NEW HEIGHTS SCHOOLS, INC.

POLICY 522

TITLE IX SEX NONDISCRIMINATION POLICY, GRIEVANCE PROCEDURE AND PROCESS

POLICY MANAGEMENT
Adopted: 2/1998
Reviewed/ Revised: 4/11*; 11/11*; 1/15*; 12/17*; 12/18*,11/19*,1/21*, 11/22*, 11/23, 10/24, 11/25*
Mandatory: Yes
Frequency: Annual
Distribution: Website

[NOTE: In 2024, the U.S. Department of Education, Office of Civil Rights (OCR), released the latest version of the Final Rule amending Title IX regulations at 34 Code of Federal Regulations, part 106. These regulations have an effective date of August 1, 2024.]

I. GENERAL STATEMENT OF POLICY

A. The school does not discriminate on the basis of sex, including discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity, in any education program or activity that it operates, including in admission and employment. The school does not discriminate in such a manner in its implementing regulations. The school is committed to maintaining an education and work environment that is free from discrimination based on sex, including sexual harassment.

B. Except as provided elsewhere under Title IX or its regulations, no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity operated by the school.

C. The school prohibits sexual harassment that occurs within its education programs and activities. When the school has actual knowledge of sexual harassment in its education program or activity against a person in the United States, it shall promptly respond in a manner that is not deliberately indifferent.

D. Except as provided therein, Title IX and its regulations apply to all sex discrimination occurring under the school's education program or activity in the United States. For the purpose of this paragraph, conduct that occurs under the school's education program or activity includes but is not limited to conduct that is subject to the school's disciplinary authority. The school has an obligation to address a sex-based hostile environment under its education program or activity, even when some conduct alleged to be contributing to the hostile environment

occurred outside the school's education program or activity or outside the United States.

E. The school's obligation to comply with Title IX and its regulations is not obviated or alleviated by the Federal Educational Rights and Privacy Act (FERPA), 20 United States Code, section 1232g, or its implementing regulations, 34 Code of Federal Regulations, part 99, or any state law or local law. The obligation to comply is not obviated or alleviated by any rule or regulation of any organization, club, athletic or other league, or association which would render any applicant or student ineligible to participate or limit the eligibility or participation of any applicant or student, on the basis of sex, in any education program or activity operated by the school and which receives Federal financial assistance.

F. The school has adopted, published, and implemented grievance procedures consistent with the requirements of 34 Code of Federal Regulations, section 106.45, and if applicable section 106.46, 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 the school's education program or activity, or by the Title IX Coordinator, alleging any action that would be prohibited by Title IX or its regulations.

G. The school has an obligation to address a sex-based hostile environment under its education program or activity, even when some conduct alleged to be contributing to the hostile environment occurred outside the school's education program or activity or outside the United States.

H. Nothing in Title IX or its regulations may be read in derogation of any legal right of a parent, guardian, or other authorized legal representative to act on behalf of a complainant, respondent, or other person, subject to Paragraph F of this section, including but not limited to making a complaint through the school's grievance procedures for complaints of sex discrimination.

I. In the limited circumstances in which Title IX or its regulations permits different treatment or separation on the basis of sex, the school must not carry out such different treatment or separation in a manner that discriminates on the basis of sex by subjecting a person to more than de minimis harm, except as permitted by 20 United States Code, section 1681(a)(1) through (9) and the corresponding regulations sections 106.12 through 106.15, 20 United States Code, section 1686 and its corresponding regulation section 106.32(b)(1), or section 106.41(b). Adopting a policy or engaging in a practice that prevents a person from participating in an education program or activity consistent with the person's gender identity subjects a person to more than de minimis harm on the basis of sex.

J. Any student, parent, or guardian having questions regarding the application of Title IX and its regulations and/or this policy and grievance process should

discuss them with the Title IX Coordinator. The school's Title IX Coordinator(s) is/are:

Tom Kearney- Principal
614 W. Mulberry St
Stillwater, MN 55082
651-439-1962

Questions relating solely to Title IX and its regulations may be referred to the Title IX Coordinator(s), the Assistant Secretary for Civil Rights of the United States Department of Education, or both.

K. The effective date of this policy is August 1, 2024, and applies to alleged violations of this policy occurring on or after August 1, 2024.

II. DEFINITIONS

A. "Actual knowledge" means notice of sexual harassment or allegations of sexual harassment to the school's Title IX Coordinator or to any employee of the school. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge. This standard is not met when the only official of the school with actual knowledge is the respondent.

B. "Complainant" means a person who is alleged to be the victim of conduct that could constitute sexual harassment under Title IX. A Title IX Coordinator who signs a formal complaint is not a complainant unless the Title IX Coordinator is alleged to be the victim of the conduct described in the formal complaint.

1. a student or employee of the school who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations; or

2. a person other than a student or employee of the school who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX and who was participating or attempting to participate in a school education program or activity at the time of the alleged sex discrimination.

C. "Complaint" means an oral or written request to the school that objectively can be understood as a request for the school to investigate and make a determination about alleged discrimination under Title IX or its regulations.

1. A person is entitled to make a complaint of sex-based harassment only if they themselves are alleged to have been subjected to the sex-based harassment, if they have a legal right to act on behalf of such person, or if the Title IX Coordinator initiates a complaint consistent with the requirements of 34 Code of Federal

Regulations, section 106.44(f)(1)(v).

2. The following individuals have a right to make a complaint of sex discrimination, including complaints of sex-based harassment, requesting that the school investigate and make a determination about alleged discrimination under Title IX:

a. complainant;

b. a parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant; or

c. the school's Title IX Coordinator.

[NOTE: When a Title IX Coordinator is notified of conduct that reasonably may constitute sex discrimination under Title IX (and in the absence of a complaint or the withdrawal of any or all of the allegations in a complaint, and in the absence or termination of an informal resolution process), the Title IX Coordinator must determine whether to initiate a complaint of sex discrimination as required under Title IX. The requirements for such a fact-specific determination are set forth in 34 Code of Federal Regulations, section 106.44(f)(1)(v).]

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

a. any school student or employee; or

b. any person other than a school student or employee who was participating or attempting to participate in a school education program or activity at the time of the alleged sex discrimination.

D. "Confidential employee" means

1. A school employee whose communications are privileged or confidential under Federal or Minnesota law. The employee's confidential status, for purposes of this part, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies; or

2. A school employee whom the school has designated as confidential under this part for the purpose of providing services to persons related to sex discrimination. If the employee also has a duty not associated with providing those services, the employee's confidential status is only with respect to information received about sex discrimination in connection with providing those services.

E. "Day" or "days" means, unless expressly stated otherwise, business days (i.e. day(s) that the school office is open for normal operating hours, Monday - Friday,

excluding State-recognized holidays).

F. "Deliberately indifferent" means clearly unreasonable in light of the known circumstances. The school is deliberately indifferent only if its response to sexual harassment is clearly unreasonable in light of the known circumstances.

G. "Disciplinary sanctions" means consequences imposed on a respondent following a determination under Title IX that the respondent violated the school's prohibition on sex discrimination.

H. "Education program or activity" means locations, events, or circumstances for which the school exercises substantial control over both the respondent and the context in which the sexual harassment occurs and includes school education programs or activities that occur on or off of school property.

I. "Formal complaint" means a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the school investigate the allegation of sexual harassment.

1. A formal complaint filed by a complainant must be a physical document or an electronic submission. The formal complaint must contain the complainant's physical or digital signature, or otherwise indicate that the complainant is the person filing the formal complaint, and must be submitted to the Title IX Coordinator in person, by mail, or by email.

2. A formal complaint shall state that, at the time of filing the formal complaint, the complainant was participating in, or attempting to participate in, an education program or activity of the school with which the formal complaint is filed.

J. "Informal resolution" means options for resolving a formal complaint that do not involve a full investigation and adjudication. Informal resolution may encompass a broad range of conflict resolution strategies, including mediation or restorative justice.

K. "Parental status" as used in Title IX and its regulations means the status of a person who, with respect to another person who is under the age of 18 or who is 18 or older but is incapable of self-care because of a physical or mental disability, is:

1. A biological parent;

2. An adoptive parent;

3. A foster parent;

4. A stepparent;

5 A legal custodian or guardian;

6. In loco parentis with respect to such a person; or

7. Actively seeking legal custody, guardianship, visitation, or adoption of such a person.

L. "Peer retaliation" means retaliation by a student against another student.

M. "Pregnancy or related conditions" means:

1. Pregnancy, childbirth, termination of pregnancy, or lactation;

2. Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or

3. Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

N. "Program or activity" and "program" means all of the operations of a local education agency as defined in 20 United States Code, section 8801, a special purpose district, a system of vocational education, or other school system.

O. "Relevant" means related to the allegations of sex discrimination under investigation as part of the grievance procedures under Title IX and 34 Code of Federal Regulations, section 106.44. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged sex discrimination occurred.

P. "Remedies" means measures provided, as appropriate, to a complainant or any other person the school identifies as having had their equal access to the school's education program or activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person's access to the school's education program or activity after a school determines that sex discrimination occurred.

Q. "Respondent" means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment under Title IX.

R. "Retaliation" means intimidation, threats, coercion, or discrimination against any person by the school, a student, or an employee or other person authorized by the school to provide aid, benefit, or service under the school's education program or

activity, for the purpose of interfering with any right or privilege secured by Title IX or its regulations, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under the Title IX regulations.

S. "Sex-based harassment" prohibited by Title IX and its regulations is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity, that is:

1. *Quid pro quo harassment*.

   An employee, agent, or other person authorized by the school to provide an aid, benefit, or service under the school's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;

2. *Hostile environment harassment*.

   Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the school's education program or activity (*i.e.,* creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

   a. The degree to which the conduct affected the complainant's ability to access the school's education program or activity;

   b. The type, frequency, and duration of the conduct;

   c. The parties' ages, roles within the school's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;

   d. The location of the conduct and the context in which the conduct occurred; and

   e. Other sex-based harassment in the school's education program or activity; or

3. *Specific offenses*.

   a. Sexual assault meaning an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation;

b. Dating violence meaning violence committed by a person:

i. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

ii. Where the existence of such a relationship shall be determined based on a consideration of the following factors:

(a) The length of the relationship;

(b) The type of relationship; and

(c) The frequency of interaction between the persons involved in the relationship;

c. Domestic violence meaning felony or misdemeanor crimes committed by a person who:

i. is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the state of Minnesota, or a person similarly situated to a spouse of the victim;

ii. is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;

iii. shares a child in common with the victim; or

iv. commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction; or

d. Stalking meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

i. Fear for the person's safety or the safety of others; or

ii. Suffer substantial emotional distress.

T. "Student with a disability" means a student who is an individual with a disability as defined in the Rehabilitation Act of 1973, as amended, or a child with a disability as defined in the Individuals with Disabilities Education Act.

U. "Supportive measures" means individualized measures offered as appropriate, as

reasonably available, without unreasonably burdening a complainant or respondent, not for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to:

1. Restore or preserve that party's access to the school's education program or activity, including measures that are designed to protect the safety of the parties or the school's educational environment; or

2. Provide support during the school's grievance procedures or during the informal resolution process.

The school will offer and coordinate supportive measures as appropriate for the complainant and/or respondent to restore or preserve that person's access to the school's education program or activity or provide support during the school's Title IX grievance procedures or during the informal resolution process.

V. "Title IX" means Title IX of the Education Amendments of 1972, as amended.

W. "Title IX Personnel" means any person who addresses, works on, or assists with the school's response to a report of sexual harassment or formal complaint, and includes persons who facilitate informal resolutions. The following are considered Title IX Personnel:

1. "Title IX Coordinator" means an employee of the school that coordinates the school's efforts to comply with and carry out its responsibilities under Title IX. The Title IX Coordinator is responsible for acting as the primary contact for the parties and ensuring that the parties are provided with all notices, evidence, reports, and written determinations to which they are entitled under this policy and grievance process. The Title IX Coordinator is also responsible for effective implementation of any supportive measures or remedies. The Title IX Coordinator must be free from conflicts of interest and bias when administrating the grievance process.

2. "Investigator" means a person who investigates a formal complaint. The investigator of a formal complaint may not be the same person as the Decision-maker or the Appellate Decision-maker. The Investigator may be a school employee, school official, or a third party designated by the school.

3. "Decision-maker" means a person who makes a determination regarding responsibility after the investigation has concluded. The Decision-maker cannot be the same person as the Title IX Coordinator, the Investigator, or the Appellate Decision-maker.

4. "Appellate Decision-maker" means a person who considers and decides

appeals of determinations regarding responsibility and dismissals of formal complaints. The Appellate Decision-maker cannot be the same person as the Title IX Coordinator, Investigator, or Decision-maker. The Appellate Decision-maker may be a school employee, or a third party designated by the school.

5. The principal of the school may delegate functions assigned to a specific school employee under this policy, including but not limited to the functions assigned to the Title IX Coordinator, Investigator, Decision-maker, Appellate Decision-maker, and facilitator of informal resolution processes, to any suitably qualified individual and such delegation may be rescinded by the principal at any time. The school may also, in its discretion, appoint suitably qualified persons who are not school employees to fulfill any function under this policy, including, but not limited to, Investigator, Decision-maker, Appellate Decision-maker, and facilitator of informal resolution processes.

[NOTE: It is recommended that schools designate a primary Title IX Coordinator and at least one alternate Title IX Coordinator so that the alternate can undertake Title IX Coordinator responsibilities in the event the primary Title IX Coordinator is a party to a complaint, or is otherwise not qualified under this policy to serve in that role in a particular case.]

III. PARENTAL, FAMILY, OR MARITAL STATUS; PREGNANCY OR RELATED CONDITIONS

A. Status Generally

The school must not adopt or implement any policy, practice, or procedure concerning a student's current, potential, or past parental, family, or marital status that treats students differently on the basis of sex.

B. Pregnancy or Related Conditions

1. Nondiscrimination

The school must not discriminate in its education program or activity against any student based on the student's current, potential, or past pregnancy or related conditions. The school does not engage in prohibited discrimination when it allows a student, based on pregnancy or related conditions, to voluntarily participate in a separate portion of its education program or activity provided the school ensures that the separate portion is comparable to that offered to students who are not pregnant and do not

have related conditions.

2. Responsibility to Provide Title IX Coordinator Contact and Other Information

The school must ensure that when a student, or a person who has a legal right to act on behalf of the student, informs any employee of the student's pregnancy or related conditions, unless the employee reasonably believes that the Title IX Coordinator has been notified, the employee promptly provides that person with the Title IX Coordinator's contact information and informs that person that the Title IX Coordinator can coordinate specific actions to prevent sex discrimination and ensure the student's equal access to the school's education program or activity.

3. Specific Actions to Prevent Discrimination and Ensure Equal Access

The school must take specific actions below to promptly and effectively prevent sex discrimination and ensure equal access to the school's education program or activity once the student, or a person who has a legal right to act on behalf of the student, notifies the Title IX Coordinator of the student's pregnancy or related conditions. The Title IX Coordinator must coordinate these actions.

a. Responsibility to provide information about school obligations.

The school must inform the student, and if applicable, the person who notified the Title IX Coordinator of the student's pregnancy or related conditions and has a legal right to act on behalf of the student, of the school's obligations under 34 Code of Federal Regulations, section 106.31, paragraphs (b)(1) through (5) and section 106.44(j) and provide the school's notice of nondiscrimination under section 106.8(c)(1)

b. Reasonable modifications

i. The school must make reasonable modifications to the school's policies, practices, or procedures as necessary to prevent sex discrimination and ensure equal access to the school's education program or activity. Each reasonable modification must be based on the student's individualized needs. In determining what modifications are required under this paragraph, the school must consult with the student. A modification that a school can demonstrate would fundamentally alter the nature of its education program or activity is not a reasonable modification.

ii. The student has discretion to accept or decline each reasonable modification offered by the school. If a student accepts the school's offered reasonable modification, the school must implement it.

iii. Reasonable modifications may include, but are not limited to, breaks during class to express breast milk, breastfeed, or attend to health needs associated with pregnancy or related conditions, including eating, drinking, or using the restroom; intermittent absences to attend medical appointments; access to online or homebound education; changes in schedule or course sequence; extensions of time for coursework and rescheduling of tests and examinations; allowing a student to sit or stand, or carry or keep water nearby; counseling; changes in physical space or supplies (for example, access to a larger desk or a footrest); elevator access; or other changes to policies, practices, or procedures.

c. Voluntary access to separate and comparable portion of program or activity

The school must allow the student to voluntarily access any separate and comparable portion of the school's education program or activity under Paragraph A. above.

d. Voluntary leaves of absence

The school must allow the student to voluntarily take a leave of absence from the school's education program or activity to cover, at minimum, the period of time deemed medically necessary by the student's licensed healthcare provider. To the extent that a student qualifies for leave under a leave policy maintained by the school that allows a greater period of time than the medically necessary period, the school must permit the student to take voluntary leave under that policy instead if the student so chooses. When the student returns to the school's education program or activity, the student must be reinstated to the academic status and, as practicable, to the extracurricular status that the student held when the voluntary leave began.

e. Lactation space

The school must ensure that the student can access a lactation space, which must be a space other than a bathroom, that is clean, shielded from view, free from intrusion from others, and may be

used by a student for expressing breast milk or breastfeeding as needed.

f. Limitation on supporting documentation

The school must not require supporting documentation under Paragraph B.3, subparagraphs b. through e. unless the documentation is necessary and reasonable for the school to determine the reasonable modifications to make or whether to take additional specific actions. Examples of situations when requiring supporting documentation is not necessary and reasonable include, but are not limited to, when the student's need for a specific action under Paragraph C. subparagraphs 3 through 5 is obvious, such as when a student who is pregnant needs a bigger uniform; when the student has previously provided the school with sufficient supporting documentation; when the reasonable modification because of pregnancy or related conditions at issue is allowing a student to carry or keep water nearby and drink, use a bigger desk, sit or stand, or take breaks to eat, drink, or use the restroom; when the student has lactation needs; or when the specific action under Paragraph C. subparagraphs 3 through 5 is available to students for reasons other than pregnancy or related conditions without submitting supporting documentation.

4. Comparable Treatment to Other Temporary Medical Conditions

To the extent consistent with Paragraph B.3 above, the school must treat pregnancy or related conditions in the same manner and under the same policies as any other temporary medical conditions with respect to any medical or hospital benefit, service, plan, or policy the school administers, operates, offers, or participates in with respect to students admitted to the school's education program or activity.

5. Certification to Participate

The school must not require a student who is pregnant or has related conditions to provide certification from a healthcare provider or any other person that the student is physically able to participate in the school's class, program, or extracurricular activity unless:

a. The certified level of physical ability or health is necessary for participation in the class, program, or extracurricular activity;

b. The school requires such certification of all students participating in the class, program, or extracurricular activity; and

c. The information obtained is not used as a basis for discrimination prohibited by this part.

IV. GRIEVANCE PROCEDURES FOR THE PROMPT AND EQUITABLE RESOLUTION OF COMPLAINTS OF SEX DISCRIMINATION

A. General

The school's grievance procedures for the prompt and equitable resolution of complaints of sex discrimination must be in writing and include provisions that incorporate the requirements of this section. The requirements related to a respondent apply only to sex discrimination complaints alleging that a person violated the school's prohibition on sex discrimination. When a sex discrimination complaint alleges that a school's policy or practice discriminates on the basis of sex, the school is not considered a respondent.

B. Basic Requirements for Grievance Procedures

The school's grievance procedures must:

1. Treat complainants and respondents equitably;

2. Require that any person designated as a 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. The decisionmaker may be the same person as the Title IX Coordinator or investigator;

3. Include a presumption that the respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of the school's grievance procedures for complaints of sex discrimination;

4. Establish reasonably prompt timeframes for the major stages of the grievance procedures, including a 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. Major stages include, for example, evaluation (i.e., the school's decision whether to dismiss or investigate a complaint of sex discrimination); investigation; determination; and appeal, if any;

[NOTE: The Title IX regulations require reasonably prompt timeframes for major stages of the grievance procedures, but do not specify any particular timeframes. Charter schools may establish their own school-specific timeframes. A sample set of provisions is offered below.]

a. Any informal resolution process must be completed within thirty (30) calendar days following the parties' agreement to participate in such informal process.

b. An appeal of a determination of responsibility or of a decision dismissing a formal complaint must be received by the school within five (5) days of the date the determination of responsibility or dismissal was provided to the parties.

c. Any appeal of a determination of responsibility or of a dismissal will be decided within thirty (30) calendar days of the day the appeal was received by the school.

d. The school will seek to conclude the grievance process, including any appeal, within 120 calendar days of the date the formal complaint was received by the school.

e. Although the school strives to adhere to the timelines described above, in each case, the school may extend the time frames for good cause. Good cause may include, without limitation: the complexity of the allegations; the severity and extent of the alleged misconduct; the number of parties, witnesses, and the types of other evidence (e.g., forensic evidence) involved; the availability of the parties, advisors, witnesses, and evidence (e.g., forensic evidence); concurrent law enforcement activity; intervening school holidays, breaks, or other closures; the need for language assistance or accommodation of disabilities; and/or other unforeseen circumstances.

f. The school has established the following process for reasonable extension of timeframes on a case-by-case basis for good cause as set forth above. The process includes notice to the parties and the reason for the delay:

[NOTE: The charter school should set forth its process for determining a reasonable extension of a timeframe.]

5. Require the school to take reasonable steps to protect the privacy of the parties and witnesses during the pendency of the school's grievance procedures, provided that the steps do not restrict the ability of the parties to: obtain and present evidence, including by speaking to witnesses, subject to the prohibition against retaliation; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures;

6. Require an objective evaluation of all evidence that is relevant, as defined in Article II, and not otherwise impermissible—including both inculpatory and exculpatory evidence—and provide that credibility determinations must not be based on a person's status as a complainant, respondent, or witness;

7. Exclude the following types of evidence, and questions seeking that evidence, as impermissible (i.e., must not be accessed or considered, except by the school to determine whether an exception in subparagraphs (a) through (c) applies; must not be disclosed; and must not otherwise be used), regardless of whether they are relevant:

   a. Evidence that is protected under a privilege as recognized by federal or Minnesota 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;

   b. 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 the school obtains that party's or witness's voluntary, written consent for use in the school's grievance procedures; and

   c. 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; and

8. If the school adopts grievance procedures that apply to the resolution of some, but not all, complaints articulate consistent principles for how the school will determine which procedures apply.

C. Notice of Allegations

Upon initiation of the school's grievance procedures, the school must provide notice of the allegations to the parties whose identities are known.

1. The notice must include:

    a. The school's grievance procedures, and if applicable, any informal resolution process;

    b. Sufficient information available at the time to allow the parties to respond to the allegations. Sufficient information includes the identities of the parties involved in the incident(s), the conduct alleged to constitute sex discrimination under Title IX or this part, and the date(s) and location(s) of the alleged incident(s), to the extent that information is available to the school;

    c. A statement that retaliation is prohibited; and

    d. A statement that the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of this evidence; and if the school provides a description of the evidence, the parties are entitled to an equal opportunity to access to the relevant and not otherwise impermissible evidence upon the request of any party.

2. If, in the course of an investigation, the school decides to investigate additional allegations of sex discrimination by the respondent toward the complainant that are not included in the notice or that are included in a complaint that is consolidated, the school must provide notice of the additional allegations to the parties whose identities are known.

D. Notice

Upon initiation of the school's Title IX grievance procedures, the school will notify the parties of the following:

1. The school's Title IX grievance procedures and any informal resolution process;

2. 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);

3. Retaliation is prohibited; and

4. The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of this evidence.

[NOTE: If the charter school provides a description of the evidence, the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party.]

If, in the course of an investigation, the school 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, the school will notify the parties of the additional allegations.

E. Consolidation

The school 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.

F. Complaint Investigation

A. The school must provide for adequate, reliable, and impartial investigation of complaints. To do so, the school must:

1. Ensure that the burden is on the school – not on the parties – to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred;

2. Provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible;

3. Review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance, consistent with § 106.2 and with paragraph (b)(7) of this section; and

4. 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:

a. The school must provide an equal opportunity to access either the relevant and not otherwise impermissible evidence, or an accurate description of this evidence. If the school provides a description of the evidence, it must further provide the parties with an equal opportunity to

access the relevant and not otherwise impermissible evidence upon the request of any party;

b. The school must provide a reasonable opportunity to respond to the evidence or to the accurate description of the evidence; and

c. The school must take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the grievance procedures. For purposes of this paragraph, disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of sex discrimination are authorized.

G. Questioning Parties and Witnesses to Aid in Evaluating Allegations and Assessing Credibility

The school must 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.

H. Determination Whether Sex Discrimination Occurred

Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, the school must:

1. Use the preponderance of the evidence standard of proof to determine whether sex discrimination occurred, unless the school uses the clear and convincing evidence standard of proof in all other comparable proceedings, including proceedings relating to other discrimination complaints, in which case the school may elect to use that standard of proof in determining whether sex discrimination occurred. Both standards of proof require 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 must not determine that sex discrimination occurred.

2. Notify the parties in writing of the determination whether sex discrimination occurred under Title IX or its regulations including the rationale for such determination, and the procedures and permissible bases for the complainant and respondent to appeal, if applicable;

3. If there is a determination that sex discrimination occurred, as appropriate,

require the Title IX Coordinator to coordinate the provision and implementation of remedies to a complainant and other persons the school identifies as having had equal access to the school'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 require the Title IX Coordinator to take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the school's education program or activity. The school may not impose discipline on a respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the school's grievance procedures that the respondent engaged in prohibited sex discrimination;

4. Comply with 34 Code of Federal Regulations, section 106.45, before the imposition of any disciplinary sanctions against a respondent; and

5. Not discipline a party, witness, or others participating in school's grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the school's determination whether sex discrimination occurred.

I. Additional Provisions

If the school adopts additional provisions as part of its grievance procedures for handling complaints of sex discrimination, including sex-based harassment, such additional provisions must apply equally to the parties.

J. Informal Resolution

In lieu of resolving a complaint through the school's grievance procedures, the parties may instead elect to participate in an informal resolution process under 34 Code of Federal Regulations, section 106.44(k) if provided by the school consistent with that paragraph.

K. Provisions Limited to Sex-Based Harassment Complaints

For complaints alleging sex-based harassment, the grievance procedures must:

1. Describe the range of supportive measures available to complainants and respondents; and

2. List, or describe the range of, the possible disciplinary sanctions that the school may impose and remedies that the school may provide following a determination that sex-based harassment occurred.

V. REPORTING PROHIBITED CONDUCT

A. Any student who believes they have been the victim of unlawful sex discrimination or sexual harassment, or any person (including the parent of a student) with actual knowledge of conduct which may constitute unlawful sex discrimination or sexual harassment toward a student should report the alleged acts as soon as possible to the Title IX Coordinator.

B. The school requires all employees who are not confidential employees to notify the Title IX Coordinator when the employee has information about conduct that reasonably may constitute sex discrimination under Title IX or its regulations. This requirement does not apply to an employee who has personally been subject to conduct that reasonably may constitute sex discrimination under Title IX or its regulations.

C. Confidential Employee Requirements

1. The school must notify all participants in the school's education program or activity of how to contact its confidential employees, if any.

2. The school must require a confidential employee to explain to any person who informs the confidential employee of conduct that reasonably may constitute sex discrimination under Title IX or its regulations:

a. The employee's status as confidential for purposes of this part, including the circumstances in which the employee is not required to notify the Title IX Coordinator about conduct that reasonably may constitute sex discrimination;

b. How to contact the school's Title IX Coordinator and how to make a complaint of sex discrimination; and

c. That the Title IX Coordinator may be able to offer and coordinate supportive measures, as well as initiate an informal resolution process or an investigation under the grievance procedures.

D. Any employee of the school who has experienced, has actual knowledge of, or has witnessed unlawful sex discrimination, including sexual harassment, or who otherwise becomes aware of unlawful sex discrimination, including sexual harassment, must promptly report the allegations to the Title IX Coordinator without screening or investigating the report or allegations.

E. A report of unlawful sex discrimination or sexual harassment may be made at any time, including during non-business hours, and may be made in person, by mail, by telephone, or by e-mail using the Title IX Coordinator's contact information. A report may also be made by any other means that results in the Title IX Coordinator receiving the person's verbal or written report.

F. Sexual harassment may constitute both a violation of this policy and criminal law. To the extent the alleged conduct may constitute a crime, the school may report the alleged conduct to law enforcement authorities. The school encourages complainants to report criminal behavior to the police immediately.

VI. INITIAL RESPONSE AND ASSESSMENT BY THE TITLE IX COORDINATOR

General

Upon knowledge of conduct that reasonably may constitute sex discrimination in its education program or activity, the school must respond promptly and effectively. The school must also comply with 34 Code of Federal Regulations, section 106.44 to address sex discrimination in its education program or activity.

Barriers to Reporting

The school must require its Title IX Coordinator to:

1. Monitor the school's education program or activity for barriers to reporting information about conduct that reasonably may constitute sex discrimination under Title IX or its regulations; and

2. Take steps reasonably calculated to address such barriers.

Title IX Coordinator Requirements

1. The Title IX Coordinator is responsible for coordinating the school's compliance with its obligations under Title IX and its regulations. The school must require its Title IX Coordinator, when notified of conduct that reasonably may constitute sex discrimination under Title IX or its regulations, to take the following actions to promptly and effectively end any sex discrimination in its education program or activity, prevent its recurrence, and remedy its effects:

    a. Treat the complainant and respondent equitably;

    b. Offer and coordinate supportive measures, as appropriate, for the complainant. In addition, if the school has initiated grievance procedures or offered an informal resolution process to the respondent, offer and coordinate supportive measures, as appropriate, for the respondent;

    c. Notify the complainant or, if the complainant is unknown, the individual who reported the conduct, of the grievance procedures and if applicable and the informal resolution process, if available and appropriate. If a complaint is made, notify the respondent of

the grievance procedures and the informal resolution process, if available and appropriate;

d. In response to a complaint, initiate the grievance procedures or the informal resolution process, if available and appropriate and requested by all parties;

e. In the absence of a complaint or the withdrawal of any or all of the allegations in a complaint, and in the absence or termination of an informal resolution process, determine whether to initiate a complaint of sex discrimination that complies with the grievance procedures.

i. To make this fact-specific determination, the Title IX Coordinator must consider, at a minimum, the following factors:

[a] The complainant's request not to proceed with initiation of a complaint;

[b] The complainant's reasonable safety concerns regarding initiation of a complaint;

[c] The risk that additional acts of sex discrimination would occur if a complaint is not initiated;

[d] The severity of the alleged sex discrimination, including whether the discrimination, if established, would require the removal of a respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence;

[e] The age and relationship of the parties, including whether the respondent is an employee of the school;

[f] The scope of the alleged sex discrimination, including information suggesting a pattern, ongoing sex discrimination, or sex discrimination alleged to have impacted multiple individuals;

[g] The availability of evidence to assist a decisionmaker in determining whether sex discrimination occurred; and

[h] Whether the school could end the alleged sex discrimination and prevent its recurrence without initiating its grievance procedures.

ii. If, after considering these and other relevant factors, the Title IX Coordinator determines that the conduct as alleged presents an imminent and serious threat to the health or safety of the complainant or other person, or that the conduct as alleged prevents the school from ensuring equal access on the basis of sex to its education program or activity, the Title IX Coordinator may initiate a complaint

f. If initiating a complaint under Subparagraph e. above, notify the complainant prior to doing so and appropriately address reasonable concerns about the complainant's safety or the safety of others, including by providing supportive measures; and

g. Regardless of whether a complaint is initiated, take other appropriate prompt and effective steps, in addition to steps necessary to effectuate the remedies provided to an individual complainant, if any, to ensure that sex discrimination does not continue or recur within the school's education program or activity.

2. The Title IX Coordinator is not required to comply with Paragraph C.1, subparagraphs a. through g. above upon being notified of conduct that may constitute sex discrimination if the Title IX Coordinator reasonably determines that the conduct as alleged could not constitute sex discrimination under Title IX or its regulations.

D. Supportive Measures

Under the *Title IX Coordinator Requirements* above, the school must offer and coordinate supportive measures, as appropriate, as described below. For allegations of sex discrimination other than sex-based harassment or retaliation, the school's provision of supportive measures does not require the school, its employee, or any other person authorized to provide aid, benefit, or service on the school's behalf to alter the alleged discriminatory conduct for the purpose of providing a supportive measure.

1. Supportive measures may vary depending on what the school deems to be reasonably available. These measures may include but are not limited to: counseling; extensions of deadlines and 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; changes in class, work, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative;

and training and education programs related to sex-based harassment.

2. Supportive measures must not unreasonably burden either party and must be designed to protect the safety of the parties or the school's educational environment, or to provide support during the school's grievance procedures, or during the informal resolution process. The school must not impose such measures for punitive or disciplinary reasons.

3. The school may, as appropriate, modify or terminate supportive measures at the conclusion of the grievance procedures or at the conclusion of the informal resolution process, or the school may continue them beyond that point.

4. The school must provide a complainant or respondent with a timely opportunity to seek, from an appropriate and impartial employee, modification or reversal of the school's decision to provide, deny, modify, or terminate supportive measures applicable to them. The impartial employee must be someone other than the employee who made the challenged decision and must have authority to modify or reverse the decision, if the impartial employee determines that the decision to provide, deny, modify, or terminate the supportive measure was inconsistent with the definition of supportive measures. The school must also provide a party with the opportunity to seek additional modification or termination of a supportive measure applicable to them if circumstances change materially.

5. The school must not disclose information about any supportive measures to persons other than the person to whom they apply, including informing one party of supportive measures provided to another party, unless necessary to provide the supportive measure or restore or preserve a party's access to the education program or activity, or when an exception in 34 Code of Federal Regulations section 106.44(j)(1) through (5) applies.

6. The school must require the Title IX Coordinator to consult with one or more members, as appropriate, of the student's Individualized Education Program (IEP) team, if any, or one or more members, as appropriate, of the group of persons responsible for the student's placement decision under 34 Code of Federal Regulations, section 104.35(c), if any, to determine how to comply with the requirements of the Individuals with Disabilities Education Act, and Section 504 of the Rehabilitation Act of 1973 in the implementation of supportive measures.

E. Students with Disabilities

If a complainant or respondent is an elementary or secondary student with a

disability, the school must require the Title IX Coordinator to consult with one or more members, as appropriate, of the student's Individualized Education Program (IEP) team, if any, or one or more members, as appropriate, of the group of persons responsible for the student's placement decision under 34 Code of Federal Regulations, section 104.35(c), if any, to determine how to comply with the requirements of the Individuals with Disabilities Education Act and Section 504 of the Rehabilitation Act of 1973 throughout the school's implementation of grievance procedures under 34 Code of Federal Regulations, section 106.45.

F. Emergency Removal

Nothing in Title IX or its regulations precludes the school from removing a respondent from the school's education program or activity on an emergency basis, provided that the school undertakes an individualized safety and risk analysis, determines that an imminent and serious threat to the health or safety of a complainant or any students, employees, or other persons arising from the allegations of sex discrimination justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal. This provision must not be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990.

G. Administrative Leave

Nothing in Title IX or its regulations precludes the school from placing an employee respondent on administrative leave from employment responsibilities during the pendency of the school's grievance procedures. This provision must not be construed to modify any rights under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act of 1990.

H. Prohibited Disclosures of Personally Identifiable Information

The school must not disclose personally identifiable information obtained in the course of complying with this part, except in the following circumstances:

1. When the school has obtained prior written consent from a person with the legal right to consent to the disclosure;

2. When the information is disclosed to a parent, guardian, or other authorized legal representative with the legal right to receive disclosures on behalf of the person whose personally identifiable information is at issue;

3. To carry out the purposes of 34 Code of Federal Regulations, section 106, including action taken to address conduct that reasonably may constitute sex discrimination under Title IX in the school's education program or

activity;

4. As required by federal law, federal regulations, or the terms and conditions of a Federal award, including a grant award or

5. To the extent such disclosures are not otherwise in conflict with Title IX or its regulations, when required by Minnesota or local law or when permitted under FERPA or its implementing regulations.

I. When the Title IX Coordinator receives a report, the Title IX Coordinator shall promptly contact the complainant confidentially to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filling a formal complaint.

J. The school will offer supportive measures to the complainant whether or not the complainant decides to make a formal complaint. The school must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the school's ability to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

K. If the complainant does not wish to file a formal complaint, the allegations will not be investigated by the school unless the Title IX Coordinator determines that signing a formal complaint to initiate an investigation over the complainant's wishes is not clearly unreasonable in light of the known circumstances.

L. Upon receipt of a formal complaint, the school must provide written notice of the formal complaint to the known parties with sufficient time to prepare a response before any initial interview. This written notice must contain:

1. The allegations of sexual harassment, including sufficient details known at the time, the identities of the parties involved in the incident (if known), the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident, if known;

2. A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility will be made at the conclusion of the grievance process;

3. A statement explaining that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney;

4. A statement that the parties may inspect and review evidence gathered pursuant to this policy;

5. A statement informing the parties of any code of conduct provision that prohibits knowingly making false statements or knowingly submitting false information; and

6. A copy of this policy.

VIII. INFORMAL RESOLUTION OF A FORMAL COMPLAINT

[NOTE: The 2024 Title IX amendments do not require a charter school to offer an informal resolution process. However, a charter school is free to provide such a process in some circumstances, as long as it complies with certain regulatory requirements. Requirements related to informal resolution are set forth in 34 Code of Federal Regulations, section 106.44(k).]

A. At any time prior to reaching a determination of responsibility, informal resolution may be offered and facilitated by the school at the school's discretion, but only after a formal complaint has been received by the school.

B. The school may not require as a condition of enrollment or continued enrollment, or of employment or continued employment, or enjoyment of any other right, waiver of the right to a formal investigation and adjudication of formal complaints of sexual harassment.

C. The informal resolution process may not be used to resolve allegations that a school employee sexually harassed a student.

D. The school will not facilitate an informal resolution process without both parties' agreement, and will obtain their voluntary, written consent. The school will provide to the parties a written notice disclosing the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, the parties' right to withdraw from the informal resolution process, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

E. At any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint.

IX. DISMISSAL OF A FORMAL COMPLAINT

A. Under federal law, the school must dismiss a Title IX complaint, or a portion thereof, if the conduct alleged in a formal complaint or a portion thereof:

1. Would not meet the definition of sexual harassment, even if proven;

2. Did not occur in the school's education program or activity; or

3. Did not occur against a person in the United States.

B. The school may, in its discretion, dismiss a formal complaint or allegations therein if:

1. The complainant informs the Title IX Coordinator in writing that the complainant desires to withdraw the formal complaint or allegations therein;

2. The respondent is no longer enrolled or employed by the school; or

3. Specific circumstances prevent the school from gathering sufficient evidence to reach a determination.

C. The school shall provide written notice to both parties of a dismissal. The notice must include the reasons for the dismissal.

D. Dismissal of a formal complaint or a portion thereof does not preclude the school from addressing the underlying conduct in any manner that the school deems appropriate.

[NOTE: For example, schools are reminded of the obligation under Minnesota Statutes section § 122A.20, subdivision 2, to make a mandatory report to PELSB concerning any teacher who resigns during the course of an investigation of misconduct.]

X. INVESTIGATION OF A FORMAL COMPLAINT

A. If a formal complaint is received by the school, the school will assign or designate an Investigator to investigate the allegations set forth in the formal complaint.

B. If during the course of the investigation the school decides to investigate any allegations about the complainant or respondent that were not included in the written notice of a formal complaint provided to the parties, the school must provide notice of the additional allegations to the known parties.

C. When a party's participation is invited or expected in an investigative interview,

the Investigator will coordinate with the Title IX Coordinator to provide written notice to the party of the date, time, location, participants, and purposes of the investigative interview with sufficient time for the party to prepare.

D. During the investigation, the Investigator must provide the parties with an equal opportunity to present witnesses for interviews, including fact witnesses and expert witnesses, and other inculpatory and exculpatory evidence.

E. Prior to the completion of the investigative report, the Investigator, through the Title IX Coordinator, will provide the parties and their advisors (if any) with an equal opportunity to inspect and review any evidence directly related to the allegations. The evidence shall be provided in electronic format or hard copy and shall include all relevant evidence, evidence upon which the school does not intend to rely in reaching a determination regarding responsibility, and any inculpatory or exculpatory evidence whether obtained from a party or another source. The parties will have ten (10) days to submit a written response, which the Investigator will consider prior to completion of the investigative report.

F. The Investigator will prepare a written investigative report that fairly summarizes the relevant evidence. The investigative report may include credibility determinations that are not based on a person's status as a complainant, respondent or witness. The school will send the parties and their advisors (if any) a copy of the report in electronic format or hard copy, for their review and written response at least ten (10) days prior to a determination of responsibility.

XI. DETERMINATION REGARDING RESPONSIBILITY

[NOTE: The Title IX regulations do not require schools to conduct live hearings as part of the decision-making phase of the grievance process. Accordingly, this Policy does not include procedures for a live hearing. If a school desires to create such procedures, legal counsel should be consulted.]

A. After the school has sent the investigative report to both parties and before the school has reached a determination regarding responsibility, the Decision-maker must afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness.

B. The Decision-maker must provide the relevant questions submitted by the parties to the other parties or witnesses to whom the questions are offered, and then provide each party with the answers, and allow for additional, limited follow-up questions from each party.

C. The Decision-maker must explain to the party proposing the questions any decision to exclude a question as not relevant.

D. When the exchange of questions and answers has concluded, the Decision-maker

must issue a written determination regarding responsibility that applies the preponderance of the evidence standard to the facts and circumstances of the formal complaint. The written determination of responsibility must include the following:

1. Identification of the allegations potentially constituting sexual harassment;

2. A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, and methods used to gather other evidence;

3. Findings of fact supporting the determination;

4. Conclusions regarding the application of the school's code of conduct to the facts;

5. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the school imposes on the respondent, and whether remedies designed to restore or preserve equal access to the recipient's education program or activity will be provided by the school to the complainant; and

6. The school's procedures and permissible bases for the complainant and respondent to appeal and the date by which an appeal must be made.

E. In determining appropriate disciplinary sanctions, the Decision-maker should consider the surrounding circumstances, the nature of the behavior, past incidents or past or continuing patterns of behavior, the relationships between the parties involved, and the context in which the alleged incident occurred.

F. The written determination of responsibility must be provided to the parties simultaneously.

G. The Title IX Coordinator is responsible for the effective implementation of any remedies.

H. The determination regarding responsibility becomes final either on the date that the school provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

XII. APPEALS

[NOTE: Regarding an appeal of a determination, the 2024 Title IX Final Rule states that the charter school must offer the parties an appeal process that, at a minimum, is the same as it offers in all other comparable proceedings, if any, including

proceedings relating to other discrimination complaints.

A. The school shall offer the parties an opportunity to appeal a determination regarding responsibility or the school's dismissal of a formal complaint or any allegations therein, on the following bases:

1. A procedural irregularity that affected the outcome of the matter (e.g., a material deviation from established procedures);

2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and

3. The Title IX Coordinator, Investigator, or Decision-maker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

B. If notice of an appeal is timely received by the school, the school will notify the parties in writing of the receipt of the appeal, assign or designate the Appellate Decision-maker, and give the parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome.

C. After reviewing the parties' written statements, the Appellate Decision-maker must issue a written decision describing the result of the appeal and the rationale for the result.

D. The written decision describing the result of the appeal must be provided simultaneously to the parties.

E. The decision of the Appellate Decision-maker is final. No further review beyond the appeal is permitted.

XIII. RETALIATION PROHIBITED

A. Neither the school nor any other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, its implementing regulations, or this policy, or because the individual made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX, its implementing regulations, or this policy, constitutes retaliation. Retaliation

against a person for making a report of sexual harassment, filing a formal complaint, or participating in an investigation, constitutes a violation of this policy that can result in the imposition of disciplinary sanctions/consequences and/or other appropriate remedies.

B. Any person may submit a report or formal complaint alleging retaliation in the manner described in this policy and it will be addressed in the same manner as other complaints of sexual harassment or sex discrimination.

A. Charging an individual with violation of school policies for making a materially false statement in bad faith in the course of a grievance proceeding under this policy shall not constitute retaliation, provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

XIV. TRAINING

[NOTE: Training requirements are set forth in 34 Code of Federal Regulations, section 106.8(d).]

A. The school must ensure that the following persons receive training related to their duties under Title IX promptly upon hiring or change of positions that alters their duties under Title IX or its regulations, and annually thereafter. This training must not rely upon sex stereotypes.

1. *All employees* must be trained on:

   a. The school's obligation to address sex discrimination in its education program or activity;

   b. The scope of conduct that constitutes sex discrimination under Title IX and its regulations, including the definition of sex-based harassment; and

   c. All applicable notification and information requirements under 34 Code of Federal Regulations, sections 106.40(b)(2) and 106.44.

2. *Investigators, decisionmakers, and other persons who are responsible for implementing the charter school's grievance procedures or have the authority to modify or terminate supportive measures*.

   In addition to the training requirements for all employees described in Paragraphs 1 and 2 above, all investigators, decisionmakers, and other persons who are responsible for implementing the school's grievance procedures or have the authority to modify or terminate supportive measures under 34 Code of Federal Regulations, section 106.44(g)(4)

must be trained on the following topics to the extent related to their responsibilities:

a. The school's obligations under 34 Code of Federal Regulations, section 106.44;

b. The school's grievance procedures under 34 Code of Federal Regulations, section 106.45, and if applicable section 106.46;

c. How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias; and

d. The meaning and application of the term ''relevant'' in relation to questions and evidence, and the types of evidence that are impermissible regardless of relevance under 34 Code of Federal Regulations, section 106.45, and if applicable section 106.46.

e. For Decision-makers, training on issues of relevance of questions and evidence, including when questions and evidence about the complainant's prior sexual behavior are not relevant; and

f. The training materials will not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints.

g. Materials used to train Title IX Personnel must be posted on the school's website. If the school does not have a website, it must make the training materials available for public inspection upon request.

3. *Facilitators of informal resolution process*

In addition to the training requirements for all employees described in Paragraph 1 above, all facilitators of an informal resolution process under 34 Code of Federal Regulations, section 106.44(k) must be trained on the rules and practices associated with the school's informal resolution process and on how to serve impartially, including by avoiding conflicts of interest and bias.

4. *Title IX Coordinator and Title IX Personnel*

In addition to the training requirements in Paragraphs 1 through 3 above, the Title IX Coordinator and Title IX Personnel must be trained on their specific responsibilities under 34 Code of Federal Regulations, section 106.8(a), section 106.40(b)(3), section 106.44(f) and (g), the school's recordkeeping system and the requirements of 34 Code of Federal Regulations, section 106.8 (f), and any other training necessary to

coordinate the school's compliance with Title IX. "Title IX Personnel" means any person who addresses, works on, or assists with the school's response to a report of sexual harassment or formal complaint, and includes persons who facilitate informal resolutions.

XV. DISSEMINATION OF POLICY

A. This policy shall be made available to all students, parents/guardians of students, school employees, and employee unions.

B. The school shall conspicuously post the name of the Title IX Coordinator, including office address, telephone number, and work e-mail address on its website and in each handbook that it makes available to parents, employees, students, unions, or applicants.

C. The school must provide applicants for admission and employment, students, parents or legal guardians of secondary school students, employees, and all unions holding collective bargaining agreements with the school, with the following:

1. The name or title, office address, electronic mail address, and telephone number of the Title IX Coordinator;

2. Notice that the school does not discriminate on the basis of sex in the education program or activity that it operates, and that it is required by Title IX not to discriminate in such a manner;

3. A statement that the requirement not to discriminate in the education program or activity extends to admission and employment, and that inquiries about the application of Title IX may be referred to the Title IX Coordinator, to the Assistant Secretary for Civil Rights of the United States Department of Education, or both; and

4. Notice of the school's grievance procedures and grievance process contained in this policy, including how to report or file a complaint of sex discrimination, how to report or file a formal complaint of sexual harassment, and how the school will respond.

XVI. RECORDKEEPING

The school must create, and maintain for a period of seven years:

A. For each complaint of sex discrimination, records documenting the informal resolution process under 34 Code of Federal Regulations, section 106.44(k) or the grievance procedures under section 106.45, and if applicable section 106.46, and

the resulting outcome.

B. For each notification the Title IX Coordinator receives of information about conduct that reasonably may constitute sex discrimination under Title IX or its regulations, including notifications under 34 Code of Federal Regulations, section 106.44(c)(1) or (2), records documenting the actions the school took to meet its obligations under section 106.44

C. All materials used to provide training under this policy. The school must make these training materials available upon request for inspection by members of the public.

Legal References:
Minn. Stat. § 121A.04 (Athletic Programs; Sex Discrimination)
Minn. Stat. §§ 121A.40 – 121A.575 (Minnesota Pupil Fair Dismissal Act)
Minn. Stat. Ch. 363A (Minnesota Human Rights Act)
20 U.S.C. §§ 1681-1688 (Title IX of the Education Amendments)
34 C.F.R. Part 106 (Implementing Regulations of Title IX)
20 U.S.C § 1400, *et seq.* (Individuals with Disabilities Education Act)
29 U.S.C. § 794 (Section 504 of the Rehabilitation Act)
42 U.S.C. § 12101, *et seq.* (Americans with Disabilities Act)
20 U.S.C. § 1232g (Family Educational Rights and Privacy Act of 1974)
20 U.S.C. § 1092 *et seq.* (Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act ("Clery Act")

Cross References:
MSBA/MASA Model Policy 102 (Equal Educational Opportunity)
MSBA/MASA Model Policy 413 (Harassment and Violence)
MSBA/MASA Model Policy 506 (Student Discipline)
MSBA/MASA Model Policy 528 (Student Parental, Family, and Marital Status Nondiscrimination)