

TITLE IX
SEXUAL DISCRIMINATION POLICY AND
SEXUAL HARASSMENT GRIEVANCE PROCEDURES

Title IX of the Education Amendments of 1972 and the Title IX regulations prohibit discrimination on the basis of sex, including gender-based and sexual harassment discrimination, in the educational programs and activities of schools that receive federal funding. BASIS Charter Schools, Inc. ("BCSI") is committed to maintaining an educational environment free from sex discrimination and harassment. In keeping with this commitment, BCSI strictly prohibits all discriminatory practices, including sexual harassment, and will not deny or limit the ability of any student or BCSI employee to participate in, or benefit from, any educational 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.

BCSI maintains non-discriminatory enrollment policies, and will not, as a condition of enrollment, request or illicit the waiver of the right to an investigation and adjudication of formal complaints of sexual harassment under Title IX of the Education Amendments of 1972 consistent with this Policy.

1. Title IX Coordinator. BCSI's designated and authorized Title IX Coordinator can be reached as follows:

Kristen Jordison
Regional Director of BASIS Charter Schools and Title IX Coordinator
7975 N. Hayden Rd, Ste. B202 Scottsdale, AZ, 85258
(480) 289-2088

The Title IX Coordinator is designated and authorized to coordinate BCSI's compliance with Title IX.

2. Notification. The contact information for the Title IX Coordinator, this policy, including the nondiscrimination statement above, and the general Notice of Non-Discrimination) will be prominently posted on school websites and in relevant student or employee handbooks. Materials used to train the Title IX Coordinator or others who may be involved in the Title IX grievance process will be posted on the school websites.

In addition, BCSI will notify students, parents or guardians of students, employees, and applicants for admission and employment of this Policy and the grievance procedures included in this Policy, including how to report sexual harassment and how it will respond to such reports. The required notification may be accomplished in any way BCSI deems appropriate and effective.

3. Reports of Sex Discrimination. Any person may report sex discrimination, including sexual harassment, regardless of whether the person is the alleged victim of the conduct, in person, by mail, by telephone, or by email to the Title IX Coordinator at any time. Complaints of sex discrimination that is not sexual harassment will be handled pursuant to BCSI's regular procedures for resolving student or employee concerns promptly and equitably. Complaints of sexual harassment will be handled using the grievance procedures set forth below.

4. Definition of "Sexual Harassment" and Other Terms. For purposes of this policy, "sexual harassment" is any one or more of the following:

- Conduct that expressly or impliedly conditions the provision of an aid, benefit or service of BCSI on an individual's participation in unwelcome sexual conduct.
- Conduct that a reasonable person would deem to be unwelcome and that is so severe, pervasive, and objectively offensive that it effectively denies a student equal access to BCSI's educational programs or activities.
- Conduct that constitutes sexual assault, dating violence, domestic violence or stalking under the Clery Act, 20 U.S.C. § 1092(F)(6)(A)(v), or the Violence Against Women Act of 1994, 34 U.S.C. § 12291(a)(10).

BCSI's "educational programs or activities" include events and circumstances where the relevant school exercises substantial control over the individual engaging in the alleged harassing behavior and the context in which the alleged harassment occurs, but applies to only those educational programs or activities that occur within the United States. All other terms relevant to a Title IX complaint shall be construed in accordance with the current Title IX regulations and any relevant case law.

5. Formal Complaints of Sexual Harassment. Any person, including a person who is alleged to be the victim of sexual harassment (a "Complainant") may report sexual harassment, in person, by mail, by telephone, or by email to the Title IX Coordinator at any time. The report must include the nature of alleged violation; names of persons responsible for the alleged violation (when known) (a "Respondent"), and any other relevant background information. A Complainant (or their parent/guardian) or the Title IX Coordinator, but not a third-party reporter, may sign a formal complaint. The Complainant and the Respondent are the parties to any formal complaint, even if it is signed by the Title IX Coordinator. At the time of filing a formal complaint, a Complainant must be participating in or attempting to participate in an educational program or activity of BCSI.

6. Actual Knowledge Reports of Sexual Harassment. BCSI will also respond to alleged sex harassment whenever any school site staff member has actual knowledge of potential sex harassment or allegations of sex harassment. All school site staff must report such knowledge immediately to the Title IX Coordinator. Failure to comply with this Policy shall be grounds for disciplinary action, up to and including termination.

7. Initial Contact with Complainant. Upon receiving notification of alleged sexual harassment, whether through a report, a formal complaint or an actual knowledge report from a School employee, the Title IX Coordinator shall promptly and confidentially contact the Complainant 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 the process for filing a formal complaint, if applicable.

8. Supportive Measures. The Title IX Coordinator shall offer supportive measures to both the Complainant and alleged Respondent, either before or after the filing of a formal complaint or following a report where no complaint has been filed. The supportive measures are non-disciplinary, non-punitive, individualized services and shall be designed to restore or preserve equal access to the School's educational program and activities, without unreasonably burdening the other party, and shall be offered without charge. Supportive measures may include counseling, class modifications or class schedule changes, and/or increased monitoring and supervision, as deemed appropriate by the Title IX Coordinator.

9. Emergency Removal/Administrative Leave. A student who is a Respondent may be removed from the educational program or activity on an emergency basis, provided that removal is necessary to protect the student or another individual from an immediate threat to physical health or safety. If a student has an IEP or a Section 504 Plan, the decision to remove the student on an emergency basis must be coordinated with the appropriate special education staff and in compliance with relevant IDEA or Section 504 requirements. A BCSI employee who is a Respondent may be placed on administrative leave while allegations are investigated and resolved in accordance with this Policy.

10. General Principles Governing Grievance Process for Responding to Formal Complaints. Following the filing of a formal complaint, the Title IX Coordinator or an assigned investigator who has had training in Title IX investigations will conduct an investigation into the allegations, unless they are summarily dismissed in accordance with Section 12 below. The investigation will include an evaluation of all available evidence, and may include witness interviews, review of relevant documents, and consultation with other staff members as necessary. The Title IX Coordinator or investigator must be free from any conflicts of interest or bias.

The investigation will be premised on a presumption that the Respondent is not responsible for the alleged act(s) of sexual harassment, and both parties will be treated equitably during the investigation. The burden of proof is on the school to prove a violation of this Policy by a preponderance of the evidence, which means that the allegations are more likely than not to be true.

Upon a determination that the Respondent engaged in prohibited behavior (pursuant to the procedures set forth below), BCSI may:

- Offer the Complainant any remedies that will restore or preserve the Complainant's access to the school's educational program and activities, including any supporting measures. These remedies may be kept confidential to the extent deemed necessary by the school.
- Impose any disciplinary sanctions on a Respondent student, including participation in counseling services; revocation of privileges related to extra-curricular programs including sports; no-contact orders; schedule changes; short-term or long-term suspension; or expulsion.
- Impose any disciplinary sanctions on a Respondent BCSI employee, including participation in counseling services; no-contact orders; reassignment; suspension without pay; or termination of employment.

This Policy prohibits the Complainant, the Respondent and any witnesses from knowingly making a false statement or providing false evidence in connection with a Title IX investigation. Complainants, Respondents, witnesses, or representatives or any party who make false statements or provide false evidence in connection with a Title IX investigation may be subject to disciplinary action.

11. Written Notice of Formal Complaint. The Title IX Coordinator or investigator will provide written notice to the Complainant and the Respondent of the allegations of a formal complaint and the grievance process, including any informal resolution process. The notice of the allegations must include:

- Sufficient detail to allow the Respondent to prepare a response, including a description of the conduct alleged, the date and location of the conduct and the names of the Complainant and other involved parties, if any.
- A statement that the Respondent is presumed not to be responsible for the conduct and that responsibility will be determined at the conclusion of the process.
- A notice of the Complainant's and Respondent's rights to have an attorney or non-attorney advisor.
- The right of Complainant and Respondent to inspect and review any evidence.
- The prohibition on providing false statements or evidence in connection with the investigation of the complaint.

If additional allegations arise during an investigation and will be investigated, the Title IX Coordinator or investigator will provide written notice of those additional allegations to the Complainant and Respondent.

12. Summary Dismissal. If the Title IX Coordinator or investigator determines that the allegations in a formal complaint do not meet the definition of "sexual harassment" under the applicable Title IX regulations, did not occur in an educational program or activity of BCSI, or did not occur in the United States, the Title IX Coordinator or investigator *shall* summarily dismiss the formal complaint. The Title IX Coordinator or investigator *may* dismiss a formal complaint if the Complainant requests withdrawal of the complaint, the Respondent withdraws from the school or their BCSI employment is terminated, or specific circumstances prevent the gathering of appropriate evidence to make a determination regarding the allegations. Upon dismissal of a formal complaint or any allegations contained in a formal complaint, the Title IX Coordinator or investigator will promptly and simultaneously provide written notice of the dismissal and the reason(s) for the dismissal to the Complainant and Respondent. If a complaint is summarily dismissed, the school may nevertheless take whatever additional disciplinary action it deems appropriate against the Respondent under its Student Code of Conduct and procedures related thereto.

13. Submission of Evidence to Title IX Coordinator or Investigator. Both the Complainant and the Respondent will have a reasonable opportunity to present witnesses and other evidence to the Title IX Coordinator or investigator, provided, however, that such evidence must be submitted within 21 calendar days of the date on which written notice of the formal complaint is provided to the Complainant and Respondent. The Title IX Coordinator or investigator will meet with each party and give them at least 24 hours' advance written notice of the date, time, location, and purpose of the meeting.

Before the Title IX Coordinator or investigator prepares the final investigation report, the Complainant, the Respondent and their advisors (if any) will be provided with an equal opportunity to review all evidence that is directly related to the allegations investigated as part of the formal complaint. If possible, the evidence will be provided to the parties in an electronic format and manner that does not permit copying or downloading of the evidence. The evidence provided must include any evidence that the Title IX Coordinator or investigator does not intend to rely upon, and any exculpatory or inculpatory evidence from any source. Within 10 calendar days of the date on which they were provided with access to the evidence, the parties may prepare and submit to the Title IX Coordinator or investigator a written response to the evidence, which the Title IX Coordinator or investigator must consider before preparing a final, written investigation report. Following the expiration of the date on which the parties may provide responses to the evidence, the Title IX Coordinator or investigator will promptly prepare

and issue a written investigation report that fairly summarizes the relevant evidence discovered during the investigation.

BCSI will not restrict the ability of either party to discuss the allegations and gather evidence related to the allegations of the formal complaint.

14. Determination of Responsibility. BCSI will not hold a live hearing in connection with determining responsibility for any violations of this Policy. The written investigation report and any responses submitted by the Complainant and/or Respondent will be provided to the Regional Director or designee (the "Decision Maker"), who will make the determination regarding responsibility. The Decision Maker will provide each party with an opportunity to submit written, relevant questions for any party or witness within 5 calendar days of the date on which the Decision Maker is provided with a copy of the final written investigation report and any responses to the report. If written questions are submitted to the Decision Maker, the Decision Maker will promptly provide the questions to the appropriate party so that the party can provide answers to the questions. Answers to the questions must be provided to the Decision Maker within 5 calendar days of the date on which they are provided to a party. The Decision Maker will promptly provide each party with the answers to the questions and allow for additional, limited follow-up questions in writing from both the Complainant and Respondent within 3 calendar days. If written follow-up questions are submitted to the Decision Maker, the Decision Maker will promptly provide the questions to the appropriate party so that the party can provide answers to the questions. Any answers to those additional questions must be submitted to the Decision Maker within 3 calendar days of the date on which they are provided to a party. The Decision Maker will promptly provide the responses to the additional questions to both parties. Any questions regarding a Complainant's prior sexual behavior or sexual predisposition will be deemed irrelevant unless they are offered to provide that someone other than the Respondent committed the alleged misconduct or are offered to prove consent.

No sooner than 10 calendar days after receiving the investigation report but no later than 45 calendar days after receiving the investigation report, the Decision Maker will issue a written determination (the "Determination") that includes:

- A statement of the allegations;
- A description of the procedures used to investigate the allegations;
- The findings of fact;
- A determination of responsibility for each allegation;
- Any sanctions that will be imposed on the Respondent for violations;
- Whether remedies to restore or preserve the Complainant's and/or others' equal access to the educational program or activities will be provided; and
- A description of the right to an appeal, how to request and appeal, and the permitted bases for an appeal.

The deadline for the Decision Maker to issue the Determination may be extended for good cause at the Decision Maker's sole discretion.

The Determination must be based upon a preponderance of the evidence (i.e., whether it is more likely than not that the violation occurred). The Complainant and the Respondent will be notified concurrently of the Determination.

Students found to have violated Title IX will be referred for potential disciplinary action. School site staff members found to have violated Title IX will be subject to employment actions, including discipline or termination of employment.

15. Timing of Resolution of Formal Complaints. BCSI will attempt to resolve all formal complaints alleging a violation of this Policy within 120 days, not including any time for an appeal of the Determination. However, this presumptive deadline and any related deadlines for grievance procedures may be modified as required by the circumstances of the report and equity to the parties, so long as the matter is resolved in a timely manner. The Title IX Coordinator or investigator will not wait for the conclusion of any law enforcement investigation or criminal proceeding to begin the Title IX investigation, but the Title IX Coordinator or investigator may consider such investigations or proceedings in determining an appropriate timeline in which to resolve a formal complaint. Any extensions of the deadlines will be explained in writing to both parties.

16. Appeals. Either the Complainant or the Respondent may appeal from: (a) the Determination regarding a formal complaint, (b) the handling of a report, or (c) the dismissal of a formal complaint, by submitting a notice of appeal that includes the bases of the appeal to the Decision Maker within 10 calendar days of the date of the Determination. Written notice of the appeal will be provided to both parties. Either party may file a written response in support of or challenging the Determination and the bases for the appeal within 5 calendar days of the date on which written notice of the appeal was provided to all parties.

An appeal may be filed on the following bases only:

- A procedural irregularity affected the outcome of the matter,
- There is newly discovered evidence that could affect the outcome of the matter and that was not available at the time the Determination was made, and/or
- The Title IX Coordinator, the investigator or the Decision Maker had a conflict of interest or bias that affected the outcome of the matter.

The appeal will be decided by the Vice President for Charter Schools or designee on written submissions from the parties only. No hearing will be held for an appeal.

The Vice President for Charter Schools or designee will simultaneously provide the parties with a written decision regarding the appeal, which will describe the result of the appeal and the rationale for the decision.

17. Informal Resolution. Allegations may be resolved informally only if a formal complaint is filed and only if the complaint does not allege that a school site staff member harassed a student. Both parties to a formal complaint must voluntarily agree in writing to participate in a potential informal resolution. As part of the informal resolution process, the Title IX Coordinator or investigator may engage in interviews and other fact finding. Available methods of informal resolution include arbitration, mediation, and restorative justice procedures. Either party may withdraw agreement to an informal resolution at any time before agreeing to a resolution and resume the grievance process. Once an informal resolution is agreed to by the parties, it becomes binding. The Title IX Coordinator or the investigator has the discretion to decline informal resolution for some complaints, including complaints of sexual violence, and instead require their formal investigation.

18. Retaliation. Title IX prohibits retaliation for reporting or participating in an investigation of a report regarding sex discrimination or harassment. No person shall be retaliated against in any way or subjected to discharge, suspension, discipline, harassment, or any form of discrimination for having participated in any proceeding under this Policy. In addition, it shall be a violation of this Policy for any person to retaliate against another individual for the purposes of interfering with that individual's Title IX rights or because an individual has

participated or refused to participate in proceedings under this Policy. Individuals will be subject to disciplinary action for retaliation in violation of this Policy.

19. Recordkeeping. Documents related to allegations of sexual harassment will be maintained for at least seven years. The records maintained will document that the school's response to allegations of sexual harassment was not deliberately indifferent and that measures were taken to restore or preserve equal access to the educational program or activity. If supportive measures were not offered in response to a report made under this Policy, the records will document why that response was not clearly unreasonable under the circumstances known at the time.

20. Training. Training will be provided the definition of sexual harassment, the grievance procedures, how to serve impartially in their roles, and any other required or appropriate subjects to the Title IX Coordinator, any investigators, the Decision Maker, anyone who facilitates informal resolution of formal complaints, and anyone involved in the appeal process at least as often as required by the Title IX regulations.