

STUDENT SEXUAL HARASSMENT POLICY

BASIS is committed to providing a school environment that ensures the equality, dignity, and respect of every student. In keeping with this commitment, BASIS strictly prohibits discriminatory practices, including sexual harassment, and will not deny or limit the ability of any student to participate in, or benefit from, any BASIS school program on the basis of sex. Sexual harassment, whether verbal, physical or environmental, is unacceptable and will not be tolerated, whether it occurs on school grounds or at outside school-sponsored activities. This policy applies to all BASIS Schools' employees and students. All BASIS School employees have a duty to ensure that no student is subjected to sexual harassment and to help maintain a school environment free of such harassment.

I. Definition of Sexual Harassment

Sexual harassment is unwelcome conduct of a sexual nature. Conduct is unwelcome if the student did not request or invite it and/or regarded the conduct as undesirable or offensive. Sexual harassment can include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Young children are not able to legally consent to conduct of a sexual nature.

- A. **Quid Pro Quo.** The type of harassment traditionally referred to as quid pro quo harassment occurs if a teacher or other employee conditions an educational decision or benefit on the student's submission to unwelcome sexual conduct. Whether the student resists and suffers the threatened harm or submits and avoids the threatened harm, the student has been treated differently, or the student's ability to participate in or benefit from the school's program has been denied or limited, on the basis of sex in violation of Title IX.
- B. **Hostile Environment.** By contrast, sexual harassment can include actions that do not explicitly or implicitly condition a decision or benefit on submission to sexual conduct. Harassment of this type is generally referred to as hostile environment harassment. This type of harassing conduct requires a further assessment of whether or not the conduct is sufficiently serious to deny or limit a student's ability to participate in or benefit from the school's program based on sex.
- C. **Retaliation.** Retaliation is another form of discrimination that occurs when an individual who files a complaint, or those who support the individual in filing the complaint or who are witnesses in the investigation, are treated negatively because of their participation in the complaint process. A retaliation claim can stand on its own, even if the underlying claim is unsubstantiated.
- D. **Who Can Be Involved.** Teachers and other employees can engage in harassment. Students and third parties are not generally given responsibility over other students and, thus, generally can only engage in hostile environment harassment. Harassment can be peer to peer, teacher (or employee) to student or third party to student, (e.g., where an independent contractor or member of the public engages in harassment on school grounds or at a school-sponsored event).

II. Prohibited Conduct and Behavior

Any conduct by an employee, student or third party that can deny or limit the ability of another student (of the same or opposite sex) to participate in, or to receive the benefits, services, or opportunities of any BASIS school program on the basis of sex is prohibited and will not be tolerated. This includes any circumstance where:

- An educational decision or benefit is conditioned on a student's submission to unwelcome sexual conduct;
- A student's submission to, or rejection of, unwelcome sexual conduct is used as a basis to deny the student the ability to participate in or benefit from any school program;
- The conduct has the purpose or effect of unreasonably interfering with, denying or limiting a student's ability to participate in or benefit from any school program;
- The conduct alters a student's educational environment to the degree that it adversely affects the student's ability to participate in or benefit from any school program whether or not that student is the target of the harassment;
- The sex-based conduct is sustained and nontrivial;
- There is a pattern and practice of sex-based harassment;
- A teacher, administrator or other person in a position of authority engages in sex-based harassment of a student; or
- One student engages in sex-based harassment of a teacher, administrator or other person within the school; or
- One student or a group of students engages in sex-based harassment of another student or students.

In addition, the following behaviors are *strictly prohibited*:

- unwelcome sexual flirtations, advances or propositions;
- derogatory, vulgar, or graphic written or oral statements regarding one's sexuality,
- gender or sexual experience;

- unnecessary touching, patting, pinching or attention to an individual's body;
- physical assault;
- unwanted sexual compliments, innuendoes, suggestions or jokes; and
- display of sexually suggestive pictures or objects.

III. Sexual Harassment Training

Students and staff shall receive annual training on this Student Sexual Harassment Policy at the beginning of each school year from a designated teacher. The training will include an approved, professional video for students regarding sexual harassment and how to recognize it. The training will also include information on when, how, where and to whom to report and grieve incidents of sexual harassment. In addition, teachers will receive annual training on sexual harassment during the two-week, teacher inservice training which occurs every summer before the start of each school year. The Title IX Coordinator for each BASIS school will keep a record of every teacher and student who attended these training sessions by name and date.

IV. Sexual Harassment Grievance Procedures

- A. **How to File a Complaint.** All complaints of suspected, observed or experienced sexual harassment shall be reported/filed immediately with the Head of School. A Complaint may be verbal or written and need not be on a particular form. Any teacher or employee of the School who either reasonably believes a student has been harassed based on sex or who receives a complaint or notice of harassment, must immediately report the alleged behavior or notice to the Title IX Coordinator. Failure to comply with this Policy shall be grounds for disciplinary action, up to and including termination.

Anastasia Korte, Title IX Coordinator
 BASIS Educational Group, Inc.
 10130 North Oracle Road, Ste. 210
 Tucson, AZ 85704
 (520) 219-6000

- B. **Initial Review of Allegations.** Upon receipt of information of a complaint of sexual harassment the school will take prompt and immediate steps to investigate. The Title IX Coordinator will discuss the alleged harassment with the complainant and the actions the complainant is seeking in response to the harassment. If a school employee has directly observed sexual harassment of a student, the Title IX Coordinator shall immediately contact the student who was harassed (or the parent, depending upon the age of the student), explain that the school is responsible for taking steps to correct the harassment, and discuss the harassment and desired actions with the student (or the parent).

C. **The Investigation.**

1. **In General.** Every instance of sexual harassment of which the school has notice shall be promptly investigated by the Title IX Coordinator and may be reported to the local police department for independent investigation depending upon the nature, frequency and severity of the alleged harassment. If deemed appropriate based on the circumstances, the Title IX Coordinator may take interim measures during the investigation to protect the alleged victim of harassment including, but not limited to, segregating the alleged harasser from the alleged victim, placing the alleged harasser on paid leave, etc. Responsive measures will be designed to minimize, as much as possible, the burden on the alleged victim. Whenever possible, the alleged victim shall not be removed from class or an activity, and the alleged harasser will be separated from the alleged victim, and if appropriate, other students. The investigation will be grounded in reasonableness and the school will have flexibility to determine appropriate responses. In every instance, the Title IX Coordinator shall maintain on-going contact with the Complainant throughout the course of the investigation.
2. **Limited Confidentiality.** The Title IX Coordinator will make every effort to keep the investigation and the parties thereto, including witnesses, confidential, except as necessary to carry out the investigation.
3. **Factors for Consideration.** Factors that may be considered during the investigation include the following:
 - *The degree to which the conduct affected one or more students education.* A hostile environment can occur even if the harassment is not targeted specifically at the individual complainant. For example, if a student, group of students, or a teacher regularly directs

sexual comments toward a particular student, a hostile environment may be created not only for the targeted student, but also for others who witness the conduct.

- *The type, frequency, and duration of the conduct.* The more severe the conduct, the less the need to show a repetitive series of incidents; this is particularly true if the harassment is physical. A single or isolated incident of sexual harassment may, if sufficiently severe, create a hostile environment.
- *The identity of, and relationship between, the alleged harasser and the subject or subjects of the harassment.* For example, due to the power a teacher has over a student, sexually-based conduct by a teacher toward a student is more likely to create a hostile environment than similar conduct by another student.
- *The number of individuals involved.* Sexual harassment may be committed by an individual or a group.
- *The age and sex of the alleged harasser and the subject or subjects of the harassment.* For example, in the case of younger students, sexually-harassing conduct is more likely to be intimidating if coming from an older student.
- *The size of the school, location of the incidents, and context in which they occurred.* Harassing conduct occurring on a school bus may be more intimidating than similar conduct on a school playground because the restricted area makes it impossible for students to avoid their harassers.
- *Other incidents at the school.* A series of incidents at the school, not involving the same students, could, if taken together, create a hostile environment, even if each incident by itself would not create a hostile environment.
- *Incidents of gender-based, nonsexual harassment.* Acts of verbal, nonverbal or physical aggression, intimidation or hostility based on sex, which do not involve sexual activity or language, can be considered in combination with incidents of sexual harassment to determine if the incidents of harassment create a sexually hostile environment.

D. **Relevant Information for Investigation.** The Title IX Coordinator may collect and consider the following types of information:

- Statements by any witnesses to the alleged incident;
- Evidence about the relative credibility of the allegedly harassed student and the alleged harasser;
- Evidence that the alleged harasser has been found to have harassed others;
- Evidence that the allegedly harassed student has made false allegations against other individuals;
- Evidence of the allegedly harassed student's reaction or behavior after the alleged harassment;
- Evidence as to whether the student claiming harassment filed a complaint or took other action to protest the conduct soon after the alleged incident occurred; and
- Other contemporaneous evidence of the harassment (e.g., reporting conduct to parents, friends, etc.).

V. Report and Communication of Finding and Recommendations to Parties

Within 10 school days or, as soon thereafter as practicable based on all of the facts and circumstances, the Title IX Coordinator will provide written notice of his/her findings to the complainant and accused harasser ("Parties"). The findings will include, but not be limited to, whether the allegations of sexual harassment were substantiated, and, if so, the disciplinary and remedial measures recommended to address/remedy the substantiated sexual harassment claims.

If the Title IX Coordinator determines that the sexual harassment claim is substantiated, he/she will recommend immediate action to end the harassment and prevent its recurrence. The recommended action will depend upon the degree of control the school has over the harasser and the nature, frequency and severity of the substantiated sexual harassment. In all instances, the Title IX Coordinator shall follow-up and communicate with the Complainant at the conclusion of the investigation. The recommended action could include a verbal warning, written reprimand, a no-contact requirement, short-term or long-term suspension, expulsion or termination, consistent with the BASIS School Disciplinary Code. Counseling for the Complainant and the harasser will also be considered as possible remedial action.

- If the harasser is a teacher or school employee, the Title IX Coordinator will recommend discipline commensurate with the substantiated violation, up to and including, immediate termination.
- If the harasser is another student or students, the Title IX Coordinator will recommend discipline commensurate with the substantiated violation, up to and including immediate expulsion.

- If the harasser is a third party over which the school has some control, such as an independent contractor working for the school, the Title IX Coordinator may recommend immediate termination of the relationship and steps to prohibit entry on school grounds or at school-sponsored activities.
- If the harasser is a third party over which the school has little or no control, the Title IX Coordinator may recommend that the school call upon the principal, parent or other person/entity who has some control over the third party and request that the third party take steps to immediately and appropriately discipline the harasser.
- If the substantiated sexual harassment denied or limited the victim's ability to participate in or benefit from a school program, the Title IX Coordinator will recommend the steps deemed necessary to remedy these effects of harassment and work with the victim and his/her parents, as warranted under the circumstances.

VI. Appeal of Title IX Coordinator's Findings and/or Recommendations.

The Parties shall have 5 school days from the date of receipt of the Title IX Coordinator's findings and recommendations to challenge same. If the Title IX Coordinator has recommended termination or expulsion, a notice of appeal shall be filed with the BASIS school's governing board as follows:

Carolyn McGarvey
 BASIS School Governing Board
 10130 North Oracle Road, Ste. 210
 Tucson, AZ 85704
 (520) 219-6000

A hearing shall be scheduled before the board on the next available date when a quorum of the board is available.

- If the recommendation does not include termination or expulsion, a written request for reconsideration shall be submitted to the Title IX Coordinator. The Title IX Coordinator shall conduct any further investigation required by matters raised in the request for reconsideration and modify his/her findings and recommendations if deemed appropriate after such further investigation. The Title IX Coordinator's decision on the request for reconsideration shall be final.

VII. Title IX Coordinator Implements Final Findings and Recommendations.

On the first school day following expiration of the appeal period (or a decision on appeal), the Title IX Coordinator will implement the final findings and recommendations.

VIII. Prohibition Against Retaliation.

The school will not tolerate discrimination or retaliation against any student who files a good-faith sexual harassment complaint, even if the investigation produces insufficient evidence to support the complaint or if the allegations cannot be substantiated. Likewise, the school will not tolerate discrimination or retaliation against any individual who participates in the investigation of a sexual harassment complaint. Any perceived retaliation should be immediately reported to the Title IX Coordinator for investigation.

BASIS will take all steps that are necessary to ensure strict enforcement of this sexual harassment policy.