX or the Title IX regulations.

These procedures apply to complaints involving alleged violations of Title IX occurring within the school's education programs or activities. These procedures shall be used to address incidents occurring on or after August 1, 2024. These procedures may be modified to comply with the law or regulations.

### **II. Definitions.**

The terms below have the following definitions:

*Complainant* means 1) A student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations; or (2) A person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations and who was participating or attempting to participate in the recipient's education program or activity at the time of the alleged sex discrimination.

*Complaint* means an oral or written request to the recipient (i.e., Mountain City Public Montessori) that objectively can be understood as a request for the recipient to investigate and make a determination about alleged discrimination under Title IX or its regulations).

*Decisionmaker* means an individual or individuals who assess the relevant evidence, including party and witness credibility, to determine whether Mountain City Public Montessori has met its burden of proof showing the respondent to be responsible for the alleged sex-based discrimination.

*Disciplinary sanctions* mean consequences imposed on a respondent following a determination under Title IX that the respondent violated the recipient's prohibition on sex discrimination.

*Recipient* means any State or political subdivision thereof, or any instrumentality of a State or political subdivision thereof, of any public or private agency, institution, or organization, or other entity, or any person, to whom Federal financial assistance is extended directly or through another recipient and that operates an education program or activity that receives such assistance.

*Remedies* means measures provided as appropriate, to a complainant or any other person the recipient identifies as having had their equal access to the recipient's education program or activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person's access to the recipient's

education program or activity after a recipient determines that sex discrimination occurred.

*Respondent* means an individual who has been alleged to have violated the recipient's prohibition on sex discrimination.

*Retaliation* means intimidation, threats, coercion, or discrimination against any person by the recipient, a student, or an employee or other person authorized by the recipient to provide aid, benefit, or service under the recipient's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or its regulations, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under the Title IX regulations.

*Sex-based Harassment* is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity, that is:

(1) Quid pro quo harassment. An employee, agent, or other person authorized by the recipient to provide an aid, benefit, or service under the recipient's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;

(2) Hostile environment harassment. Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the recipient's education program or activity (i.e., creates a hostile environment); or

(3) Sexual assault as defined in the Clery Act, or dating violence, domestic violence, or stalking as defined in the Violence Against Women Act.

*Supportive Measures* are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, without fee or charge, to the complainant or respondent to restore or preserve the party's right to access the education program/activity or to provide support during the grievance procedures or during an informal resolution process.

*Title IX Coordinator* is the employee designated by Mountain City Public Montessori to coordinate its efforts to comply with the Title IX responsibilities.

*Days* shall be school days.

### **III. Requirements of Title IX Grievance Procedures**

- A. Mountain City Public Montessori will treat complainants and respondents equitable.

- B. Mountain City Public Montessori requires that any Title IX Coordinator, investigator, or decisionmaker not have a conflict of interest or bias for or against complainants or respondents generally or an individual; complainant or respondent. The decision maker may be the same person as the Title IX Coordinator or Investigator.
- C. Mountain City Public Montessori presumes that the respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of the grievance procedures.
- D. Mountain City Public Montessori has established timeframes for the major stages of the grievance procedures set forth below.
- E. Mountain City Public Montessori has also established a process that allows for the reasonable extension of time frames on a case-by-case basis for good cause with notice to the parties that include the reason for the delay.
- F. Mountain City Public Montessori will take reasonable steps to protect the privacy of the parties and witnesses during the grievance procedure. These steps will not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; consulting with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures. The parties cannot engage in retaliation, including against witnesses.

#### **IV. Timeframes and Extensions of Time.**

Generally, Mountain City Public Montessori will adhere to the following timelines for the major stages of grievance process:

1. Evaluation - The Title IX Coordinator will determine whether to dismiss a complaint or investigate it within 10 days of receiving the complaint.
2. Investigation - The investigator will generally complete the investigation within 30 days of the Title IX Coordinator's decision to investigate the complaint. Once the Title IX Coordinator or investigator provides the parties with access to the evidence or description of the evidence, the parties will have 5 days to respond to the evidence.
3. Determination - After the parties submit their response or the 5-day timeline for doing so expires, the appointed decisionmaker will have 10 days to consider the relevant (and not impermissible) evidence and issue a determination as to whether sex discrimination occurred.
4. Appeal - Either party may appeal the decision maker's determination, in writing, within 5 days of receiving the determination. Appeals of dismissal of the complaint must be filed within 5 days of receiving notice of dismissal. Whether the respondent will be notified of the dismissal and the right to appeal will depend on whether the dismissal occurs before or after the respondent receives notice of the allegations.

The above timelines may be extended for good cause, with approval from the Title IX Coordinator and written notice to both parties. The notice to the parties will include the reason for the delay. Thereafter, the Title IX Coordinator will keep the parties informed on a regular basis.



Whether there is good cause for an extension is determined at the discretion of the Title IX Coordinator. An ongoing criminal investigation involving the conduct that is the subject of the complaint may be good cause to extend the above timelines. While Mountain City Public Montessori will not wait for the conclusion of a criminal investigation or criminal proceeding to begin its own Title IX investigation, it may temporarily delay the investigation while the police are gathering evidence and actively investigating.

## **V. Evidence.**

The following types of evidence and questions seeking that evidence are impermissible, meaning regardless of whether they are relevant, they will not be accessed or considered, except by Mountain City Public Montessori to determine whether one of the exceptions listed below applies:

- Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless MCPM obtains that party's or witness's voluntary, written consent for use in its grievance procedures; and
- Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

## **VI. Filing a Complaint**

The following people have a right to make a complaint of sex discrimination, including complaints of sex-based harassment, requesting that MCPM investigate and make a determination about alleged discrimination under Title IX:

- A "complainant," which includes:
  - a student or employee of MCPM who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX;
  - a person other than a student or employee of MCPM who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX at a time when that individual was participating or attempting to participate in MCPM's education program or activity;
  - A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant; or
  - MCPM's Title IX Coordinator.

Reports can be made in person, via telephone, or by emailing the Title IX Coordinator. Formal complaints can be made by using this link: INSERT LINK

Mountain City Public Montessori may consolidate complaints of sex discrimination against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations of sex discrimination arise out of the same facts or circumstances.

## **VII. Notice of Allegations**

Upon initiation of the Title IX grievance procedures, Mountain City Public Montessori will notify both parties of the following:

- Title IX grievance procedures and any informal resolution process;
- Sufficient information available at the time to allow the parties to respond to the allegations, including 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);
- Retaliation is prohibited; and
- The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of this evidence.

If, in the course of an investigation, Mountain City Public Montessori decides to investigate additional allegations of sex discrimination by the respondent toward the complainant that are not included in the notice provided or that are included in a complaint that is consolidated, Mountain City Public Montessori will notify the parties of the additional allegations.

## **VIII. Dismissal of a Complaint**

Mountain City Public Montessori may dismiss a complaint of sex discrimination if:

- Mountain City Public Montessori is unable to identify the respondent after taking reasonable steps to do so;
- if the respondent is not participating in Mountain City Public Montessori's education program or activity and is not employed by Mountain City Public Montessori;
- the complainant voluntarily withdraws any or all of the allegations in the complaint, the Title IX Coordinator declines to initiate a complaint, and Mountain City Public Montessori determines that without the complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination under Title IX, even if proven; or
- Mountain City Public Montessori determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under Title IX. Before dismissing the complaint, Mountain City Public Montessori will make reasonable efforts to clarify the allegations with the complainant.

Upon dismissal, Mountain City Public Montessori will promptly notify the complainant of the basis for the dismissal. If the dismissal occurs after the respondent has been notified of the allegations, Mountain City Public Montessori will also notify the respondent of the dismissal and the basis for dismissal promptly following notification to the complainant, or simultaneously if notification is in writing.

Mountain City Public Montessori will also notify the complainant that a dismissal may be appealed and will provide the complainant with an opportunity to appeal the dismissal of the complaint. If the dismissal occurs after the respondent has been notified of the

allegations, then Mountain City Public Montessori will also notify the respondent that the dismissal may be appealed.

Dismissals may be appealed on the following grounds:

- A procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available when the dismissal was made; and/or
- The Title IX Coordinator, investigator, or decision maker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

If the dismissal is appealed, Mountain City Public Montessori will do the following:

- Notify the parties of any appeal, including notified of the allegations, if notice was not previously provided to the respondent;
- Implement appeal procedures equally for all parties;
- Ensure that the decisionmaker for the appeal has been trained consistent with the Title IX regulations;
- Provide the parties a reasonable and equitable opportunity to make a statement in support of, or challenging, the outcome; and
- Notify the parties of the result of the appeal and the rationale for the results.

When a complaint is dismissed, Mountain City Public Montessori will, at a minimum:

- Offer supportive measures to the complainant as appropriate;
- If the respondent has been notified of the allegations, also offer supportive measures to the respondent as appropriate; and
- Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that sex discrimination does not continue or recur with Mountain City Public Montessori's education program or activity.

## **IX. Investigation**

SCHOOL will provide for adequate, reliable, and impartial investigation of complaints. The burden is on Mountain City Public Montessori—not the parties—to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred. The investigation may include but is not limited to documentary evidence, interviews, statements, video, photos and any other relevant information not otherwise impermissible

Mountain City Public Montessori will provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible. Mountain City Public Montessori will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance.

Mountain City Public Montessori will provide each party with an equal opportunity to access the evidence that is relevant to the allegations of sex discrimination and not otherwise impermissible, in the following manner:

- Mountain City Public Montessori will provide an equal opportunity to access either the relevant and not otherwise impermissible evidence, or an accurate description of this evidence. [If Mountain City Public Montessori provides a description of the evidence, Mountain City Public Montessori will provide the parties with an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party.];

- Mountain City Public Montessori will provide a reasonable opportunity to respond to the evidence or the accurate description of the evidence; and
- Mountain City Public Montessori will take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the grievance procedures. Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of sex discrimination are authorized.

#### **X. Questioning the Parties and Witnesses**

Nothing in this provision shall require an Investigator who is also serving as the Decision Maker to reinterview any party or witnesses.

If the investigator and decisionmaker are two separate individuals, the decisionmaker will have the opportunity to question the parties and witnesses to adequately assess a party's or witness' credibility, to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex discrimination. If the investigator and decision maker are the same person, then the decision maker will have already had the opportunity to question the parties and witnesses during the investigation.

#### **XI. Determination**

Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, Mountain City Public Montessori will:

- Use the preponderance of the evidence standard to determine whether sex discrimination occurred. The decision maker must evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the decisionmaker is not persuaded under the applicable standard by the evidence that sex discrimination occurred, whatever the quantity of the evidence is, the decisionmaker must not determine that sex discrimination occurred.
- Notify the parties in writing of the determination of whether sex discrimination under Title IX occurred, including the rationale for such determination, and the procedures and permissible bases for the complainant and respondent to appeal, if applicable:
- Not impose discipline on a respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the grievance procedures that the respondent engaged in prohibited sex discrimination.
- If there is a determination that sex discrimination occurred, the Title IX Coordinator will, as appropriate:
  - Coordinate the provision and implementation of remedies to a complainant and other people Mountain City Public Montessori identifies as having had quality access to Mountain City Public Montessori's education program or activity limited or denied by sex discrimination;
  - Coordinate the imposition of any such disciplinary sanctions on a respondent, including notification to the complainant of any such disciplinary sanctions; and
  - Take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur with Mountain City Public Montessori's education program or activity.

- Comply with the grievance procedures before the imposition of any disciplinary sanctions against a respondent, and
- Not discipline a party, witness, or others participating in the grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination of whether sex discrimination occurred.

## **XII. Appeal of Determination**

Mountain City Public Montessori offers the following process for appeals from a determination of whether sex discrimination occurred.

If either party disagrees with the decision maker's determination, the party may file an appeal, in writing, within 5 school days of receiving the written determination.

A party may appeal the determination only on the following bases:

1. Procedural irregularity that would change the outcome;
2. New evidence that would change the outcome and that was not reasonably available when the determination was made; and
3. The Title IX Coordinator, investigator, or decision maker had a conflict of interest or bias for or against complainants or respondents generally, or bias for or against the individual complainant or respondent, which would change the outcome.

The complainant may not challenge the ultimate disciplinary sanction/consequence imposed. No new evidence may be submitted during the appeal process.

If a party appeals the determination, the Title IX Coordinator will:

1. Notify the parties of the appeal;
2. Implement appeal procedures equally for the parties;
3. Appoint an appeal decision maker, who shall not be the same person as the Title IX Coordinator, investigator, or decision maker;
4. Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the determination;
5. Provide the appeal decision maker with relevant and not otherwise impermissible evidence, any responses submitted to the investigator related to the evidence, and the decision maker's written determination; and
6. Notify the parties, in writing, of the result of the appeal and the appeal decision maker's rationale. If a party files an appeal, the appeal decision maker will establish a timeline for each party to submit a statement in support of their position that they want the appeal decision maker to consider in making a decision. Once the appeal decision maker receives the statements or the timeline for submitting such statements expires, the appeal decision maker will have 10 days to issue a decision. The decision will be issued in writing and sent to the parties and Title IX Coordinator.

## **XIII. Informal Resolution**

In lieu of resolving a complaint through Mountain City Public Montessori's Title IX grievance procedures, the parties may instead elect to participate in an informal resolution process. Mountain City Public Montessori does not offer informal resolution to resolve a complaint that includes allegations that an employee engaged in sex-based harassment of an elementary or secondary school student, or when such a process would conflict with federal, state or local law.

Before initiating the process, Mountain City Public Montessori must provide notice to the parties that explains:

1. The allegations;
2. The requirements of the informal resolution process;
3. That prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and initiate or resume Mountain City Public Montessori's grievance procedures;
4. That the parties' agreement to a resolution at the conclusion of the informal resolution process would preclude the parties from initiating or resuming grievance procedures arising from the same allegations;
5. The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties; and
6. What information Mountain City Public Montessori will maintain and whether and how Mountain City Public Montessori may disclose such information for use in grievance procedures, if the grievance procedures are initiated or resumed.

The person who facilitates the informal resolution process shall not be the same person who serves as the investigator, decisionmaker, or appeal decision maker with respect to this particular complaint. Any person designated to facilitate an informal resolution process must not have a conflict of interest or bias for or against complainants or respondents generally or for or against an individual complainant or respondent. Potential terms that may be included in an informal resolution agreement include, but are not limited to: 1. Restrictions on contact; and 2. Restrictions on the respondent's participation in one or more of Mountain City Public Montessori's programs or activities, including restrictions Mountain City Public Montessori could have imposed as remedies or disciplinary sanctions had Mountain City Public Montessori determined at the conclusion of the grievance process that sex discrimination occurred. Even if the parties reach an informal resolution agreement, the Title IX Coordinator must, to the extent necessary, also take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within Mountain City Public Montessori's education program or activity.

#### **XIV. Emergency Removal and Administrative Leave**

Mountain City Public Montessori may remove a respondent from Mountain City Public Montessori's education program or activity on an emergency basis during the grievance process or informal resolution process, if Mountain City Public Montessori undertakes an individualized safety and risk analysis, determines that an imminent and serious threat to the health or safety of a complainant or any students, employees, or other persons arising from the allegations of sex discrimination justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal. Mountain City Public Montessori's authority to remove a respondent on an emergency basis does not modify any rights the respondent may have under Section 504 of the Rehabilitation. Mountain City Public Montessori may place an employee respondent on administrative leave during the grievance process.

#### **XV. Disciplinary Sanctions and Remedies**

Following a determination that sex-based harassment occurred, Mountain City Public Montessori will take prompt and reasonable steps to end the sex discrimination, prevent its recurrence, and remedy its effects.

Mountain City Public Montessori may impose disciplinary sanction as set forth in the Student Code of Conduct, school policy, and state and federal laws, as applicable. For Employees, Mountain City Public Montessori may impose the full range of discipline, including nonrenewal or termination, as set forth in the Employee Handbook, School Policy, and state and federal laws, as applicable.

## **XVI. Students with Disabilities**

If a party to a complaint is a student with a disability, the Title IX Coordinator must consult with one or more members of the IEP Team or Section 504 Team throughout the grievance process, including before any emergency removal of the student and when determining appropriate supportive measures and remedies. Mountain City Public Montessori will comply with the requirements of the IDEA and Section 504 in implementing this Policy, including the requirement that a manifestation determination review be conducted within 10 days of a decision to change the placement of a student with a disability because of a violation of a code of student conduct. See 34 CFR § 300.530.

## **XVII. Training**

1. *All employees* – All MCPM employees must be trained on:

- a. Mountain City Public Montessori's obligation to address sex discrimination in its education program or activity;
- b. The scope of conduct that constitutes sex discrimination under Title IX;
- c. All applicable notification and information requirements under Title IX, including: (i) When a student or a person with the legal right to act on behalf of the student informs any employee of the student's pregnancy or related conditions, the employee's responsibility to provide the person with the Title IX Coordinator's contact information and inform the person that the Title IX Coordinator can coordinate specific actions to prevent sex discrimination and ensure the student's equal access to Mountain City Public Montessori's education program or activity; and (ii) The employee's responsibility to notify the Title IX Coordinator when the employee has information about conduct that reasonably may constitute sex discrimination under Title IX.

2. *Investigators, decisionmakers, and other persons who are responsible for implementing the grievance procedures or who have the authority to modify or terminate supportive measures* – In addition to the training for all employees, these individuals must be trained on the following topics to the extent related to their responsibilities, including:

- a. Mountain City Public Montessori's obligations under § 106.44, including the obligation to respond promptly and effectively when Mountain City Public Montessori has knowledge of conduct that reasonably may constitute sex discrimination in its education program or activity;
- b. Mountain City Public Montessori's grievance procedures;
- c. How to serve impartially, including avoiding prejudgment of the facts at issue, conflicts of interest, and bias; and
- d. The meaning and application of the term "relevant" in relation to questions and evidence, and the types of evidence that are impermissible regardless of relevance.

3. *Facilitators of informal resolution* – In addition to the training for all employees, all facilitators of informal resolution must be trained on the rules and practices associated with Mountain City Public Montessori’s informal resolution process and on how to serve impartially, including by avoiding conflicts of interest and bias.

4. *Title IX Coordinators and designees* – In addition to the training for all employees, the Title IX Coordinator and designees must be trained on their specific responsibilities under Title IX, Mountain City Public Montessori’s record keeping system, the recordkeeping requirements under Title IX, and any other training necessary to coordinate Mountain City Public Montessori’s compliance with Title IX.

### **XVIII. Recordkeeping Requirements**

Mountain City Public Montessori must maintain for a period of at least 7 years:

1. For each complaint of sex discrimination, records documenting the informal resolution process or the grievance procedures and the resulting outcome;
2. For each notification the Title IX Coordinator receives of information about conduct that may reasonably constitute sex discrimination under Title IX, records documenting the actions Mountain City Public Montessori took to meet its obligations under Title IX; and
3. All training materials must also be made available to members of the public upon request.

*Approved by the MCPM Board of Directors on September 4, 2024*