

TITLE IX NONDISCRIMINATION (BASIS OF SEX)/SEXUAL HARASSMENT POLICY  
34 CFR Part 106/08/10/2020

- I. Purpose. The purpose of this policy is to articulate Albuquerque School of Excellence's commitment to eliminating discrimination based on sex, including sexual harassment which is a type of discrimination, in any education program or activity offered by Albuquerque School of Excellence. The School does not discriminate on the basis of sex in education programs or activities that it operates, or employment of individuals as prohibited by Title IX of the Education Amendments of 1972. Any person with questions about this Policy should contact the Title IX Coordinator or designee whose information shall be prominently listed on the School's website [insert link to webpage].
- II. Reason for Policy. The United States Department of Education recently adopted formal rules related to sexual harassment as prohibited by Title IX of the Education Amendments of 1972 (May 2020). These new regulations require additional procedures and policies related to programs using federal funds. The new law focuses on procedures for reporting, investigating and finding illegal sexual harassment as the term is defined by the rule. The School's governing body has always prohibited discrimination based on sex and sexual harassment in educational programs and activities implemented by it. This policy is intended to comply with the mandates of 34 CFR 106 and other provisions of Title IX.
- III. General Statement of Policy. The School is committed to maintaining a safe school environment free from harassment and discrimination. The School prohibits discrimination based on sex and sexual harassment of students by other students, employees or other persons, at school or school sponsored or school related activities. No student will be excluded from participation in or denied the benefit of any educational program or activity operated by the School as a consequence of sexual discrimination or sexual harassment or retaliation for making complaints of sexual discrimination or sexual harassment as defined by Title IX.
- IV. Definitions.
  - A. *Discrimination based on sex*. Means conduct that excludes a person from participation in, denying the person the benefit of, or subjecting a person to unequal treatment under any academic, extracurricular, occupational training or other education program or activity provided by the School based on sex, e.g. disproportionate funding for athletic programs.
  - B. *Sexual Harassment*. A form of sexual discrimination recently defined by the U.S. Department of Education as conduct based on sex that satisfies one or more of the following:
    1. An employee who conditions the provision of assistance, benefit, or service offered by a School program or activity or unwelcome sexual conduct "*quid pro quo*" (e.g. sexual favors in exchange for good grades);
    2. Unwelcome conduct that a reasonable person would consider so severe, pervasive and objectively offensive that it denies a person the ability to access her or his educational program or activity; or
    3. "Sexual assault," "dating violence," "domestic violence," or "stalking," each as defined by federal law.
  - C. *School Program or Activity*. These terms include locations, events, or circumstances over which the School exercises substantial control over the individuals implicated in a complaint of sexual discrimination, harassment or retaliation. Title IX applies to all School's programs or activities whether such programs/activities are held on or off campus, but not outside the United States.

Offending conduct covered by these Procedures can occur by e-mail, over the internet, or other technologies, such as social media, if the School has the requisite authority to control the students' conduct on these technologies.

- V. Title IX Coordinator. The School's governing body hereby authorizes the School's Head Administrator, or a position determined by the Head Administrator as the School's Title IX Coordinator. The Head Administrator shall also designate an alternate Title IX Coordinator in the event a complaint is against the Title IX Coordinator or the designated Title IX Coordinator is unavailable to accept a complaint. The Title IX Coordinator should be contacted about inquiries regarding individual's rights and protections afforded under Title IX. The Title IX Coordinator's contact information along with this Policy shall be prominently published on the School's website, in each student and employee handbook, employment applications, notices of employment opportunities and such other School publications as appropriate. The Title IX Coordinator will be responsible for coordinating the School's efforts to comply with Title IX requirements and shall receive complaints of discrimination based on sex or sexual harassment, or retaliation.
- VI. Grievance Policy Procedures. The School's administration will publish notice of and adopt grievance procedures that ensure a prompt and equitable resolution of student and employee complaints alleging any action that would be a violation of Title IX provisions. Grievance procedures shall comply with the requirements of the U.S. Department of Education's Final Rule on Sexual Harassment. 34 CFR Part 106. The grievance procedures shall include how to report or file a complaint of sex discrimination, how to report or file a formal complaint of sexual harassment, describe the investigation process, and how the School will respond to the complaint among other requirements. Parents and guardians as well as the Title IX Coordinator may file a formal complaint of sexual harassment, even if the student does not wish to file the complaint. Grievances and formal complaint processes will include reasonable prompt time frames for the process and any appeals. Procedures shall be consistent and comply with laws applicable to confidentiality, including FERPA.
- VII. Reporting. The School's procedures shall provide that any person may report sexual harassment or discrimination. The report may be made in person, by mail, telephone or email, using the Title IX Coordinator's contact information or by any other means that would result in the Title IX Coordinator receiving the complaint either verbally or in writing.
- VIII. School's Response Obligations. The School's procedures shall include prompt processing of complaints. In cases of sexual harassment complaints, the School will offer supportive measures to the alleged victim, even if no complaint is filed. All complaints will be investigated and if the alleged conduct does not constitute a violation under Title IX, the School must dismiss the complaint for purposes of Title IX, but it may still address the violation under other violations of the School's code of acceptable conduct. The School will provide remedies where a violation has been established, but not impose disciplinary sanctions without following the grievance procedures. The School requires Title IX Coordinators, investigators and persons who facilitate the requirements of this Policy to be free from conflicts of interest or bias against the complainant or respondent.
- IX. Employee Obligation to Report. Any school employee who learns of actions that may constitute discrimination based on sex or sexual harassment must report that information to the Title IX Coordinator. Employees have an independent legal duty to report child abuse and/or child neglect to the responsible legal authorities.
- X. Notification of Policy. The School will take affirmative steps to ensure that notices required under Title IX and this policy are posted timely, routinely updated, effectively located to ensure that students, parents, employees and others affected by this policy are given adequate notice of their rights hereunder. The policy shall be published once in a local newspaper within ninety (90) days of adoption, other publications by the School, employment applications, recruitment materials,

enrollment policies, and in written communications to every student and employee of the School through the handbooks and relevant policy updates.

- XI. Training. The Head Administrator shall ensure that training is provided for all staff and students regarding rights afforded and obligations imposed pursuant to Title IX and its implementing regulations. This shall include training on the definition of sexual harassment as defined by Title IX regulations. Appropriate staff shall be trained in the investigation practices, grievance procedures, hearings and appeals processes, informal resolution processes and how to avoid conflicts of interest and bias. If training materials are developed by the School, they shall be maintained on the School's website.
- XII. Retaliation Prohibited. The School prohibits retaliation against any person who files a complaint, testifies or cooperates in a School conducted complaint proceeding.
- XIII. Periodic Evaluations. The School shall conduct evaluations of all its programs and activities no less frequently than every two (2) years, to ensure that this Policy is successfully implemented. The Head Administrator may recommend modifications to policies and procedures governing School programs and activities to ensure equal opportunities are available to all students regardless of sex.

Date adopted: \_\_\_08/10\_\_\_\_, 2020 Effective date: