

## **Student Sexual Harassment Policy**

BASIS Charter Schools, Inc. ("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 all 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 students, employees, and third party contractors. All 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 sex-based conduct that is so severe, pervasive and objectively offensive that it deprives the victim(s) of access to educational opportunities and benefits. Sexual harassment includes 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.

### **II. Prohibited Conduct and Behavior**

Any conduct by an employee, student or third party that is sufficiently serious to deny or limit the ability of 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 (can be referred to as "quid pro quo");
- 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 severe and pervasive;
- 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 policy from a designated staff person. The training will include an approved, age-appropriate, professional presentation 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. Parents and/or Guardians may request a copy of the presentation from the front office at their student's school. School administrators and staff are trained on this policy and mandated reporting obligations that may arise in connection with certain sex-based conduct.

### IV. Sexual Harassment Grievance Procedures

- A. **How to File a Complaint.** A Complaint may be verbal or written and need not be on a particular form. There are forms available at the Front Office of the School for students to report allegations of sexual harassment. These forms may be filled out anonymously. The complainant or their parent and/or guardian may file a complaint with the Title IX Coordinator directly, whose contact information is included below. 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 Head of School. All complaints, reports, or notices of suspected, observed or experienced sexual harassment reported to the School shall be reported to/filed immediately with the Title IX Coordinator. Failure to comply with this Policy shall be grounds for disciplinary action, up to and including termination.

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- B. **Initial Review of Allegations.** Upon receipt of information of a complaint of sexual harassment the school will take prompt steps to investigate. The school will contact the Parent and/or Guardian of the complainant to explain that an investigation is being initiated and provide the contact information for the Title IX Coordinator should the Parent and/or Guardian have any questions. The Title IX Investigator and/or Title IX Coordinator designee (referred to herein as "Title IX Investigator") will discuss the alleged harassment with the complainant and the actions the complainant is seeking in response to the harassment. The Title IX Investigator will also provide written notice to the respondent's Parent and/or Guardian.
- 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 Investigator and may be reported to the local police department for independent investigation depending upon the nature, frequency, and severity of the alleged conduct. If deemed appropriate based on the circumstances, the Title IX Investigator may take interim measures during the investigation to protect the complainant which may include, but are not limited to, segregating the respondent from the complainant, placing the respondent (if a staff member) on leave, etc. Whenever possible, the complainant shall not be removed from class or an activity, and the respondent will be separated from the complainant, and if

appropriate, other students. Responsive measures will be designed to minimize, as much as possible, the interruption of or deprivation of access to education for the Parties. The investigation will be grounded in reasonableness and the school will have flexibility to determine appropriate responses. The Title IX Investigator will maintain on-going contact with the Parties throughout the course of the investigation.

2. **Limited Confidentiality.** The Title IX Investigator will make every effort to keep the investigation and the parties thereto, including witnesses, confidential, except as necessary to carry out the investigation. Anonymity cannot be guaranteed.
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 respondent 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 Investigator may collect and consider the following types of information:

- Statements by any witnesses to the alleged incident;
- Evidence about the relative credibility of the complainant, respondent, and relevant witnesses;
- Evidence that the respondent has been found to have harassed others;
- Evidence that the complainant has made false allegations against other individuals;
- Evidence of the complainant's reaction or behavior after the alleged harassment;
- Evidence as to whether the complainant 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**

In a prompt and timely manner as soon thereafter as practicable based on all of the facts and circumstances, the Title IX Investigator will provide written notice of his/her findings to the complainant and respondent ("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. The findings can also include, where applicable, outcomes related to conduct that does not rise to the level of sexual harassment but is inconsistent with school rules and the Code of Conduct.

If the Title IX Investigator 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 Investigator 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 all school rules and policies, including the Code of Conduct. Counseling for the Complainant and will also be considered as possible remedial action.

- If the respondent is a teacher or school employee, the Title IX Investigator and/or Human Resources Department will recommend discipline commensurate with the substantiated violation, up to and including, immediate termination.
- If the respondent is another student or students, the Title IX Investigator will recommend discipline commensurate with the substantiated violation, up to and including a recommendation for expulsion.
- If the respondent is a third party over which the school has some control, such as an independent contractor working for the school, the Title IX Investigator may recommend immediate termination of the relationship and steps to prohibit entry on school grounds or at school-sponsored activities.
- If the respondent is a third party over which the school has little or no control, the Title IX Investigator 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 Investigator 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 Investigator's Findings and/or Recommendations.**

The respondent shall have 5 school days from the date of receipt of the Title IX Investigator's findings and recommendations to challenge same. A notice of appeal shall be filed with the BASIS charter schools Title IX Coordinator and or designee (if the investigation was completed by the Title IX Coordinator) as follows:

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**VII. School Implements Final Findings and Recommendations.**

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

**VIII. Prohibition Against 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.

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 Investigator for investigation.

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