



Yeshiva Ohr Elchonon Chabad

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Title IX/SB 493 Policies and Procedures

Title IX

Title IX of the of the Education Amendments of 1972 is a civil rights law that bans sex discrimination against students, employees, and others at institutions of higher education and other institutions that receive federal funding. The latest regulatory update was published as a Final Rule in the Federal Register on April 19, 2024, and went into effect on August 1, 2024.

“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.” 20 U.S. Code § 1681

SB 493

California’s SB 493 provides additional rights to students in California institutions of higher education for sexual harassment allegations.

Non-Discrimination Policy

Yeshiva Ohr Elchonon Chabad 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 employment.

Title IX/SB 493 Coordinator

The Title IX/SB 493 Coordinator is responsible for coordinating the institution’s compliance with Title IX and California state laws. This role includes, but is not limited to, monitoring of the overall implementation of Title IX, receiving notices of sex discrimination and sex-based harassment complaints, and overseeing the grievance procedures.

Yeshiva Ohr Elchonon Chabad’s Title IX/SB 493 Coordinator

Name: Rabbi Mendel Spalter

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Work Phone Number: 323-937-3763 ext. 123

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Rabbi Spalter will have adequate training on what constitutes sexual harassment and on trauma-informed investigatory and hearing practices, and will understand how the institution's grievance procedures operate.

Grievance Procedures for Complaints of Sex Discrimination

Yeshiva Ohr Elchonon Chabad 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 any action that would be prohibited by Title IX or the Title IX regulations.

Complaints:

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

- A “complainant,” which includes:
 - a student or employee of Yeshiva Ohr Elchonon Chabad who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX; or
 - a person other than a student or employee of Yeshiva Ohr Elchonon Chabad 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 Yeshiva Ohr Elchonon Chabad’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
- Yeshiva Ohr Elchonon Chabad’s Title IX Coordinator

With respect to complaints of sex discrimination other than sex-based harassment, in addition to the people listed above, the following persons have a right to make a complaint:

- Any student or employee of Yeshiva Ohr Elchonon Chabad; or
- Any person other than a student or employee who was participating or attempting to participate in Yeshiva Ohr Elchonon Chabad’s education program or activity at the time of the alleged sex discrimination.

Yeshiva Ohr Elchonon Chabad 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. When more than one complainant or more than one respondent is involved, references below to a party, complainant, or respondent include the plural, as applicable.

Basic Requirements of Title IX Grievance Procedures:

Employees engaged in the grievance procedures related to sex discrimination, including sexual violence, will receive training on:

- trauma-informed investigatory and hearing practices that help ensure an impartial and equitable process,
- best practices for assessment of a sexual harassment or sexual violence complaint,
- best practices for questioning of the complainant, respondent, and witnesses, and
- implicit bias and racial inequities, both broadly and in school disciplinary processes.

Yeshiva Ohr Elchonon Chabad will treat complainants and respondents equitably.

Yeshiva Ohr Elchonon Chabad 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. A decisionmaker may be the same person as the Title IX Coordinator or investigator.

Yeshiva Ohr Elchonon Chabad presumes that the respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of its grievance procedures.

Yeshiva Ohr Elchonon Chabad has established the following timeframes for the major stages of the grievance procedures.

- Evaluation (decision whether to dismiss or investigate a complaint): 10 days
- Investigation: 2-4 weeks
- Determination: 10 days

Yeshiva Ohr Elchonon Chabad has also established the following process that allows for the reasonable extension of timeframes on a case-by-case basis for good cause with notice to the parties that includes the reason for the delay.

To apply for an extension, the party seeking an extension should submit a written request to the Title IX Coordinator. This request must include the reason for the delay and the amount of additional time requested. The Title IX Coordinator will review the request, taking into consideration the reason for the delay and the potential impact on the other party and the overall process. The Title IX Coordinator will then make a decision based on the review, and notifies both parties in writing of the decision.

If the extension is granted, the notification will include the length of the extension and the reason for the delay. The Title IX process is then updated to reflect the new timeline.

Yeshiva Ohr Elchonon Chabad will take reasonable steps to protect the privacy of the parties and witnesses during its grievance procedures. These steps will not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; consult 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.

Yeshiva Ohr Elchonon Chabad will objectively evaluate all evidence that is relevant and not otherwise impermissible, including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a complainant, respondent, or witness.

The following types of evidence, and questions seeking that evidence, are impermissible (i.e., will not be accessed or considered, except by Yeshiva Ohr Elchonon Chabad to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether they are relevant:

- 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 Yeshiva Ohr Elchonon Chabad 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 discrimination or preclude determination that sex discrimination occurred.

Notice of Allegations:

Upon initiation of Yeshiva Ohr Elchonon Chabad's grievance procedures, Yeshiva Ohr Elchonon Chabad will notify the parties of the following:

- Yeshiva Ohr Elchonon Chabad's Title IX grievance procedures;
- 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.

If, in the course of an investigation, Yeshiva Ohr Elchonon Chabad 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, Yeshiva Ohr Elchonon Chabad will notify the parties of the additional allegations.

Dismissal of a Complaint:

Yeshiva Ohr Elchonon Chabad may dismiss a complaint if:

- Yeshiva Ohr Elchonon Chabad is unable to identify the respondent after taking reasonable steps to do so;
- The respondent is not participating in Yeshiva Ohr Elchonon Chabad's education program or activity and is not employed by Yeshiva Ohr Elchonon Chabad;
- The complainant voluntarily withdraws any or all of the allegations in the complaint, the Title IX Coordinator declines to initiate a complaint, and Yeshiva Ohr Elchonon Chabad 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
- Yeshiva Ohr Elchonon Chabad determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under Title IX. Before dismissing the complaint, Yeshiva Ohr Elchonon Chabad will make reasonable efforts to clarify the allegations with the complainant.

Upon dismissal, Yeshiva Ohr Elchonon Chabad will promptly notify the complainant in writing of the basis for the dismissal. If the dismissal occurs after the respondent has been notified of the allegations, then Yeshiva Ohr Elchonon Chabad will also notify the respondent of the dismissal and the basis for the dismissal promptly following notification to the complainant, or simultaneously if notification is in writing.

Yeshiva Ohr Elchonon Chabad will notify the complainant that a dismissal may be appealed and will provide the complainant with an opportunity to appeal the dismissal of a complaint. If the dismissal occurs after the respondent has been notified of the allegations, then Yeshiva Ohr Elchonon Chabad will also notify the respondent that the dismissal may be appealed. Dismissals may be appealed on the following bases:

- 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
- The Title IX Coordinator, investigator, or decisionmaker 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, Yeshiva Ohr Elchonon Chabad will:

- Notify the parties of any appeal, including notice of the allegations, if notice was not previously provided to the respondent;
- Implement appeal procedures equally for the parties;
- Ensure that the decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
- Ensure that the decisionmaker for the appeal has been trained consistent with the Title IX regulations;
- Provide the parties a reasonable and equal 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 result.

When a complaint is dismissed, Yeshiva Ohr Elchonon Chabad will, at a minimum:

- Offer supportive measures to the complainant as appropriate;
- If the respondent has been notified of the allegations, 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 within Yeshiva Ohr Elchonon Chabad education program or activity

Investigation:

Yeshiva Ohr Elchonon Chabad will provide for adequate, reliable, and impartial investigation of complaints.

The burden is on Yeshiva Ohr Elchonon Chabad —not on the parties—to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.

Yeshiva Ohr Elchonon Chabad 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.

Yeshiva Ohr Elchonon Chabad will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance

Yeshiva Ohr Elchonon Chabad 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:

- Yeshiva Ohr Elchonon Chabad will provide an equal opportunity to access either the relevant and not otherwise impermissible evidence.
- Yeshiva Ohr Elchonon Chabad will provide a reasonable opportunity to respond to the evidence; and
- Yeshiva Ohr Elchonon Chabad 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.

Questioning the Parties and Witnesses:

Yeshiva Ohr Elchonon Chabad will provide a process that enables the decisionmaker to question parties and witnesses to adequately assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex discrimination.

If a party's or witness's credibility is both in dispute and relevant to evaluating one or more allegations of sex discrimination, the decisionmaker will be permitted to ask questions during individual meetings with a witness or party, including any follow-up questions. The decision-maker will then make a final assessment of credibility.

Determination Whether Sex Discrimination Occurred:

Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, Yeshiva Ohr Elchonon Chabad will:

- Use the preponderance (more likely than not) of the evidence standard of proof to determine whether sex discrimination occurred. The standard of proof requires the decisionmaker to 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 will not determine that sex discrimination occurred.
- Notify the parties in writing of the determination whether sex discrimination occurred under Title IX 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 Yeshiva Ohr Elchonon Chabad identifies as having had equal access to Yeshiva Ohr Elchonon Chabad's education program or activity limited or denied by sex discrimination;
 - Coordinate the imposition of any 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 within Yeshiva Ohr Elchonon Chabad'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 whether sex discrimination occurred.

Supportive Measures:

Yeshiva Ohr Elchonon Chabad will offer and coordinate supportive measures as appropriate for the complainant and/or respondent to restore or preserve that person's access to Yeshiva Ohr Elchonon Chabad's education program or activity or provide support during Yeshiva Ohr Elchonon Chabad's Title IX grievance procedures or during the informal resolution process. For complaints of sex-discrimination, these supportive measures may include, but are not limited to, counseling, deadline extensions, other

course-related adjustments, campus escort services; increased security and monitoring of certain areas of the campus; restrictions on contact applied to one or more parties; leaves of absence; leaves of absence, training, and education, and voluntary or involuntary changes in class, work, housing, and extracurricular or other activities.

Disciplinary Sanctions and Remedies:

Following a determination that sex-discrimination occurred, Yeshiva Ohr Elchonon Chabad may impose disciplinary sanctions, which may include but are not limited to, required training or counseling, a warning, probation, suspension, or expulsion. Yeshiva Ohr Elchonon Chabad may also provide remedies, which may include but are not limited to, education and training, counseling services, policy changes, academic support, or housing changes.

Grievance Procedures for Complaints of Sex-Based Harassment Involving Student Complainants or Student Respondents at Postsecondary Institutions

Yeshiva Ohr Elchonon Chabad has adopted Title IX 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. These grievance procedures address complaints of sex-based harassment that involve a student party, and are intended to provide a prompt and equitable resolution to these complaints.

Complaints:

The following people have a right to make a complaint of sex-based harassment, requesting that Yeshiva Ohr Elchonon Chabad investigate and make a determination about alleged sex-based harassment under Title IX:

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

A complainant may report sexual harassment by a third party using these grievance procedures. The institution will respond to those reports to address or prevent a hostile educational environment or to ensure students’ access to education.

Designated, “responsible employees” are required to report concerns of sexual harassment to the Title IX coordinator. A postsecondary institution shall be presumed to know of sexual harassment if a responsible employee knew, or, in the exercise of reasonable care, should have known, about the sexual harassment.

Regardless of whether or not a complaint has been filed under Yeshiva Ohr Elchonon Chabad’s grievance procedures, if Yeshiva Ohr Elchonon Chabad knows, or reasonably should know, about possible sexual harassment involving individuals subject to the institutions policies at the time, Yeshiva Ohr Elchonon Chabad will promptly investigate to determine whether the alleged conduct more likely than not occurred, or otherwise respond if the institution determines that an investigation is not required. If

Yeshiva Ohr Elchonon Chabad determines that the alleged conduct more likely than not occurred, it will immediately take reasonable steps to end the harassment, address the hostile environment, if one has been created, prevent its recurrence, and address its effects.

Yeshiva Ohr Elchonon Chabad may consolidate complaints of sex-based harassment 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. When more than one complainant or more than one respondent is involved, references below to a party, complainant, or respondent include the plural, as applicable.

The Title IX coordinator will assess each report of sexual harassment and provide outreach, as appropriate, to each identifiable student who is alleged to be the victim of the reported conduct. The outreach will include all of the following information:

- The information that Yeshiva Ohr Elchonon Chabad has received a report that the student may have been a victim of sexual harassment.
- Retaliation for filing a complaint or participating in a complaint process, or both, is prohibited.
- Counseling resources within the institution and the community, as listed below.
- Where a crime may have occurred, the student has the right, but not the obligation, to report the matter to law enforcement.
- The institution's investigation procedures established as described below.
- Potential interim measures, such as no-contact directives, housing changes, and academic schedule changes, where applicable.
- The importance of preserving evidence.
- A request for the student to meet with the Title IX coordinator to discuss options for responding to the report.
- The manner in which the institution responds to reports of sexual harassment and a description of potential disciplinary consequences.

Basic Requirements of Title IX Grievance Procedures:

Employees engaged in the grievance procedures related to sex discrimination, including sexual violence, will receive training on:

- trauma-informed investigatory and hearing practices that help ensure an impartial and equitable process,
- best practices for assessment of a sexual harassment or sexual violence complaint,
- best practices for questioning of the complainant, respondent, and witnesses, and
- implicit bias and racial inequities, both broadly and in school disciplinary processes.

Yeshiva Ohr Elchonon Chabad will treat complainants and respondents equitably.

Yeshiva Ohr Elchonon Chabad 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. As long as there is no conflict of interest or bias, a decisionmaker may be the same person as the Title IX Coordinator or investigator.

Yeshiva Ohr Elchonon Chabad presumes that the respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of its grievance procedures.

Yeshiva Ohr Elchonon Chabad has established the following timeframes for the major stages of the grievance procedures.

- Evaluation (decision whether to dismiss or investigate a complaint): 10 days
- Investigation: 2-4 weeks
- Determination: 10 days
- Appeal: 2 weeks

Yeshiva Ohr Elchonon Chabad has also established the following process that allows for the reasonable extension of timeframes on a case-by-case basis for good cause with notice to the parties that includes the reason for the delay.

To apply for an extension, the party seeking an extension should submit a written request to the Title IX Coordinator. This request must include the reason for the delay and the amount of additional time requested. The Title IX Coordinator will review the request, taking into consideration the reason for the delay and the potential impact on the other party and the overall process. The Title IX Coordinator will then make a decision based on the review, and notify both parties in writing of the decision.

The institution will not unreasonably deny a student party's request for an extension of a deadline related to a complaint during periods of examinations or school closures.

If the extension is granted, the notification will include the length of the extension, and fact-finding process that would change the prospective timeframes for the major stages of the complaint process and the reason for the delay. The Title IX process will then be updated to reflect the new timeline.

Yeshiva Ohr Elchonon Chabad will take reasonable steps to protect the privacy of the parties and witnesses during its grievance procedures. These steps will not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; consult 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.

If a complainant requests confidentiality, which could preclude a meaningful investigation or potential discipline of the potential respondent, or that no investigation or disciplinary action be pursued to address alleged sexual harassment, Yeshiva Ohr Elchonon Chabad will take the request seriously, while at the same time considering its responsibility to provide a safe and nondiscriminatory environment for all students, including for the complainant. The institution will generally grant the request. In determining whether to disclose a complainant's identity or proceed to an investigation over the objection of the complainant, the institution may consider whether any of the following apply:

- There are multiple or prior reports of sexual misconduct against the respondent.
- The respondent reportedly used a weapon, physical restraints, or engaged in battery.
- The respondent is a faculty or staff member with oversight of students.
- There is a power imbalance between the complainant and respondent.
- The complainant believes that the complainant will be less safe if the complainant's name is disclosed, or an investigation is conducted.
- The institution is able to conduct a thorough investigation and obtain relevant evidence in the absence of the complainant's cooperation.

If the institution determines that it can honor the student's request for confidentiality, it shall still take reasonable steps to respond to the complaint, consistent with the request, to limit the effects of the

alleged sexual harassment and prevent its recurrence without initiating formal action against the alleged perpetrator or revealing the identity of the complainant. These steps may include increased monitoring, supervision, or security at locations or activities where the alleged misconduct occurred; providing additional training and education materials for students and employees; or conducting climate surveys regarding sexual violence. The institution shall also take immediate steps to provide for the safety of the complainant while keeping the complainant's identity confidential as appropriate. These steps may include changing living arrangements or course schedules, assignments, or tests. The complainant shall be notified that the steps the institution will take to respond to the complaint will be limited by the request for confidentiality.

If the institution determines that it must disclose the complainant's identity to the respondent or proceed with an investigation, it shall inform the complainant prior to making this disclosure or initiating the investigation. The institution shall also take immediate steps to provide for the safety of the complainant where appropriate. In the event the complainant requests that the institution inform the respondent that the student asked the institution not to investigate or seek discipline, the institution shall honor this request.

Yeshiva Ohr Elchonon Chabad will objectively evaluate all evidence that is relevant and not otherwise impermissible including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a complainant, respondent, or witness.

The following types of evidence, and questions seeking that evidence, are impermissible (i.e., will not be accessed or considered, except by Yeshiva Ohr Elchonon Chabad to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether they are relevant:

- 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 Yeshiva Ohr Elchonon Chabad 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.

The investigator shall not consider the past sexual history of a complainant or respondent except in the limited circumstances permitted by this clause. The investigator shall not consider prior or subsequent sexual history between the complainant and anyone other than the respondent for any reason unless directly relevant to prove that physical injuries alleged to have been inflicted by the respondent were inflicted by another individual. The investigator shall not consider the existence of a dating relationship or prior or subsequent consensual sexual relations between the complainant and the respondent unless the

evidence is relevant to how the parties communicated consent in prior or subsequent consensual sexual relations.

Where the investigator or hearing officer allows consideration of evidence about a dating relationship or prior or subsequent consensual sexual relations between the complainant and the respondent pursuant to sub-subclause above, the mere fact that the complainant and respondent engaged in other consensual sexual relations with one another is never sufficient, by itself, to establish that the conduct in question was consensual. Before allowing the consideration of any evidence proffered pursuant to this subdivision, the investigator shall provide a written explanation to the parties as to why consideration of the evidence is consistent with this clause.

Written Notice of Allegations:

Upon initiation of these Title IX grievance procedures, Yeshiva Ohr Elchonon Chabad will notify the parties in writing of the following with sufficient time for the parties to prepare a response before any initial interview:

- Yeshiva Ohr Elchonon Chabad 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-based harassment, and the date(s) and location(s) of the alleged incident(s);
- Retaliation is prohibited;
- The respondent is presumed not responsible for the alleged sex-based harassment until a determination is made at the conclusion of the grievance procedures. Prior to such a determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial decisionmaker;
- The parties may have an advisor of their choice who may be, but is not required to be, an attorney; and
- The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence.

If, in the course of an investigation, Yeshiva Ohr Elchonon Chabad decides to investigate additional allegations of sex-based harassment by the respondent toward the complainant that are not included in the written notice or that are included in a consolidated complaint, it will provide written notice of the additional allegations to the parties.

Yeshiva Ohr Elchonon Chabad will take reasonable steps to respond to each incident of sexual harassment involving individuals subject to the institution's policies that occur in connection with any educational activity or other program of the institution, as well as incidents that occurred outside of those educational programs or activities, whether they occurred on or off campus, if, based on the allegations, there is any reason to believe that the incident could contribute to a hostile educational environment or otherwise interfere with a student's access to education.

Possible interim measures that may be put in place during the pendency of an investigation, the supportive measures that may be provided in the absence of an investigation, and the disciplinary outcomes, remedial measures, and systemic remedies that may follow a final finding of responsibility, subject to all of the following:

- Yeshiva Ohr Elchonon Chabad will not mandate mediation to resolve allegations of sexual harassment, and will not allow mediation, even on a voluntary basis, to resolve allegations of sexual violence.
- Yeshiva Ohr Elchonon Chabad will not require that the complainant enter a voluntary resolution agreement or any other form of resolution as a prerequisite to receiving remedial measures from the institution which safeguard the complainant's access to education.
- When requested by a complainant or otherwise determined to be appropriate, Yeshiva Ohr Elchonon Chabad will issue an interim no-contact directive prohibiting the respondent from contacting the complainant during the pendency of the investigation. Yeshiva Ohr Elchonon Chabad will not issue an interim mutual no-contact directive automatically, but instead will consider the specific circumstances of each case to determine whether a mutual no-contact directive is necessary or justifiable to protect the noncomplaining party's safety or well-being, or to respond to interference with an investigation. A no-contact directive issued after a decision of responsibility has been made will be unilateral and only apply against the party found responsible.
- Upon the issuance of a mutual no-contact directive, Yeshiva Ohr Elchonon Chabad will provide the parties with a written justification for the directive and an explanation of the terms of the directive. Upon the issuance of any no-contact directive, the institution will provide the parties with an explanation of the terms of the directive, including the circumstances, if any, under which violation could be subject to disciplinary action.

Dismissal of a Complaint:

Yeshiva Ohr Elchonon Chabad may dismiss a complaint if:

- Yeshiva Ohr Elchonon Chabad is unable to identify the respondent after taking reasonable steps to do so;
- The respondent is not participating in Yeshiva Ohr Elchonon Chabad's education program or activity and is not employed by Yeshiva Ohr Elchonon Chabad;
- Yeshiva Ohr Elchonon Chabad obtains the complainant's voluntary withdrawal in writing of any or all of the allegations, the Title IX Coordinator declines to initiate a complaint, and Yeshiva Ohr Elchonon Chabad determines that, without the complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex-based harassment under Title IX even if proven; or
- Yeshiva Ohr Elchonon Chabad determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under Title IX. Before dismissing the complaint, Yeshiva Ohr Elchonon Chabad will make reasonable efforts to clarify the allegations with the complainant.

Upon dismissal, Yeshiva Ohr Elchonon Chabad will promptly notify the complainant in writing of the basis for the dismissal. If the dismissal occurs after the respondent has been notified of the allegations, then Yeshiva Ohr Elchonon Chabad will notify the parties simultaneously in writing. Yeshiva Ohr Elchonon Chabad will notify the complainant that a dismissal may be appealed on the bases outlined in the *Appeals* section. If dismissal occurs after the respondent has been notified of the allegations, then Yeshiva Ohr Elchonon Chabad will also notify the respondent that the dismissal may be appealed on the same bases. If a dismissal is appealed, Yeshiva Ohr Elchonon Chabad will follow the procedures outlined in the "**Appeals**" section.

Upon dismissal, Yeshiva Ohr Elchonon Chabad will promptly notify the complainant in writing of the basis for the dismissal. If the dismissal occurs after the respondent has been notified of the allegations, then Yeshiva Ohr Elchonon Chabad will notify the parties simultaneously in writing.

Yeshiva Ohr Elchonon Chabad will notify the complainant that a dismissal may be appealed on the bases outlined in the Appeals section. If dismissal occurs after the respondent has been notified of the allegations, then Yeshiva Ohr Elchonon Chabad will also notify the respondent that the dismissal may be appealed on the same bases. If a dismissal is appealed, Yeshiva Ohr Elchonon Chabad will follow the procedures outlined in the Appeals section.

When a complaint is dismissed, Yeshiva Ohr Elchonon Chabad will, at a minimum:

- Offer supportive measures to the complainant as appropriate;
- If the respondent has been notified of the allegations, 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-based harassment does not continue or recur within Yeshiva Ohr Elchonon Chabad's education program or activity.

Investigation:

Yeshiva Ohr Elchonon Chabad will provide for adequate, reliable, and impartial investigation of complaints and periodic status updates on the investigation consistent with the timelines referenced above to the complainant and respondent.

The investigation and adjudication of alleged misconduct under this section is not an adversarial process between the complainant, the respondent, and the witnesses, but rather a process for postsecondary institutions to comply with their obligations under existing law. The complainant does not have the burden to prove, nor does the respondent have the burden to disprove, the underlying allegation or allegations of misconduct.

The burden is on Yeshiva Ohr Elchonon Chabad—not on the parties—to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.

Yeshiva Ohr Elchonon Chabad will provide to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all meetings or proceedings with sufficient time for the party to prepare to participate.

Yeshiva Ohr Elchonon Chabad will provide the parties with the same opportunities to be accompanied to any meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney.

- Yeshiva Ohr Elchonon Chabad will not limit the choice or presence of the advisor for the complainant or respondent in any meeting or proceeding.
- Yeshiva Ohr Elchonon Chabad may establish restrictions regarding the extent to which the advisor may participate in these grievance procedures, as long as the restrictions apply equally to the parties.

Yeshiva Ohr Elchonon Chabad will provide the parties with the same opportunities, if any, to have people other than the advisor of the parties' choice present during any meeting or proceeding.

Yeshiva Ohr Elchonon Chabad 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.

Yeshiva Ohr Elchonon Chabad will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance.

Yeshiva Ohr Elchonon Chabad will provide each party and the party's advisor, if any, with an equal opportunity to access the evidence that is relevant to the allegations of sex-based harassment and not otherwise impermissible, in the following manner:

- Yeshiva Ohr Elchonon Chabad will provide an equal opportunity to access either the relevant and not otherwise impermissible evidence, or the same written investigative report that accurately summarizes this evidence;
- Yeshiva Ohr Elchonon Chabad will provide a reasonable opportunity to review and respond to the evidence or the investigative report; and
- Yeshiva Ohr Elchonon Chabad will take reasonable steps to prevent and address the parties' and their advisors' unauthorized disclosure of information and evidence obtained solely through the sex-based harassment grievance procedures.

Questioning the Parties and Witnesses:

Yeshiva Ohr Elchonon Chabad will provide a process that enables the decisionmaker to question parties and witnesses to adequately assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex-based harassment. Questions of either party or of any witness that are repetitive, irrelevant, or harassing are prohibited.

Yeshiva Ohr Elchonon Chabad will decide whether or not a hearing is necessary to determine whether any sexual violence more likely than not occurred. In making this decision, the institution may consider whether the parties elected to participate in the investigation and whether each party had the opportunity to suggest questions to be asked of the other party or witnesses, or both, during the investigation. Any hearing will be subject to the following rules:

- Any cross-examination of either party or any witness will not be conducted directly by a party or a party's advisor.
- Either party or any witness may request to answer the questions by video from a remote location.
- Student parties will have the opportunity to submit written questions to the hearing officer in advance of the hearing. At the hearing, the other party will have an opportunity to note an objection to the questions posed. The institution may limit such objections to written form, and neither the hearing officer nor the institution are obligated to respond, other than to include any objection in the record. The hearing officer shall have the authority and obligation to discard or rephrase any question that the hearing officer deems to be repetitive, irrelevant, or harassing. In making these determinations, the hearing officer is not bound by, but may take guidance from, the formal rules of evidence.
- Generally, the parties may not introduce evidence, including witness testimony, at the hearing that the party did not identify during the investigation and that was available at the time of the investigation. However, the hearing officer has discretion to accept for good cause, or exclude, such new evidence offered at the hearing.

When Yeshiva Ohr Elchonon Chabad chooses to conduct a live hearing: Yeshiva Ohr Elchonon Chabad's process for proposing and asking relevant and not otherwise impermissible questions and follow-up questions of parties and witnesses, including questions challenging credibility, will allow the decisionmaker to ask such questions, and:

- Allow each party to propose such questions that the party wants asked of any party or witness and have those questions asked by the decisionmaker, subject to the procedures for evaluating and limiting questions discussed below.

When Yeshiva Ohr Elchonon Chabad chooses not to conduct a live hearing: Yeshiva Ohr Elchonon Chabad's process for proposing and asking relevant and not otherwise impermissible questions and follow-up questions of parties and witnesses, including questions challenging credibility, will:

- Allow the investigator or decisionmaker to ask such questions during individual meetings with a party or witness;
- Allow each party to propose such questions that the party wants asked of any party or witness and have those questions asked by the investigator or decisionmaker during one or more individual meetings, including follow-up meetings, with a party or witness, subject to the procedures for evaluating and limiting questions discussed below; and
- Provide each party with an audio or audiovisual recording or transcript with enough time for the party to have a reasonable opportunity to propose follow-up questions.

Procedures for the decisionmaker to evaluate the questions and limitations on questions:

The decisionmaker will determine whether a proposed question is relevant and not otherwise impermissible before the question is posed and will explain any decision to exclude a question as not relevant or otherwise impermissible. Questions that are unclear or harassing of the party or witness being questioned will not be permitted. The decisionmaker will give a party an opportunity to clarify or revise a question that the decisionmaker determines is unclear or harassing. If the party sufficiently clarifies or revises the question, the question will be asked.

Refusal to respond to questions and inferences based on refusal to respond to questions:

The decisionmaker may choose to place less or no weight upon statements by a party or witness who refuses to respond to questions deemed relevant and not impermissible. The decisionmaker will not draw an inference about whether sex-based harassment occurred based solely on a party's or witness's refusal to respond to such questions.

Procedures for a Live Hearing: Yeshiva Ohr Elchonon Chabad will conduct the live hearing with the parties physically present in the same geographic location or, at [ABC College's] discretion or upon the request of either party, will conduct the live hearing with the parties physically present in separate locations with technology enabling the decisionmaker and parties to simultaneously see and hear the party or witness while that person is speaking.

Yeshiva Ohr Elchonon Chabad will create an audio or audiovisual recording or transcript of any live hearing and make it available to the parties for inspection and review.

Determination Whether Sex-Based Harassment Occurred:

Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, Yeshiva Ohr Elchonon Chabad will:

- Use the preponderance (more likely than not) of the evidence standard of proof to determine whether sex-based harassment occurred. The standard of proof requires the decisionmaker to 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-based harassment occurred, whatever the quantity of the evidence is, the decisionmaker will not determine that sex-based harassment occurred.

- Notify the parties simultaneously in writing of the determination whether sex-based harassment occurred under Title IX including:
 - A description of the alleged sex-based harassment;
 - Information about the policies and procedures that Yeshiva Ohr Elchonon Chabad used to evaluate the allegations;
 - The decisionmaker's evaluation of the relevant and not otherwise impermissible evidence and determination whether sex-based harassment occurred;
 - When the decisionmaker finds that sex-based harassment occurred, any disciplinary sanctions Yeshiva Ohr Elchonon Chabad will impose on the respondent, whether remedies other than the imposition of disciplinary sanctions will be provided by Yeshiva Ohr Elchonon Chabad to the complainant, and, to the extent appropriate, other students identified by Yeshiva Ohr Elchonon Chabad to be experiencing the effects of the sex-based harassment; and
 - Yeshiva Ohr Elchonon Chabad's procedures and permissible bases for the complainant and respondent to appeal.
- Yeshiva Ohr Elchonon Chabad will not impose discipline on a respondent for sex-based harassment prohibited by Title IX unless there is a determination at the conclusion of the Title IX grievance procedures that the respondent engaged in prohibited sex-based harassment.
- If there is a determination that sex-based harassment occurred, as appropriate, the Title IX Coordinator will:
 - Coordinate the provision and implementation of remedies to a complainant and other people Yeshiva Ohr Elchonon Chabad identifies as having had equal access to Yeshiva Ohr Elchonon Chabad's education program or activity limited or denied by sex-based harassment;
 - Coordinate the imposition of any 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-based harassment does not continue or recur within Yeshiva Ohr Elchonon Chabad's education program or activity, and to correct its discriminatory effects on the complainant and others, if appropriate.
- Comply with the Title IX grievance procedures before the imposition of any disciplinary sanctions against a respondent; and
- Not discipline a party, witness, or others participating in the Title IX grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex-based harassment occurred.

The determination regarding responsibility becomes final either on the date that Yeshiva Ohr Elchonon Chabad provides the parties with the written determination of the result of any appeal, or, if no party appeals, the date on which an appeal would no longer be considered timely.

Yeshiva Ohr Elchonon Chabad will ensure that the persons or entities responsible for conducting investigations, finding facts, and making disciplinary decisions are neutral, and will ensure trauma-informed and impartial investigation of complaints. Student parties will be given an opportunity to identify witnesses and other evidence to assist the institution in determining whether a policy violation has occurred, and will be informed that any evidence available but not disclosed during the investigation might not be considered at a subsequent hearing.

Appeals:

Yeshiva Ohr Elchonon Chabad will offer an appeal from a dismissal or determination whether sex-based harassment occurred on the following bases:

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available when the determination or dismissal was made; and
- The Title IX Coordinator, investigator, or decisionmaker 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 a party appeals a dismissal or determination whether sex-based harassment occurred, Yeshiva Ohr Elchonon Chabad will:

- Notify the parties in writing of any appeal, including notice of the allegations, if notice was not previously provided to the respondent;
- Implement appeal procedures equally for the parties;
- Ensure that the decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
- Ensure that the decisionmaker for the appeal has been trained consistent with the Title IX regulations;
- Communicate to the parties in writing that Yeshiva Ohr Elchonon Chabad will provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
- Notify the parties in writing of the result of the appeal and the rationale for the result.

Any additional procedures or bases for appeal Yeshiva Ohr Elchonon Chabad offers will be equally available to all parties.

Supportive Measures:

Yeshiva Ohr Elchonon Chabad will offer and coordinate supportive measures as appropriate for the complainant and/or respondent to restore or preserve that person's access to Yeshiva Ohr Elchonon Chabad's education program or activity or provide support during Yeshiva Ohr Elchonon Chabad's Title IX grievance procedures. For complaints of sex-based harassment, these supportive measures may include, but are not limited to, counseling, deadline extensions, other course-related adjustments, campus escort services; increased security and monitoring of certain areas of the campus; restrictions on contact applied to one or more parties; leaves of absence; leaves of absence, training, and education, and voluntary or involuntary changes in class, work, housing, and extracurricular or other activities.

Disciplinary Sanctions and Remedies:

Following a determination that sex-based harassment occurred, Yeshiva Ohr Elchonon Chabad may impose disciplinary sanctions, which may include but are not limited to, required training or counseling, a warning, probation, suspension, or expulsion. Yeshiva Ohr Elchonon Chabad may also provide remedies, which may include but are not limited to, education and training, counseling services, policy changes, academic support, or housing changes.

Yeshiva Ohr Elchonon Chabad's primary concern is student safety. An individual who participates as a complainant or witness in an investigation of sexual assault, domestic violence, dating violence, or stalking will not be subject to disciplinary sanctions for a violation of the institution's student conduct policy at or near the time of the incident, unless the institution determines that the violation was

egregious, including, but not limited to, an action that places the health or safety of any other person at risk or involves plagiarism, cheating, or academic dishonesty.

Some resources, including chatlines, hotlines, legal assistance, education, and referrals are listed below.

National and Regional Resources

National Domestic Violence Hotline

(800) 799-7233

<https://www.thehotline.org>

National Sexual Violence Resource Center

(800) 656-4673

<https://www.nsvrc.org/>

RAINN National Sexual Assault Hotline

(800) 656-4673

<https://www.rainn.org/>

California Coalition Against Sexual Assault

(916) 446-2520

<https://www.valor.us/>

Resources that are bilingual and culturally sensitive to the needs of the Orthodox Jewish community:

Amudim

(646) 517-0222, (646) 517-0221

info@amudim.org

<https://amudim.org/services-sexual-abuse/>

Shalom Task Force

Confidential Hotline – Call, Text, WhatsApp

(888) 883-2323

<https://shalomtaskforce.org/hotline>

Legal Department:

(212) 742-1110

legalintake@shalomtaskforce.org

<https://shalomtaskforce.org/legal-services>

Chai Lifeline

(855) 3-CRISIS

crisis@chailifeline.org

<https://www.chailifeline.org/crisis>