

# **YESHIVAT HECHAL SHEMUEL**

## **TITLE IX POLICY**

Yeshivat Hechal Shemuel (hereafter called “Yeshiva”) is committed to maintaining an environment where all students are granted equal access to education based on the federal Title IX of the Education Amendments of 1972, and subsequent revisions. The latest regulatory update was published as a Final Rule in the Federal Register on May 19, 2020 is effective on August 14, 2020.

The Yeshiva will adhere to a strict policy with regard to sexual violence, which includes any form of sexual assault, domestic violence, dating violence, stalking or any other form of sexual misconduct. The Yeshiva has developed a policy to promptly and effectively respond to any incident of sexual violence or sexual misconduct in accordance with the Title IX Final Rule.

The Yeshiva takes as a serious responsibility its obligation to address all incidents of sexual misconduct, violence and offensive or inappropriate demeanor that take place in the school’s educational program or activity. Behaviors under the following three categories will be addressed in this policy:

- Quid pro quo harassment by a school’s employee
- Unwelcome conduct that a reasonable person would find so severe, pervasive, and objectively offensive that it denies a person equal educational access
- Instance of sexual assault (as defined in the Clery Act), including dating violence, domestic violence, or stalking as defined in the Violence Against Women Act (VAWA)

While meeting its legal requirements the Yeshiva strives to go beyond compliance and is dedicated to maintain a supportive environment for victims of abuse and discrimination. As an appendix, the Yeshiva is providing a list of resources and support that are culturally sensitive to Orthodox Jewish victims. This is in addition to resources that are available to the general public.

The Yeshiva has designated Rabbi Nissim Salem as the Title IX coordinator. As Coordinator, Rabbi Nissim Salem will be responsible to ensure that the formal complaint and grievance process is carried out in accordance with the protocol set forth in this policy. A key principle throughout this policy is to ensure the safety and privacy of all parties. Any student who is the victim of sexual misconduct or any person, employee, or student who has witnessed sexual misconduct may report the incident to the Title IX Coordinator. All students, faculty and staff as well as applicants for admission and employment are formally notified below of the Title IX Coordinator’s name and contact information, which is also available on the institution’s website [www.hechalshemuel.com](http://www.hechalshemuel.com).

NAME OF TITLE IX COORDINATOR:	Rabbi Nissim Salem
WORK ADDRESS OF TITLE IX COORDINATOR:	1532 E 10 <sup>th</sup> Street Brooklyn, NY 11230
EMAIL ADDRESS OF TITLE IX COORDINATOR:	nsalem@hechalshemuel.com
CELL PHONE NUMBER OF TITLE IX COORDINATOR:	718-755-5533
WORK PHONE NUMBER OF TITLE IX COORDINATOR:	718-336-2702

### **The Grievance Process**

The Grievance Process is a set of protocols The Yeshiva will follow when responding to any complaint of sexual violence or harassment. The following are the key participants of the grievance process. (A current list of names occupying the Institutional positions is attached to this policy.)

- Complainant – *individual who is alleged to be the victim of conduct that could constitute sexual harassment*
- Respondent – *an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment*
- Title IX coordinator – *Institutional employee who receives the initial complaint and oversees that the grievance process is carried out*
- Investigators – *Institutional employee(s) who investigates the claim and produces evidence*
- Advocates – *third parties who represent Complainant and Respondent in a live hearing*
- Decision Maker – *Institutional employee(s) who reviews evidence, listens to the arguments of the advocates at a live hearing and decides if the respondent is innocent or guilty*

All Title IX personnel, including Title IX coordinators, investigators, and decision makers must be free from conflict of interest or bias for or against either party. All personnel will receive training on:

- The definition of sexual harassment as per the current federal Rules,
- The scope of activities covered (i.e. the school's education programs, activities and campus facilities),
- How to conduct an investigation and grievance including hearings, appeals, and informal resolution processes, and
- How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

To begin the process, a document known as a Formal Complaint, which alleges an incident of sexual harassment must be filed by the complainant and signed by the Title IX coordinator. Formal Complaints must be filed in writing, and may be submitted in-person, by mail or email.

If the allegations in the Formal Complaint are behaviors that do not meet the definition of sexual harassment as defined by Title IX, or the allegations took place outside of the school's education program or activity, or were against a person outside of the United States, the formal complaint will be dismissed as not being in the jurisdiction of the institution, and the complainant will be referred to other resources including law enforcement and supportive resources.

If at any point, the complainant informs the Title IX coordinator in writing that he requests a dismissal, the complaint will be dismissed. If all parties are willing, they may meet with a mediator to try to reach an informal resolution. If all parties are satisfied with the resolution the complaint may be dismissed. If at any point either party chooses to discontinue mediation, the grievance process will continue. All parties will be notified, in writing, of a dismissal.

If the allegations are behaviors that meet the definition of sexual harassment as defined by Title IX and took place within the school's education program or activity against a person inside the United States, the Title IX coordinator will send both the complainant and respondent written notice of the complaint and its allegations; and will initiate an investigation. The investigator(s) will be responsible to research the incident and gather evidence. The Yeshiva, and not the parties, will bear the primary burden of gathering evidence. To protect the privacy of all parties, and in accordance with HIPPA, the Yeshiva will not access or disclose any party's medical, psychological, or treatment records without voluntary written consent. All parties retain the right to gather evidence independently and discuss the allegations directly with the investigator(s).

Both the Complainant and Respondent have the right to select an advisor of their choice who may be, but need not be, an attorney. If a party does not have an advisor present at the live hearing, the school will provide, without fee or charge to that party, an advisor of the school's choice who is acceptable to that party. This may be, but is not required to be, an attorney. The advisor is empowered to conduct cross examination during the hearing on behalf of the party they represent.

The Yeshiva will send written advance notice of any investigative interviews, meetings, or hearings. The Yeshiva will send the parties, and their advisors, a summary of the evidence directly related to the allegations, in electronic format or hard copy, with at least 10 days for the parties to inspect, review, and respond to the evidence before a formal hearing.

The Yeshiva will schedule a live hearing with the right of cross-examination. At the live hearing, the institutional Decision-maker(s) will allow each party's advisor to ask the other party

and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Live hearings may be conducted with all parties physically present in the same geographic location; or at the complainant's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually (e.g. video or Zoom, etc.). The Yeshiva will create a recording, or transcript, of any live hearing for the record. The Decision-maker(s) will receive proper training on any technology that will be used at the live hearing.

The Decision-maker(s) will issue a written determination with conclusions. The determination will employ the "clear and convincing" standard of evidence regarding culpability. It will detail findings of fact as to whether the alleged conduct occurred, and the rationale for its findings as to each allegation. It will describe any disciplinary sanctions imposed on the respondent, and whether other specific remedies will be provided to the complainant. The written determination will be sent to both parties simultaneously, along with information about how to file an appeal.

All parties will have the right to file an appeal on the following bases: procedural irregularity that affected the outcome of the matter, newly discovered evidence that could affect the outcome of the matter, and/or an assertion that institutional Title IX personnel had a conflict of interest or bias that affected the outcome of the matter.

### **Supportive Measures**

The Yeshiva will inform the complainant of the available supportive measures, resources and referrals and assist the complainant in accessing those resources. The Yeshiva Supportive resources that provide culturally-sensitive and bi-lingual that offer individualized services and that are reasonably available are appended as an appendix. These resources have been vetted by the Yeshiva which has determined that they are non-punitive, non-disciplinary, and not unreasonably burdensome to the respondent; while designed to ensure equal educational access, protect safety, or deter sexual harassment. Supportive measures may be provided regardless of whether the complainant files a Formal Complaint, and before the respondent is found to be responsible.

### **Remedies**

Remedies will be enforced only after the grievance process is completed, once a respondent is found to be culpable. Remedies are designed to maintain the complainant's equal access to education and may include the same individualized services described in Regulation as supportive measures. Remedies may be punitive, disciplinary, and they may be burdensome for the respondent. Remedies will be implemented based on what is reasonable under the circumstances.

## **Resources**

National and Regional Resources:

National Domestic Violence Hotline

1-800-799-7233

<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/>

Title IX.com

[admin@titleIX.com](mailto:admin@titleIX.com)

<https://www.titleix.com/campuses/>

Department of Education – Know Your Rights

<https://www2.ed.gov/about/offices/list/ocr/docs/know-rights-201404-title-ix.pdf>

New York Children & Family Services

1-800-342-3720

<https://ocfs.ny.gov/main/>

New York State Coalition Against Sexual Assault

1-800-942-6906

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

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

Amudim/Project Heal

929-425-8780

<http://projecthealusa.org/>

Agudath Israel of America  
Legal guidance and resources  
<https://agudah.org/>

OHEL Children's Home & Family Services  
800-603-6435  
[https://www.ohelfamily.org/?q=mental\\_health/services\\_overview](https://www.ohelfamily.org/?q=mental_health/services_overview)

Achieve Behavioral Health  
845-425-5252  
<https://achievebh.org/>