



**NEW HARMONY**  
HIGH SCHOOL

# **New Harmony High Institute Disability Discrimination Complaint Procedures**

**Complaint Coordinator:**

**Kitty O'Connor  
Special Education Coordinator  
2539 Columbus Street  
New Orleans, LA 70119**

**Mobile: 504.444.2061  
kitty@newharmonyhigh.org**

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## **I. EVALUATION OF THE COMPLAINT**

If New Harmony High determines that written information provided to New Harmony High is a complaint, New Harmony High will establish whether it has sufficient information to proceed to investigation. New Harmony High will provide complainants with assistance regarding the nature of their rights and of the New Harmony High investigation process. Additionally, New Harmony High staff will provide appropriate assistance to complainants who are persons with disabilities, individuals of limited English proficiency or persons whose communication skills are otherwise limited.

To investigate the complaint, New Harmony High may need to collect and analyze personal information. New Harmony High does not reveal the name or other identifying information about an individual (including individuals who file complaints or speak to New Harmony High) unless (1) such information would assist in the completion of an investigation or in corrective activities of New Harmony High in remedying violations of law; (2) such information is required to be disclosed under the Louisiana's public records laws; or (3) such information is permitted to be disclosed under the Family Educational Rights and Privacy Act and Louisiana laws concerning the confidentiality of student records and New Harmony High determines disclosure would further an interest of the New Harmony High.

However, New Harmony High can release certain information about complaints to the general public, including the date a complaint was filed; the type of discrimination included in a complaint; the date a complaint was resolved, dismissed or closed; the basic reasons for New Harmony High's decision; or other related information. Any information New Harmony High releases to the general public will not include personally-identifiable information about the complainant or the person on whose behalf the complaint was filed except as noted in the paragraph above.

### **A. Determine the Sufficiency of a Complaint**

A complaint is a written or electronic statement to New Harmony High alleging that the rights of one or more students with a disability have been violated and requesting that the New Harmony High take action. Complaints may be filed online as well as by mail, fax, or in person. Some correspondence that New Harmony High receives, even if it concerns an alleged civil rights violation, may not be a complaint. Upon receipt, New Harmony High will determine whether or not the correspondence is a complaint. If a complaint is filed electronically, by e-mail or fax, a signed consent form must be secured in addition to a complaint form.



The following are not complaints:

- (a) Oral allegations that are not reduced to writing;
- (b) Anonymous correspondence;
- (c) Courtesy copies of correspondence or a complaint filed with others; or
- (d) Inquiries that seek advice or information but do not seek action or intervention from New Harmony High.

The complaint should include a written explanation of what happened; a way to contact the complainant (if the complaint is filed by e-mail New Harmony High must have the complainant's actual name and address); and identification of the person or group injured by the alleged discrimination.

Complaints should be submitted to New Harmony High's complaint coordinator:

**Complaint Coordinator: Kitty O'Connor**  
**Special Education Coordinator**  
**2539 Columbus Street, New Orleans, LA 70119**  
**Mobile: 504-612-7869 ext. 0004**  
**kitty@newharmonyhigh.org**

#### **B. Establish a File for Each Complaint**

The case opening date is the date a complaint is received by New Harmony High's chief administrator or a member of New Harmony High's governing board. Complaints received by email or by fax after regular business hours, over a weekend, or on a holiday will be considered received on the next workday. Upon receipt by the appropriate New Harmony High staff, New Harmony High establishes a case file for each complaint. The complaint, however it was filed, must be included in the case file.

In cases of multiple complaints, the following guidelines will be applied in determining how many case numbers should be assigned:

- (a) Complaints from more than one person against New Harmony High that contain different allegations are treated as separate complaints.
- (b) Complaints filed by more than one person that raise substantially identical allegations against New Harmony High may be treated as one complaint or, if received later, incorporated into an existing complaint. If the complaints raise distinct allegations, New Harmony High should treat them as separate complaints.



(c) New allegations filed by the same person against New Harmony High after a complaint investigation has begun are reviewed on a case-by-case basis to determine whether the allegations should be added to the open complaint or treated as a new complaint.

### **C. Acknowledge the Complaint**

New Harmony High will promptly acknowledge receipt of the complaint. The complainant will be informed that the complaint will be evaluated to determine its sufficiency and that further communications about the complaint will be forthcoming. If not already provided by the complainant, a consent form will be included with New Harmony High's acknowledgement letter. The complainant will be informed that the complaint will be closed if written consent is not received within 20 calendar days of the date of the acknowledgement letter. The response will also include a copy of "New Harmony High Complaint Processing Procedures."

### **D. Determine Whether the Allegations Are Sufficient and Timely**

For New Harmony High to initiate an investigation, the complaint must allege, or New Harmony High must be able to infer from the facts given, an allegation of: 1) discrimination based on disability or 2) retaliation for the purpose of interfering with any right or privilege secured by applicable disability rights laws or as a result of making a complaint, testifying, or participating in any manner in an disability discrimination matter before New Harmony High, the Louisiana Department of Education, or the United States Department of Education.

New Harmony High will take action only with respect to those complaint allegations that have been filed within 180 calendar days of the date of the last act of alleged discrimination unless the complainant is granted a waiver under Section I.E. Timely allegations may include those where the complainant alleges a continuing discriminatory policy or practice. The person or team evaluating the complaint allegations shall make the determination of the existence of a continuing discriminatory policy or practice.

New Harmony High will assist the complainant in understanding the information that New Harmony High requires in order to proceed to the investigation of the complainant's allegation(s). This will include explaining New Harmony High's investigation process and the rights of the complainant under Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act. New Harmony High will also, to the extent possible, specifically identify the information necessary for New Harmony High to proceed to investigation of the complainant's allegation(s). New Harmony High staff will provide appropriate assistance to complainants who are persons with disabilities, individuals of limited English proficiency, or persons whose communication skills are otherwise limited.



If New Harmony High decides not to open a complaint for investigation or to terminate an investigation for any of the reasons identified above, it will dismiss the complaint allegation.

New Harmony High will also dismiss an allegation for the following reasons:

(a) The allegation fails to state a violation of Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act; or

(b) The allegation lacks sufficient detail (i.e., who, what, where, when, how) for New Harmony High to infer that discrimination or retaliation may have occurred or is occurring; or

(c) The allegation is so speculative, conclusory, or incoherent that it is not sufficiently grounded in fact for New Harmony High to infer that discrimination or retaliation may have occurred or is occurring.

Before dismissing a complaint allegation, New Harmony High will contact the complainant and explain in writing (by letter or via electronic mail) the information necessary for New Harmony High to proceed to investigation of the complaint allegation, ask the complainant to provide this information to New Harmony High within 20 calendar days of the date of the written request and advise the complainant that the complaint allegation will be dismissed if the information is not received by that date. New Harmony High will dismiss the complaint allegation if the requested information is not received within 20 calendar days of the date of the written request.

If a complaint allegation is dismissed, New Harmony High will issue a letter of dismissal to the complainant explaining the reason for the decision.

#### **E. Determine Whether a Waiver of Timeliness Should be Granted**

If a complaint allegation is not filed in a timely manner, New Harmony High will notify the complainant of the opportunity to request a waiver. The person or team evaluating the complaint allegations may grant a waiver of the 180-day filing requirement for good cause shown, such as under any of the following circumstances:

(a) The complainant could not reasonably be expected to know the act was discriminatory within the 180-day period, and the complaint allegation was filed within 60 days after the complainant became aware of the alleged discrimination;



(b) The complainant was unable to file a complaint because of incapacitating illness or other incapacitating circumstances during the 180-day period, and the complaint allegation was filed within 60 days after the period of incapacitation ended; or

(c) Unique circumstances generated by New Harmony High's action have adversely affected the complainant's ability to file a complaint within the 180-day period.

If a waiver is not requested or requested but not granted, the allegation will be dismissed and the complainant informed of the decision.

#### **F. Opening the Complaint for Investigation**

When New Harmony High opens a case for investigation, it will issue a letter of notification to the complainant that contains, at a minimum, the following information:

- the complaint allegations;
- contact information for the New Harmony High staff person who will serve as the complainant's primary contact during the investigation and resolution of the complaint; and
- a copy of "New Harmony High Complaint Processing Procedures".

#### **G. Determine Whether New Harmony High Will Administratively Close a Complaint**

New Harmony High will close a complaint for the following reasons:

(a) The same allegations have been filed by the complainant against the New Harmony High with state or federal court. An New Harmony High complaint may be re-filed within 60 days following termination of the court proceeding if there has been no decision on the merits or settlement of the complaint allegations. (Dismissal with prejudice is considered a decision on the merits.)

(b) The complaint allegations are foreclosed by previous decisions of the federal courts, the U.S. Secretary of Education, or the U.S. Department of Education's Civil Rights Reviewing Authority.



(c) New Harmony High obtains credible information indicating that the allegations raised by the complaint have been resolved, and there are no class-wide allegations. In such a case, New Harmony High will attempt to ascertain the apparent resolution. If New Harmony High determines that there are no current allegations appropriate for further complaint resolution, the complaint will be closed.

(d) The New Harmony High determines that its ability to complete the investigation is substantially impaired by the complainant's or injured party's refusal to provide information that is reasonably accessible to the complainant and is necessary for investigation of the complaint.

(e) The New Harmony High determines that its ability to complete the investigation is substantially impaired by its inability to contact the complainant in order to obtain information that is necessary for investigation of the complaint. New Harmony High will include documentation in the case file of its efforts to contact the complainant by phone, in writing, or via electronic mail to request the necessary information. New Harmony High will not close the complaint until more than 20 calendar days have passed since the date of New Harmony High's attempt to contact the complainant.

(f) The complaint is a continuation of a pattern of complaints previously filed by the complainant or someone other than the complainant involving the same or similar allegations against New Harmony High that have been found to be without merit by New Harmony High.

(g) The complainant withdraws the complaint.

(h) The death of the complainant or injured party makes it impossible to investigate the allegations fully, or when the death of the complainant or injured party forecloses the possibility of relief because the complaint involved potential relief solely for the complainant or injured party.

(i) The allegations are moot because:

1. There are no current allegations appropriate for further investigation and resolution;
2. There are no class-wide allegations; and



3. There is no need for the New Harmony High to change its policies or procedures in order to protect against a future violation.

If New Harmony High closes a complaint for any of the reasons identified above, it will issue a letter of administrative closure to the complainant explaining the reason for the decision.

## **II. INVESTIGATION OF THE COMPLAINT AND ISSUANCE OF FINDINGS**

New Harmony High will ensure that investigations are legally sufficient and that they are dispositive of the allegations raised in the complaint. New Harmony High corrective action plans should be carefully drafted to ensure compliance with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act.

### **A. Case Planning**

Case planning will begin as early as possible, will be thorough, and will be conducted throughout the life of every case to ensure high quality decisions, prompt investigations, and efficient use of New Harmony High resources. Planning decisions will reflect sound legal standards and will be adjusted as necessary to take into account new information obtained during case processing.

The following essential elements of case planning will be addressed in every case and placed in the file (unless inapplicable):

- (a) Allegation(s)
- (b) Legal issue(s)
- (c) Investigation strategy (including obtaining interim relief as appropriate)
- (d) Corrective action plan

### **B. Investigative Determinations: Letters of Finding**

Within 60 days of the receipt of a sufficient and timely complaint, New Harmony High will determine either that:

- there is insufficient evidence to support a conclusion of noncompliance; or
- there is sufficient evidence to support a conclusion of noncompliance.





New Harmony High will issue a letter of finding(s) to the complainant. All letters of finding(s) will include a statement that "The complainant may have the right to file a private suit in federal court whether or not New Harmony High finds a violation."

### **1. Insufficient Evidence Determination**

When New Harmony High determines that the evidence does not support a conclusion that New Harmony High failed to comply with applicable regulations, New Harmony High will issue a letter of finding(s) to the parties. The letter of finding(s) must include:

1. a statement of the issues raised by the complaint; and
2. clear explanation of the pertinent legal standard and factual analysis.

The case file will include an index of the evidence relied upon in making the determination.

### **2. Non-Compliance Determination**

When New Harmony High determines that a preponderance of the evidence supports a conclusion that the New Harmony High failed to comply with applicable regulations, New Harmony High will prepare a statement of the case. The statement of the case must set out the issues investigated; New Harmony High's basis for adopting a corrective action plan; and an explanation of how the terms of the agreement are aligned with the issues investigated and are consistent with applicable regulations. The provisions of the corrective action plan will be aligned with the identified violation(s) and will be consistent with applicable regulations.

The letter of finding(s) to the parties must include:

1. a statement of the issues raised by the complaint;
2. a clear explanation of the pertinent legal standard and factual analysis; and
3. a statement that, when fully implemented, the corrective action plan will address all of the complainant concerns. The letter will include a copy of the corrective action plan.

The case file will include an index of the evidence relied upon in making the determination.



### **C. Guidelines for Action Plans**

The complaint will be considered resolved if the New Harmony High adopts a corrective action plan that, when fully performed, will remedy the complaint or identified violations. A copy of the corrective action plan will be included with letter of finding(s).

Corrective action plans must be signed by a person with authority to bind the corrective action plan and must include:

- (i) specific acts or steps New Harmony High will take to resolve compliance issues;
- (ii) dates for implementing each act or step; and
- (iii) dates for submission of reports and documentation to the complainant verifying implementation.

### **D. Data Collection and Information Gathering**

Investigations are guided by several fundamental principles. New Harmony High will undertake a robust outreach to New Harmony High's community to increase its access to relevant information in the conduct of an investigation, as appropriate. In addition, New Harmony High will determine whether it is appropriate to provide interim relief for the injured party. If interim relief is appropriate, New Harmony High will contact the complainant as early as possible to secure it pending the outcome of the investigation.

Relevant credible data are invaluable to New Harmony High in ensuring compliance with the law. As part of its investigations, New Harmony High will collect data resulting from any methods New Harmony High uses to track and evaluate their compliance with their legal responsibilities (e.g., climate surveys and other self-assessment tools).

#### **1. Generally**

Generally, New Harmony High seeks documentary evidence, develops interview questions based upon those data and any other available information, and conducts interviews with the complainant, New Harmony High personnel, and others as appropriate. The exact approach taken to data/information collection will vary from case to case depending on the issues raised, the extent to which relevant data are in the control of New Harmony High or others, and investigation strategies. Some general practices that should be part of decision-making during data collection include:



- Obtain independent written documentation to corroborate oral statements.
- Label all evidence, documents, electronic media, and written records of contact, with information identifying the case being investigated and the circumstances under which the evidence was obtained (e.g., where and when an interview was conducted, and who provided a given document).

## **2. New Harmony High's Authority to Obtain Information**

New Harmony High has no legal authority to require the complainant or any other individual or organization outside of New Harmony High's control to provide information.

## **3. Interviews**

Interviews are an integral part of most investigations. The objective of interviews is to gain an understanding of the records and data relevant to the issues in the case; to obtain information from and assess the credibility of witnesses; and to evaluate New Harmony High defenses. New Harmony High may conduct individual interviews or focus groups as part of its investigations.

Notice – Prior to initiating an interview, New Harmony High should inform the witness of the following:

- (i) The general purpose of the interview, including New Harmony High's role, what law or laws may be pertinent to the investigation, and where appropriate, a brief explanation of what is under investigation.
- (ii) The potential uses of the information to be obtained from the witness.
- (iii) The witness's right to personal representation during the interview by a person of their choice.
- (iv) If the witness is an employee of New Harmony High, his or her right to refuse to have anyone else present during the interview and his or her right to refuse to reveal the content of an interview.
- (v) The regulatory provisions concerning prohibition of intimidating or retaliatory acts by New Harmony High.



Witnesses shall be interviewed under circumstances that assure privacy. An interpreter may be used if safeguards are taken to ensure the competence of the interpreter and to protect the witness's privacy.

**Interviews with Minors (Persons Under 18) or Legally Incompetent Individuals** – New Harmony High shall obtain written consent from a parent or guardian prior to interviewing any person under 18 years of age or otherwise adjudicated legally incompetent, for example, mentally impaired. Parental or legal guardian consent may not be required for persons under 18 if they are emancipated under state law and are therefore considered to have obtained majority. For persons under 18 who state they are emancipated, New Harmony High should obtain proof of emancipation.

Parental or legal guardian consent (or proof of emancipation) may not be necessary when the questions asked are of a general nature, not related to any specific events in which the minor was involved, and there are no records kept to identify the student. If parents or guardians refuse to provide consent for an interview, and New Harmony High determines that the child's information is critical, New Harmony High may attempt to secure parental or guardian consent by inviting the parent or guardian to be present during the interview. If consent is denied, New Harmony High will not interview the child.

**Records of Interviews** – A written record of both telephone and in-person interviews must be kept. Interviewers will notify interviewees if a tape recording is used and tape recording will be done only with the consent of the interviewee. If interviewers use tape recording, the tape becomes part of the case record along with the written record. Regardless of the technique used during the interview, a written record of the interview must be created.

The record of the interview to be placed in the case file must contain the following information:

- (i) case identification (name and case number);
- (ii) name and identification of the interviewee, interviewer, and any other person present (include an explanation for the presence of any other persons);
- (iii) date, time, and location of interview (including whether the interview was conducted by telephone);
- (iv) a record of whether the interviewee was informed of required notifications; and



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(v) written record reflecting the questions and responses obtained during the interview (this need not be a verbatim transcript but must accurately reflect the responses of the witness).