

**Virtual Learning Academy of St. Clair County (VLA)  
Board of Education Policy**

**Title IX  
Unlawful Harassment**

**Policy Statement**

It is the policy of the Virtual Learning Academy of St. Clair County (the “VLA”) to provide an environment free from unlawful harassment, including sex-based harassment. Consistent with this policy, the VLA will investigate all allegations of unlawful harassment, and will take appropriate action, including appropriate discipline, against any individual whom, following an investigation is determined to have engaged in unlawful harassment.

The VLA will comply with all applicable state and federal laws related to harassment, including sex-based harassment.

**Student Code of Conduct**

The Superintendent or designee will include a statement explaining the VLA’s policy against unlawful harassment, including sex-based harassment, in each student code of conduct. This statement must include an explanation of types of unlawful harassment, examples of harassment types, reporting requirements, and consequences as explained in this policy.

**Employee Handbook**

The Superintendent or designee will include a statement explaining the VLA’s policy against unlawful harassment, including sex-based harassment, in all employee handbooks and manuals. This statement must include an explanation of types of unlawful harassment, examples of harassment types, reporting requirements, and consequences as explained in this policy.

**Types of Unlawful Harassment**

**Sex-based harassment** is prohibited by Title IX of the Education Amendments of 1972 (“Title IX”) and the Michigan Elliott-Larsen Civil Rights Act (the “ELCRA”). Title IX provides that no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity operated by the VLA. Sexual harassment is a form of sex-based harassment and is prohibited by Title IX, the ELCRA, and VLA policy. Sexual harassment is unwelcome conduct of a sexual nature. Sexual harassment can include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature, such as sexual assault or any act of sexual violence. Sexual harassment includes any conduct that creates a hostile environment. Sexual harassment may create a hostile environment if the conduct is sufficiently serious to deny or limit an individual’s ability to participate in or benefit from the VLA’s program. Examples of conduct that may constitute sex-based harassment include, but are not limited to:

**Verbal:** unwelcome comments, including the use of derogatory, sexually suggestive, or vulgar language; the use of sexual innuendos; unwelcome advances or repeated requests for dates or sexual favors; threats based on or motivated by a person’s sex; demanding or pressuring another individual to submit to sexual requests or advances in order to attain academic or professional achievements or advancements; threatening another individual’s academic or professional

accomplishments or reputation if that individual does not submit to sexual requests or advances; or any other similar behavior.

**Visual:** subjecting another individual to sexually suggestive, pornographic, or obscene images, text, or cartoons, including by electronic mail, text message, letter, or any other medium; the use of obscene gestures toward or around another individual; leering at another individual; or any other similar behavior.

**Physical:** unwanted kissing, touching, patting, hugging, pinching, or any other unwanted physical contact; impeding another individual's normal movements; stalking, assault, or battery based on the victim's sex; any other physical interference with another person based on that person's sex; or any other similar behavior.

Sex-based harassment does not need to include intent to harm an individual, be directed at a specific target, or involve repeated incidents.

The VLA will investigate all reports of sex-based harassment, including allegations of harassment involving an alleged harasser and victim who are members of the same protected class.

Sexual conduct or relationships between VLA employees and students are prohibited. Consent is irrelevant.

This policy incorporates all types of harassment, including but not limited to: racial harassment, national origin harassment, religion harassment, disability-based harassment, genetic information harassment, harassment based on transgender status or sexual orientation, and all other harassment.

### **Prohibited Conduct**

All unlawful harassment, including sex-based harassment, is strictly prohibited. This policy applies to student-to-student conduct, staff-to-student conduct, staff-to-staff conduct, student-to-staff conduct, and conduct perpetrated by or against visitors, parents, Board members, and volunteers.

This policy applies to all conduct occurring on VLA property including in a classroom, elsewhere on school premises, on a school bus or other school-related vehicle, or at a school-sponsored activity or event, whether or not it is held on school premises.

### **Reporting Requirements**

VLA personnel must report incidents of alleged unlawful harassment, including incidents that school personnel witness or receive reports or information about, whether such incidents are verbal, visual, or physical, and regardless of whether the incidents constitute other forms of harassment, bullying, or hazing.

Any staff member who witnesses an act of unlawful harassment, including sex-based harassment, must intervene immediately, unless circumstances would make such intervention dangerous. If a staff member is unable to intervene, the staff member should promptly attempt to find another staff member who is able to intervene, contact VLA administration, or contact law enforcement, as the situation requires.

Any student who witnesses an act of unlawful harassment, including sex-based harassment, is encouraged to report the incident to VLA officials. No student will be retaliated against based on any report of harassment, including sex-based harassment. A student may also anonymously report an incident of unlawful harassment. The VLA will investigate anonymous reports pursuant to its investigation

procedures below. Minor students do not need parental permission to file complaints or participate in the formal complaint resolution process, discussed below.

## **How to Report Unlawful Harassment**

If you or someone you know has been harassed on the basis of sex, you may file a complaint with:

Jean Gibson Sturtridge, Title IX Coordinator  
499 Range Road, P.O. Box 1500, Marysville, Michigan 48040  
810 455-4050  
[sturtridge.jean@sccVLA.org](mailto:sturtridge.jean@sccVLA.org)

All other reports of unlawful harassment should be also reported to Jean Gibson Sturtridge.

A complaint of unlawful harassment, including unlawful sex-based harassment, may be made verbally or in writing.

Those individuals named above shall document all reports of incidents of unlawful harassment, as well as any incidents they personally observe. This documentation shall be retained by the VLA in accordance with record retention requirements.

## **Complaint Process**

Any individual who has been the victim of unlawful harassment, including sex-based harassment, or any individual who has witnessed an incident of unlawful harassment, may make a complaint at any time. Any staff member who receives a complaint of unlawful harassment, including sex-based harassment, shall immediately document the reported incident and notify the appropriate staff person, as listed above.

Once a complaint is received by the appropriate staff person as listed above, that person will begin an investigation into the alleged conduct and, if necessary, notify the appropriate authorities.

During the investigation, impartial school officials will contact witnesses to the alleged act(s) of unlawful harassment, including sex-based harassment, and obtain statements from those witnesses. If the VLA determines that a school official's impartiality has been compromised during the investigation process, that school official will be removed from the investigation and have no further involvement.

## **Investigation Timelines**

The VLA will initiate an investigation within 3 school days of receiving a complaint of unlawful harassment, including sex-based harassment. In most cases, an investigation will be completed within 10 school days. The VLA will attempt to comply with all law enforcement requests for cooperation. In some circumstances, compliance with law enforcement requests may require the VLA to suspend its factual investigation. The VLA will promptly resume its investigation as soon as it is notified by the law enforcement agency that the law enforcement agency has completed its evidence gathering process. In most cases, this delay will not exceed 10 school days. If the VLA's investigation is suspended, interim steps will be taken to provide for the safety of the victim(s) and the school community and to avoid potential retaliation. Those steps may include suspension of an alleged perpetrator from work or school until the investigation is complete.

Within 2 school days of the investigation's conclusion, the VLA will separately notify, in writing, the victim(s) and the perpetrator(s) of the investigation's outcome. Any disciplinary action against the

perpetrator(s) will be implemented in accordance with the due process standards contained within the Board's policies.

If the perpetrator is a student with a disability, the VLA must also comply MDR guidelines which provides the procedures for the discipline of students with disabilities. A perpetrator's status as a student with a disability will not affect the VLA's obligation to protect the victim during and after the course of the investigation.

## **Investigation Procedures**

The VLA will use the following procedures in initiating and conducting investigations:

1. Any written or verbal report of unlawful harassment, including sex-based harassment, will be addressed and investigated, including anonymous written or verbal reports.
2. The VLA will assure any victim(s) of unlawful harassment, including sex-based harassment, that the complaint will be fully investigated.
3. The VLA will provide the victim(s) of unlawful harassment, including sex-based harassment, with assurances that his/her/their identity will be kept confidential during the investigation, to the extent possible.
4. The VLA will provide the victim(s) of unlawful harassment, including sex-based harassment, with assurances that he/she/they will not be retaliated against by the VLA. The VLA will also take preventative measures to ensure that the alleged perpetrator does not retaliate against the alleged victim(s) at any time during or after the investigation.
5. The VLA will notify the alleged victim(s) of unlawful harassment, including sex-based harassment, that he/she/they will not be required to confront the alleged perpetrator and that steps will be taken to immediately ensure that the alleged harassment does not continue. The VLA will attempt to accomplish this in a manner that does not disclose the identity of the victim(s), if possible.
6. The VLA will interview any witnesses identified by the victim(s) and the alleged perpetrator(s). All witnesses will be assured that their identities will be kept confidential during the investigation, to the extent possible.
7. The VLA will take action to end unlawful harassment, including sex-based harassment, including monitoring that the conduct does not reoccur and modifying responses if the harassment does reoccur.
8. If the alleged victim is a student under age 18, the VLA will notify the student's parent(s)/guardian(s) of the harassment complaint. The parent(s)/guardian(s) will be informed of the status of the investigation, as appropriate.
9. If a student victim of sex-based harassment has been targeted due to his/her sexual orientation, gender identity, or failure to comply with gender stereotypes, the VLA will first consult with the student to determine an appropriate method of notifying the student's parent(s)/guardian(s) of the sex-based harassment complaint.
10. All documentation, including witness statements, must be kept with the complaint and reports.
11. The VLA will use the "preponderance of the evidence" standard as the appropriate standard for investigating allegations of unlawful harassment.

If a victim requests complete confidentiality or asks that the complaint not be pursued, the VLA will take all reasonable steps to investigate and respond to the complaint consistent with the victim's request. If a victim insists that his/her name or other identifying information not be disclosed to the alleged perpetrator, the VLA will notify the victim that its ability to respond may therefore be limited. In cases involving allegations of sex-based harassment, the VLA will also inform the victim that Title IX specifically

prohibits retaliation and that VLA officials will take steps to prevent retaliation and will take strong responsive action if it occurs.

### **Possible Remedies**

The VLA will take all appropriate steps to ensure that the effects of unlawful harassment to the victim and others are promptly remedied. Appropriate remedies will be based on the circumstances and may include, but are not limited to:

1. Providing an escort to ensure that the victim can safely attend classes and school activities;
2. Providing the victim with school-based counseling services;
3. Providing the victim with academic support services, such as tutoring;
4. Rearranging course schedules, to the extent practicable, to minimize contact between the victim and alleged perpetrator;
5. Moving the victim or the alleged perpetrator's locker;
6. Issuing a "no contact" directive to the alleged perpetrator.

This list is not exhaustive. The VLA will remedy the effects of unlawful harassment, including sex-based harassment, in a manner that is appropriate under the circumstances. The VLA will, whenever possible, strive to ensure that the victim's academic and extracurricular schedule remains intact if the victim desires.

These remedies are also available to any other individual who is affected by unlawful harassment. Individuals affected by unlawful harassment are entitled to the protections afforded to victims of unlawful harassment, even if the individual was not the intended target of the alleged perpetrator.

Broader remedies in the VLA community may include, but are not limited to:

1. Assemblies reminding students and staff of their obligations under Board Policy and applicable handbooks;
2. Additional staff training;
3. Letters to students, staff, and parents reminding them of their obligations under Board Policy and applicable handbooks.

### **Investigation Report**

During the course of the investigation, the appropriate staff member, as indicated above, or his/her designee shall create an investigatory report. This report shall include the following information:

1. The name or a description or identifying information available about the victim;
2. The victim's protected class;
3. The name or a description or identifying information available about the individual making the report, if not the victim;
4. The protected class of the individual making the report, if not the victim;
5. The nature of the allegation, a description of the incident, and the date and time (if known) of the alleged incident;
6. The name(s) and protected classes of all persons alleged to have committed the alleged harassment, if known, or a description/identifying information available if the name is not known;
7. The name(s) or description/identifying information and protected classes of all known witnesses to the alleged incident;

8. Any written statement of the reporter, the victim (if different than the reporter), the accused individual(s), and any known witnesses;
9. The investigation outcome; and
10. The response by school personnel, including the date any incident was reported to law enforcement.

### **Filing a False Report**

Any individual who knowingly or maliciously files a false report of unlawful harassment, including sex-based harassment, will be subject to discipline, up to and including expulsion or discharge.

### **Retaliation**

Retaliation against an individual who reports unlawful harassment, including sex-based harassment, is strictly prohibited. Any individual who retaliates against a person who reports suspected harassment will be disciplined in accordance with the VLA's policies on discipline up to and including expulsion from the VLA or termination of employment. This prohibition on retaliation also applies to retaliation against individuals who participate in or cooperate with any investigation related to a harassment complaint.

### **The Office for Civil Rights**

Any individual who believes that he/she was the victim of unlawful harassment, including sex-based harassment, may file a complaint with the Office for Civil Rights ("OCR") at any time:

U.S. Department of Education  
Office for Civil Rights  
1350 Euclid Avenue, Suite 325  
Cleveland, Ohio 44115  
Phone: (216) 522-4970  
E-mail: OCR.Cleveland@ed.gov

This complaint may be filed before, during, or after a complaint with the VLA is filed, or an individual may choose to forego filing a complaint with the VLA and rely solely on OCR. The VLA recommends that individuals who have been subjected to unlawful harassment, including sex-based harassment, also file a complaint with the VLA to ensure that the VLA is able to take steps to prevent any further harassment or discrimination and to discipline the perpetrator, if necessary. OCR does not serve as an appellate body for VLA decisions. An investigation by OCR will occur separately from any VLA investigation.

### **Appeal Process**

A victim of unlawful harassment, including sex-based harassment, who believes that the VLA's investigation reached an incorrect result present any additional evidence at any time. A victim may also appeal the findings and conclusions of the investigation to the Board President. Upon receipt of an appeal from a victim, the Board President will review the investigation report, contact any additional witnesses, consider all additional evidence, and may re-interview any witnesses. The Board President will then notify the parties in writing of his or her decision. The Board President is not required to give deference to the investigation report and may consider any additional evidence available in evaluating the appeal.

Any individual accused of perpetrating unlawful harassment, including sex-based harassment, may appeal the results of an investigation to the Board President. Upon receipt of an appeal from an alleged perpetrator, the Board President will review the investigation report, contact any additional witnesses, consider all additional evidence, and may re-interview any witnesses. The Board President will then notify

the parties in writing of his or her decision. The Board President is not required to give deference to the investigation report and may consider any additional evidence available in evaluating the appeal.

A student found to have perpetrated unlawful harassment, including sex-based harassment, may be subject to suspension or expulsion consistent with Student Suspension and Expulsion Policy 8350 . An employee found to have perpetrated unlawful harassment, including sex-based harassment, may be subject to discipline, up to and including termination from employment.

### **Training**

The VLA will provide training on responding to and investigating unlawful harassment, including sex-based harassment, for VLA officials, administrators, staff, and security personnel. This training is mandatory for all personnel responsible for implementing and enforcing anti-harassment laws and related policies and procedures. This training may be hosted by an outside entity. Employees will be provided notice of mandatory training sessions.

Board Approved: June 6, 2018

Legal Ref., Thrun Law Firm, P.C.