

## **HERRON CLASSICAL SCHOOLS POLICY REGARDING SEXUAL AND OTHER UNLAWFUL HARASSMENT**

Herron Classical Schools is committed to maintaining a school environment free of unlawful discrimination and harassment. Each individual has the right to learn or work in a safe atmosphere that promotes equal opportunities and prohibits discriminatory practices, including harassment. Therefore, Herron Classical Schools expects that all relationships among persons on campus will be respectful and free of bias, prejudice, and harassment. All members of the Herron Classical Schools community share responsibility for avoiding, discouraging, and reporting any form of unlawful harassment.

### **Definitions of Harassment**

#### **Sexual Harassment**

Sexual harassment of any kind is in total disregard to the culture of Herron Classical Schools and will not be tolerated. Sexual harassment constitutes discrimination and is unlawful under federal, state and local laws. Sexual harassment may include a range of subtle and not so subtle behaviors and may involve individuals of the same or different gender. Depending on the circumstances, these behaviors may include, but are not limited to:

- Unwelcome sexual advancements, leering, sexual flirtations or propositions
- Sexual slurs, epithets, verbal abuse, derogatory comments or sexually degrading descriptions
- Graphic verbal comments or writings about an individual's body, or overly personal conversation.
- Sexual jokes, stories, drawings, pictures or gestures, including digital media
- Spreading sexual rumors
- Teasing or sexual remarks about students or staff
- Touching an individual's body or clothes in a sexual way, or in way that may be construed as sexual
- Cornering or blocking of normal movements
- Displaying sexually suggestive objects Any act of retaliation against an individual who reports a violation of the school's sexual harassment policy or who participates in the investigation of a sexual harassment complaint
- Request for sexual favors regardless of the seriousness of the request, i.e. to say "I was just joking" does not excuse the statement

Not all behavior with sexual connotations constitutes unlawful sexual harassment. Conduct must be sufficiently severe, pervasive, and persistent such that it adversely affects an individual's education, or such that it creates a hostile or abusive educational environment.

#### **Non-sexual Harassment**

Harassment on the basis of any other protected characteristic is also strictly prohibited. Under this policy, harassment is verbal or physical conduct that derogates or shows hostility or aversion toward an individual because of:

- his/her race, color, religion, national origin, ancestry, citizenship status, sex, sexual orientation, gender identity, marital status, age, disability, military service or veteran status, pregnancy, childbirth or related conditions
- any other characteristic protected by law, and that:
- is sufficiently severe, pervasive, and persistent such that it adversely affects an individual's education, or such that it creates a hostile or abusive educational environment.

Harassing conduct includes, but is not limited to: epithets, slurs, or negative stereotyping; threatening, intimidating or hostile acts; derogatory jokes; and written or graphic material that derogates or shows hostility or aversion toward an individual or group or that is placed on walls or elsewhere on the school premises.

#### **Definitions of Sexual Violence**

Sexual violence is a criminal matter and includes, but is not limited to; rape, sexual assault, sexual battery, sexual coercion; or "any sexual act directed against another person, forcibly and/or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving consent." This includes unwelcome touching for sexual gratification. Victims of sexual violence are strongly encouraged to report the matter to law enforcement agents immediately. Victims should also file a complaint and request a Title IX investigation (Title IX of the Education Amendments of 1972 prohibits discrimination and harassment based on sex) of school officials, if the incident occurred on campus or at a school-sponsored event if the act of violence was perpetrated by a student or employee of Herron Classical Schools. In all cases, victims of sexual violence will be directed to seek services from community crisis counseling providers.

### **Individuals and Conduct Covered**

These policies apply to all students and employees of Herron Classical Schools community, including persons hired to provide contracted services and persons volunteering at school activities. Conduct prohibited by these policies is unacceptable in all academic, educational, extracurricular, athletic, and other programs of the school, whether those programs occur on campus, on a bus, or at another location away from campus. A Title IX violation occurs if the incident occurred on campus or at a school sponsored event. Individuals who violate these policies will be subject to disciplinary action, up to and including suspension or expulsion (if a student) or suspension or termination of employment (if an employee), and in egregious situations, law enforcement officials will be notified.

In accordance with its obligations under federal law, Herron Classical Schools reserves the right to investigate reports of harassment occurring between students and other members of the school community, regardless of whether the alleged harassment occurred on or off school grounds; during or outside school hours; or using school-owned or personally-owned electronic devices (e.g., postings to digital media and electronic forums such as Twitter and Facebook or text messages). If the incident occurred on campus or at a school-sponsored event, it may be investigated as a federal Title IX offense.

Courts have struggled to strike a balance between safeguarding students' First Amendment rights and protecting the authority of school administrators to maintain an appropriate learning environment. However, in keeping with Herron Classical Schools' mission to create world class citizens, and in accordance with provisions in the school's Acceptable Use Policy, students are prohibited from using school computers or the school network to harass others, whether the harassment occurs on or off campus. The full range of disciplinary actions outlined in the Student Handbook may be applied, including detention, restrictions on computer use, suspension and expulsion.

### **Retaliation Is Prohibited**

Herron Classical Schools encourages reporting of all perceived incidents of discrimination or harassment. It is the policy of Herron Classical Schools to investigate such reports. Herron Classical Schools prohibits retaliation against any individual who reports discrimination or harassment or participates in an investigation of such reports.

Retaliation against an individual for reporting harassment or discrimination or for participation in an investigation of a claim of harassment or discrimination is a serious violation of this policy and, like harassment or discrimination itself, will subject an individual to disciplinary action. Acts of retaliation should be reported immediately and will be investigated and corrective action taken promptly. Corrective action may include suspension, expulsion and in egregious situations, the involvement of law enforcement officials.

### **Complaint Procedures - Reporting an Incident of Harassment, Discrimination, Sexual Violence or Retaliation**

Herron Classical Schools encourages reporting of all perceived incidents of discrimination, harassment, sexual violence or retaliation, regardless of the offender's identity or position. Herron Classical Schools encourages the prompt reporting of complaints or concerns so that rapid and corrective action can be taken. Early reporting and intervention have proven to be the most effective method of resolving actual or perceived incidents of harassment. All employees of Herron Classical Schools are required to immediately report in writing to the school's Title IX/Harassment Coordinator suspected discrimination, harassment, sexual violence or retaliation of a student regardless of whether it is based on the employee's own observations, on information from the student, the student's parent, or a third party. An employee who observes such acts is expected to intervene, unless circumstances would make such intervention dangerous. All complaints of discrimination, harassment, sexual violence or retaliation will be investigated.

The initial complaint procedure is intended to stop inappropriate behavior and investigate and facilitate resolution through the school's disciplinary procedures. It may be a precursor to the filing of a Title IX complaint and may be terminated at any time to move to the formal Title IX grievance process.

As an initial step, an individual who believes he or she has been subject to discrimination or harassment is encouraged to promptly advise the alleged offender that his or her behavior is unwelcome and request that it be discontinued, as long as he or she feels comfortable doing so. In some cases, an offender may not realize their behavior is offensive and being perceived as harassment. This action alone may sometimes resolve the problem. The Counseling team is available to support an individual taking this initial step.

Herron Classical Schools recognizes, however, that an individual may prefer to pursue the matter through a disciplinary investigation or the Title IX complaint procedure. If for any reason an individual does not wish to address the offender directly, or if addressing the offender does not successfully end the offensive conduct, the individual should notify, orally or in writing, the Dean of Students, Class Advisors, Head of School, the Title IX/Harassment Coordinator, or any other member of Herron Classical Schools Leadership (identified at the end of this policy). Students may also report incidents to the school nurse or to a

teacher. All reports will be filed with the school's Title IX/Harassment Coordinator. In some situations, an informal resolution may be appropriate and may involve meeting with the alleged offender to discuss the unwelcome nature of the behavior, or, if both parties agree, facilitating a meeting between the complainant and the alleged offender to work out a mutual resolution.

The informal resolution is not intended for victims of sexual violence. **Victims of sexual violence should NOT approach the offender under any circumstances in an attempt to resolve the matter, and should file a police report as soon as possible after the attack has occurred.** An individual who is a victim of sexual violence and has filed a police report may file a complaint under Herron Classical Schools' Title IX complaint procedures provided the incident(s) occurred on campus or at a school-sponsored event. School leaders may address sexual harassment affecting its students or employees that falls outside Title IX's jurisdiction in any manner the school chooses in accord with behavioral policies and expectations.

### **Title IX Complaint Procedure**

Federal regulations define a Title IX violation as: *"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 recipient's education program or activity; or, "Sexual Assault," "Dating Violence," "Domestic Violence "or "Stalking" as defined in the Clery Act."* In order to be investigated as a Title IX violation, the alleged incident must have occurred on campus or at a school-sponsored event within the United States. An individual who believes he or she has been subject to discrimination, harassment, sexual violence or retaliation may file a Title IX complaint, orally or in writing, with the Title IX/Harassment Coordinator or any other employee. If a report is made to any other employee of Herron Classical Schools, orally or in writing, about any complaint of discrimination, harassment, sexual violence or retaliation, the employee must immediately report that information to the Title IX Coordinator. All allegations of harassment, discrimination, sexual violence or retaliation will be investigated promptly. Incidents that do not rise to the level of a Title IX violation will be investigated and remedied according to the school's regular disciplinary policies. The Title IX Coordinator will determine if the reported behavior falls under the jurisdiction of a Title IX violation. Members of the school's Leadership team and the Title IX Coordinator are responsible for addressing harassment and Title IX complaints. If the incident rises to the level of a Title IX complaint, the Title IX team includes **Investigators** (HHS – Atticus Westerfeld, Chasidi Bell, Cari Roush, RHS – Amanda Ratliff, Justin Bennett, Brent Mann; HPA – Sean Henseleit, Josh Adams) **Decision-Makers** (HHS Anne Deckard, Katie Dorsey, Jonathan Harris, HRHS – Emanuel Harper, Katie Dorsey, Jonathan Harris, HPA Tenika Holden-Flynn, Jonathan Harris) **Appeal Decision-Makers** (HHS/HPA – Katie Dorsey, Jonathan Harris, Janet McNeal, HRHS – Anne Deckard, Katie Dorsey, Jonathan Harris, Janet McNeal).

Investigations will be launched immediately upon determination that the allegations rise to the level of a Title IX violation. The investigation will be completed promptly. Typically, the Title IX investigation will begin with an interview of the alleged victim to obtain information regarding the identity(ies) of the alleged offender, the offensive conduct, the potential witnesses, and the desired resolution. The alleged victim will be offered an opportunity to submit any evidence that he or she believes relevant to the investigation at any time during the investigation.

Within 5 school days of receiving the initial complaint, the alleged offender will be informed of the allegations in writing and will be offered an opportunity to submit a written response to the allegations. The alleged offender's response and any initial supporting materials must be submitted within 3 school days. New evidence may be submitted at any time during the investigation. The investigator will then review the relevant documents and conduct additional interviews as necessary to determine whether there has been a violation of this policy. For instance, the investigator may conduct interviews with the alleged offender, the parent(s) or legal guardian(s) of the parties, and/or other individuals who may have observed the alleged conduct or may have other relevant knowledge. Both the reporting student and the respondent are permitted to have an adult advisor participate in the interviews. During the investigation, the investigator will keep both parties apprised of the status of the investigation, to the extent permitted under the Family Educational Rights and Privacy Act. The investigator will not require the alleged victim to appear in the same room as the accused. Both parties will be provided with the collected evidence.

Upon receiving a complaint, the investigator will consider whether any interim measures should be taken during the investigatory phase of the complaint process to protect the alleged victim from further harassment, sexual violence, or retaliation. For instance, the investigator may conduct an individualized safety and risk analysis to determine if there is an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Sexual Harassment that justifies removal of the respondent. In the event an interim removal is imposed, the Title IX Coordinator/Investigators must offer to meet with the Respondent within twenty-four hours and provide the Respondent an opportunity to challenge the interim removal. Voluntary removals are permitted.

**Supportive Measures - Special Services:** Supportive measures are defined as individualized special services reasonably available that are nonpunitive, non-disciplinary, and not unreasonably burdensome to the other party. Supportive measures restore or preserve equal access to education, protect student and employee safety, or deter sexual harassment. Supportive measures will be offered even if a complainant does not wish to initiate or participate in a Title IX investigation.

In many cases, investigations may be resolved within 5 school days, but in some situations, the investigation may require up to 60 days to complete. Within 7 school days of the completion of the investigation, the investigator will prepare a report that analyzes and summarizes the evidence gathered. The report will be provided to both parties and to the Decider who will determine the outcome and consequences of the investigation. In determining whether there has been a violation of policy, the Decider will consider a variety of factors, including but not limited to: the nature of the conduct, the age and maturity of the parties, the frequency of the conduct, the relationship between the parties, and whether the conduct adversely affected the victim's education or environment. The determination will be based on the totality of the circumstances and on the 'preponderance of the evidence' (i.e., it is more likely than not that a policy violation occurred) standard. The determination will not take into account any past relationships of the alleged victim. The Decider will determine if the outcome of the investigation warrants discipline of the alleged offender up to and including suspension or expulsion (if a student) or suspension or termination of employment (if an employee).

Both parties will then be provided written notice of the outcome of the investigation. If either party is dissatisfied with the outcome, he or she may file an appeal with the Title IX Coordinator. The appeal will be review by a member of the executive network leadership team. The written notice of appeal must be filed within 5 school days of the date of the written notice of the outcome of the investigation. Within 10 school days of receiving the notice of appeal, the executive leader will review the report prepared by the investigator, the investigator's file, and any other documents or materials provided by the parties and affirm, reverse, or revise the determination and recommendations of the Decider.

Where there has been a policy violation, Herron Classical Schools will make every reasonable effort to stop any conduct in violation of these policies and prevent recurrence. Where appropriate, Herron Classical Schools will also take steps to remedy the effects of any violation. Some examples of such remedial measures include: the provision of counseling and/or academic support to the victim or recalculating certain course grades. Any appropriate remedial measures or special services will be determined on a case-by-case individualized basis.

### **Confidentiality and Recordkeeping**

Herron Classical Schools will make all reasonable efforts to protect the privacy of all parties involved in an investigation and to keep the complaint and investigation confidential. Confidentiality, however, cannot be guaranteed. For example, some details or identities may need to be revealed in order to fully investigate the complaint, and collected evidence will be provided to all parties.

In accordance with its regular recordkeeping practices, Herron Classical Schools will maintain records of all complaints of discrimination, harassment, sexual violence or retaliation.

### **False Claims of Sexual Harassment, Retaliation, and/or Discrimination**

In order to cover all possibilities of misconduct, Herron Classical Schools reserves the right to discipline students who have falsely accused another of harassment, sexual violence, retaliation, and/or discrimination. This does not mean that a complaint will be considered "false" solely because it cannot be corroborated. Disciplinary action for making false claims may include suspension or expulsion.

### **Conclusion**

Herron Classical Schools has developed these policies to ensure that all its students can learn in an environment free from harassment, discrimination and retaliation. Herron Classical Schools will make every reasonable effort to ensure that all necessary persons are familiar with these policies and aware that any complaint in violation of such policies will be investigated and resolved appropriately. In addition to any individuals previously mentioned in this policy, complaints of discrimination, harassment, sexual violence or retaliation may be submitted to any of the following administrators:

#### **Herron Classical Schools Network Team:**

Janet H. McNeal,  
President  
[jmcneal@herronclassical.org](mailto:jmcneal@herronclassical.org)  
317-231-0010 x1113

Jonathan Harris  
Vice President, Academics  
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317-231-0010 x1127

#### **Herron-Riverside High School**

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Amanda Ratliff  
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Juli Woodrum  
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Karen Lalioff  
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Katie Dorsey  
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### **Herron High School**

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Chasidi Bell  
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317-231-0010 x1141

Cari Rousch  
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Justin Bennett  
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### **Herron Preparatory Academy**

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Sean Henseleit  
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Josh Adams  
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