

TENNESSEE PUBLIC CHARTER SCHOOL COMMISSION		
Title IX & Sexual Harassment		6304.01
ADOPTED: April 9, 2021	REVISED:	MONITORING: Review: Annually

In order to maintain a safe, civil, and supportive learning environment, all forms of sexual harassment and discrimination on the basis of sex are prohibited.¹ This policy shall cover authorized charter school employees, employees' behaviors, students, and students' behaviors while on school property, at any school-sponsored activity, on school-provided equipment or transportation, or at any official school bus stop in accordance with federal law. This policy shall be disseminated annually to all authorized charter school staff, students, and parent(s)/guardian(s).²

Each authorized charter school shall adopt a policy in compliance with state and federal laws, rules, and regulations, that, at a minimum, identifies a Title IX Coordinator³ and corresponding duties, includes applicable definitions as outlined in this policy, sets forth the grievance and appeal process, and contains a clear prohibition on retaliation. The authorized charter school's Title IX Coordinator as well as any personnel chosen to facilitate the grievance process shall not have a conflict of interest against any party of the complaint.⁴ These individuals shall receive training as to how to promptly and equitably resolve student and employee complaints.³ All authorized charter school employees shall receive training on complying with this policy and federal law.⁵

DEFINITIONS⁴

“Complainant” is an individual who is alleged to be the victim of conduct that could constitute sexual harassment.

“Respondent” is an individual who is reported to be the perpetrator of conduct that could constitute sexual harassment.

“Sexual harassment” is conduct on the basis of sex that satisfies one or more of the following:³

1. A school district or authorized charter school employee conditioning an aid, benefit, or service of an education program or activity on an individual's participation in unwelcome sexual conduct;
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the education program or activity; or
3. Sexual assault,⁶ dating violence,⁷ domestic violence,⁸ or stalking⁹ as defined in state and federal law.

Behaviors that constitute sexual harassment may include, but are not limited to:

1. Sexually suggestive remarks;
2. Verbal harassment or abuse;
3. Sexually suggestive pictures;
4. Sexually suggestive gesturing;
5. Harassing or sexually suggestive or offensive messages that are written or electronic;
6. Subtle or direct propositions for sexual favors; and
7. Touching of a sexual nature.

Sexual harassment may be directed against a particular person or persons, or a group, whether of the opposite sex or the same sex.

“Supportive measures” are non-disciplinary, non-punitive, individualized services and shall be offered to the complainant and the respondent, as appropriate. These measures may include, but are not limited to, the following:

1. Counseling;
2. Course modifications;
3. Schedule changes; and
4. Increased monitoring or supervision.

The measures offered to the complainant and the respondent shall remain confidential to the extent that maintaining such confidentiality would not impair the ability of the authorized charter school or district to provide the supportive measures.

Sexual Harassment as Sexual Abuse. Under certain circumstances, sexual harassment of a student may constitute sexual abuse as defined under state law. In such situations, authorized charter schools shall comply with state laws as well as Commission and school policies regarding the reporting of suspected abuse to appropriate authorities.¹⁰

Legal References

¹ 34 CFR § 106.1

² 34 CFR § 106.8(b),(c)

³ 34 CFR § 106.8(a)

⁴ 34 CFR § 106.45(b)(1)(iii); 34 CFR § 106.45(b)(10)(D)

⁵ 34 CFR § 106.30(a)

⁶ 20 USCA 1092(f)(6)(A)(v); TCA 36-3-601(10); TCA 71-6-302

⁷ 34 USCA 12291(a)(10)

⁸ 34 USCA 12291(a)(8); TCA 40-14-109

⁹ 34 USCA 12291(a)(30); TCA 39-17-315; TCA 36-3-601(11)

¹⁰ T.C.A. § 37-1-605; T.C.A. § 49-6-1601; T.C.A. § 37-1-403