

## **e3 CIVIC HIGH TITLE IX POLICY PROHIBITING DISCRIMINATION ON THE BASIS OF SEX**

e3 Civic High (“e3” or the “School”) is committed to maintaining a safe and respectful school environment that is free from discrimination on the basis of sex and harassment. Title IX of the Education Amendment Act of 1972 (“Title IX”) prohibits discrimination on the basis of sex, including sex-based harassment, hostile environment harassment, pregnancy discrimination, failure to provide equal athletic opportunity, unequal access to educational resources, and retaliation against a person who has reported sex-based discrimination, in e3’s admissions and employment practices, and other education programs and activities.

This Title IX Policy Prohibiting Discrimination on the Basis of Sex (“Policy”) details e3’s commitment to maintain a learning environment that is free from sex-based harassment and provides a grievance process for allegations of sex discrimination as defined under Title IX. Any individual can report sex-based discrimination at e3 to school staff (e.g., Principal, teachers, etc.) and e3 will make reasonable efforts to promptly and effectively end any sex-based discrimination in its education program or activity, prevent its recurrence, and remedy its effects. .

Sex-based harassment is a form of gender discrimination in that it constitutes differential treatment on the basis of gender, gender identity or expression, sex-based orientation, or pregnancy or related conditions, and, for that reason, is a violation of state and federal laws and a violation of this Policy. The School considers sex-based harassment to be a major offense which can result in discipline of students and termination of employees.

### *Definition of Sex-Based Harassment Under California Law*

California Education Code section 212.5 defines sex-based harassment as any unwelcome sex-based advances, requests for sex-based favors, or other verbal, visual, or physical conduct of a sex-based nature made by someone from or in the work or educational setting, under the following conditions:

- Submission to the conduct is explicitly or implicitly made a term or a condition of an individual’s employment, academic status, or progress.
- Submission to, or rejection of the conduct by the individual is used as the basis of employment or academic decisions affecting the individual.
- The conduct has the purpose or effect of having a negative impact upon the individual’s work or academic performance, or of creating an intimidating, hostile, or offensive work or educational environment.
- Submission to, or rejection of, the conduct by the individual is used as the basis for any decisions affecting the individual regarding benefits and services, honors, programs, or activities available at or through the educational institution.

Sex-based harassment may include, but is not limited to:

- Unwelcome verbal conduct such as suggestive, derogatory comments, sexual innuendoes, slurs, or unwanted sexual advances, invitations, or comments; pestering for dates; making threats; or spreading rumors about or rating others as to sexual activity or performance.
- Unwelcome visual conduct such as displays of sexually suggestive objects, pictures, posters, written material, cartoons, or drawings; graffiti of a sexual nature; or use of obscene gestures.
- Unwelcome physical conduct such as unwanted touching, pinching, kissing, patting, hugging, blocking of normal movement, assault; or interference with work or study directed at an individual because of the individual's sex, sexual orientation, or gender.
- Threats and demands or pressure to submit to sexual requests in order to keep a job or academic standing or to avoid other loss and offers of benefits in return for sexual favors.

Under Education Code section 230, harassment and other discrimination on the basis of sex include, but are not limited to, the following: exclusion of a person or persons from participation in, denial of the benefits of, or subjection to harassment or other discrimination in, any academic, extracurricular, research, occupational training, or other program or activity; and exclusion from participation in, or denial of equivalent opportunity in, athletic programs. The full definition of discrimination and harassment based on sex from Education Code section 230 can be found here: [http://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=EDC&sectionNum=230](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=EDC&sectionNum=230).

The definition of sexual harassment under California law and the definition of sex-based harassment under Title IX overlap in some areas. Complaints alleging unlawful discrimination, harassment, intimidation, or bullying based on gender, sex, gender identity or expression, or sex-based orientation are eligible to be investigated pursuant to e3's Uniform Complaint Procedures. However, if any complaints alleging sex-based harassment may constitute sex-based harassment as defined under Title IX, the complaints may be investigated under the Title IX Grievance Procedures. The School prohibits retaliatory behavior against anyone who files a complaint under this Policy or any participant in the complaint investigation process.

### *Sex Equity in Education Act Statement*

Students have all the rights set forth in Education Code section 221.8 (as applicable to e3's programs). This includes the right to fair and equitable treatment, the right to a school environment without discrimination on the basis of sex, and the right to be provided with an equitable opportunity to participate in all academic extracurricular activities. The description of all rights set forth in Education Code section 221.8 can be found here: [http://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=EDC&sectionNum=221.8](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=EDC&sectionNum=221.8).

For more information about Gender Equity/Title IX, please visit the following CDE website: <https://www.cde.ca.gov/re/di/eo/genequitytitleix.asp>.

## **Title IX Grievance Procedures**

### **I. Scope and Jurisdiction**

This Policy's Title IX grievance procedures apply only to conduct that falls within the definition of Sex-based harassment under Title IX. Complaints of sex-based harassment may be submitted for investigation under this Policy. Sex-based harassment under Title IX means conduct on the basis of sex that falls within one or more of the following categories:

1. An e3 employee conditioning the provision of a school aid, benefit, or service on an individual's participation in unwelcome sexual conduct.
2. Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the recipient's education program or activity (i.e., creates a hostile environment). Sex-based assault, dating violence, domestic violence, or stalking (as those terms are defined in under Title IX).

### **II. Title IX Personnel**

The School has designated the following individual as its Title IX Coordinator to coordinate the investigation and resolution of complaints of Sex-based Harassment as outlined in this Policy:

Dr. Joel Tapia  
Director of Human Resources and State Reporting  
395 11th Avenue, 6th Floor  
San Diego, CA 92101  
jtapia@e3civichigh.com  
619-546-0000

The Title IX Coordinator may designate other individual(s) to fulfill all or part of their duties. In addition to the Title IX Coordinator, the following Title IX Personnel are involved in the grievance process to address complaints:

- **Investigator**: The individual responsible for gathering all evidence related to the complaint. This individual will create an "Investigation Report" which will summarize the relevant evidence.
- **Decision-Maker**: The individual responsible for evaluating evidence in order to make a determination regarding the complaint. The Decision-Maker submits a written determination of findings to the parties. The Decisionmaker may be the same person as the Title IX Coordinator or investigator.
- **Title IX Appeals Officer**: If applicable, this individual is responsible for evaluating an appeal of the final determination. The Title IX Appeals Officer cannot be a Title IX Coordinator, Investigator, Decision-Maker, or any individual involved in the investigation of the complaint.

All Title IX Personnel (i.e., Title IX Coordinator, Investigator(s), Decision-Maker(s), Appeals Officer(s), and any person who facilitates an informal resolution process) will receive training in accordance with Title IX requirements. The School requires that any Title IX coordinator, investigator, or decisionmaker not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. The Title IX Coordinator must ensure individuals responsible for investigating a complaint are neutral.

### **III. Reporting Allegations of Sex-Based Harassment**

Any individual (e.g., a student or employee who is alleged to be a victim of sex-based harassment or a parent/guardian of a student who is alleged to be a victim of sex-based harassment), may report Sex-based Harassment directly to the e3 Title IX Coordinator, or to any other available e3 employee who shall immediately inform the Title IX Coordinator. Reports of sex-based harassment can be made in-person, by mail, by telephone, by electronic mail, or by any other means that result in a Title IX Coordinator receiving the person's verbal or written report.

All employees must promptly notify the Title IX Coordinator when the employee has information about conduct that reasonably may constitute sex discrimination under Title IX. This requirement does not apply to an employee when the employee is the person who was subjected to the conduct that reasonably may constitute sex discrimination.

Students are expected to report all incidents of misconduct prohibited by this policy. Any student who feels they are a target of such behavior should immediately contact a teacher, counselor, the CEO, Title IX Coordinator, a staff person or a family member so that the student can get assistance in resolving the issue in a manner that is consistent with this policy.

e3 acknowledges and respects every individual's right to privacy. All reports and complaints shall be investigated in a manner that protects the confidentiality of the parties and the integrity of the process to the greatest extent possible. This includes but is not limited to keeping the identity of the reporter and other personally identifiable information confidential, as appropriate, except to the extent necessary to comply with the law, carry out the investigation and/or to resolve the issue, as determined by the Title IX Coordinator or designee on a case-by-case basis.

### **IV. Initial Response to a Report of Sex-based Harassment**

Upon receipt of any report of sex-based harassment, the Title IX Coordinator or designee will take the following steps. These steps are offered regardless of whether the complainant submits a formal written complaint:

1. Contact Complainant and Determine Need for Supportive Measures: The Title IX Coordinator will promptly contact the complainant and respondent<sup>1</sup> to discuss the

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<sup>1</sup> The "complainant" is a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX, or[a] person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX and who was participating or attempting to participate in the recipient's education program or activity at the time of the alleged sex discrimination. The "respondent" refers to a person who is alleged to have violated the recipient's prohibition on sex discrimination.. If

availability of supportive measures to stop the harassment, protect students, and ensure access to the educational program. If a complaint was not filed, the Title IX Coordinator shall explain to the complainant the right to file a complaint and the process for filing a complaint. A complaint is one that contains the complainant's physical or digital signature, and it may be filed at any time with the Title IX Coordinator in person, by mail, or by email. A complainant may use the attached Title IX form to submit a complaint to the Title IX Coordinator.

Supportive measures are non-disciplinary and non-punitive and shall be available at any point during the Title IX investigation. Supportive measures may include, but are not limited to, wellness check-ins, counseling services, extension of deadlines or course-related adjustments, modifications of work or class schedules, changes in work locations, or leaves of absences. The Title IX Coordinator is responsible for implementing the supportive measures. The School will maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the School to provide the supportive measures. Parties may contact the Coordinator to discuss modification of any supportive measures. Parties also have the opportunity to seek modification or termination of a supportive measure applicable to them if circumstances change materially.

If the party is not satisfied with the Title IX Coordinator's response to the request to modify supportive measures, the party may contact the CEO, who is an appropriate and impartial employee, to seek modification or reversal of e3's decision to provide, deny, modify, or terminate supportive measures applicable to them. The impartial employee, Dr. Brett Taylor, CEO, is someone other than the Title IX Coordinator who made the challenged decision and has the authority to modify or reverse the decision.

If a party is a student with a disability, the Title IX Coordinator must consult with one or more members of the student's IEP Team or 504 Team, if any, in implementing supportive measures.

2. Determine Need for Emergency Removal: The Title IX Coordinator will review the facts to determine whether the respondent (either student or staff) may need to be removed from the educational program or activity to prevent any further sex-based harassment and/or maintain the safety of students and staff.

The School may determine that removal from the educational program or activity is justified due to an immediate threat to the physical health or safety of any student or other individual arising from the allegations. The School will conduct an individualized safety and risk analysis before the removal. The School shall provide the respondent with notice and an opportunity to challenge the decision immediately following the removal.

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a parent or guardian has a legal right to act on behalf of a complainant or respondent, this right applies throughout all aspects of the Title IX matter, including the grievance process.

This provision may not be construed to modify any rights under the IDEA, Section 504, or the ADA. If the respondent is an employee, the employee may be placed on administrative leave during the complaint investigation.

## **V. Initial Review of Complaint**

If a complaint is filed, the Title IX Coordinator will review the complaint and make an initial determination as to whether it raises allegations that fall within the definition of Sex-based Harassment under Title IX as described above within **five (5) school days of receipt of the complaint**. This timeline may be extended for good cause. The School may consolidate multiple complaints where the allegations of sex-based harassment arise out of the same facts or circumstances.

If it does, the Title IX Coordinator will follow this Policy's grievance procedures for complaints. If it does not, the Title IX Coordinator will determine whether the complaint should be dismissed (as explained below) and/or investigated pursuant to another applicable e3 policy (e.g., Uniform Complaint Procedures).

At any time after a complaint has been filed, but before reaching a determination regarding the allegation, e3 may offer an informal resolution process (such as restorative justice or mediation) to the complainant and the respondent. However, the informal resolution process is not available where the complainant alleges that an employee sexually harassed a student. Participation in informal resolution is voluntary. The facilitator of the informal resolution process cannot be the same person as the investigator or the decisionmaker in the investigation. The facilitator cannot have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.

## **VI. Mandatory or Permissive Dismissal of Complaint**

Under certain circumstances, a complaint must or should be dismissed by the Title IX Coordinator. The Title IX Coordinator may dismiss a complaint if they determine any of the following:

1. The School is unable to identify the respondent after taking reasonable steps to do so;
2. The respondent is no longer enrolled in, or employed by, e3;
3. The complainant has notified e3, in writing, that they would like to voluntarily withdraw the complaint or any allegations in the complaint; or
4. The alleged conduct would not constitute sex-based harassment as defined under Title IX even if proven;

Prior to dismissing the complaint, the Title IX Coordinator must make reasonable efforts to clarify the allegations with the complainant.

Written Notice of Dismissal: If the Title IX Coordinator dismisses the complaint, they must promptly send written notice of the dismissal simultaneously to both parties (complainant and respondent) as follows:

- The written notice should state the reason(s) for the dismissal and inform the parties of their right to appeal in accordance with the procedures described in the “Appeals” section below.
- If the Title IX Coordinator determines another e3 grievance procedure (e.g., Uniform Complaint Procedures) is the appropriate grievance procedure for the complainant’s allegation(s), the written notice shall inform the parties (complainant and respondent) of e3’s intent to investigate the complaint through that grievance procedure.

## **VII. Title IX Complaint Process**

The School has adopted grievance procedures that provide for the prompt and equitable resolution of complaints of sex discrimination made by students, employees, or other individuals who are participating or attempting to participate in its education program or activity, or by the Title IX Coordinator, alleging any action that would be prohibited by Title IX or the Title IX regulations. These grievance procedures are designed to provide prompt, thorough investigation of allegations of sex-based discrimination or harassment.

The School will take reasonable steps to protect the privacy of the parties and witnesses during its grievance procedures. These steps will not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures. The parties cannot engage in retaliation, including against witnesses.

The School will treat complainants and respondents equitably. The School presumes that the respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of its grievance procedures.

If the Title IX Coordinator does not dismiss the complaint, e3 will initiate the following Title IX Grievance Procedures and issue a Written Decision. The School will endeavor to complete its investigation and issue a Written Decision within **sixty (60) calendar days of receipt of the complaint**. This deadline may be extended for good cause.

### **1. Send Written Notice of Complaint**

The Title IX Coordinator must provide the parties (complainant and respondent) with a Notice of Complaint. The Title IX Coordinator will endeavor to provide this Notice within **ten (10) school days of receipt of the complaint**. This deadline may be extended for good cause. The notice shall include: (1) a copy of this Policy; (2) a description of the allegations potentially constituting sex discrimination with sufficient details known at the time, including the identities of the parties involved in the incident, if known, the conduct allegedly constituting sex-based harassment, and the date and location of the alleged incident, if known; (3) a statement that retaliation is prohibited; and (4) a statement informing the parties that that they are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate

description of the evidence and if the School provides a description of the evidence, the parties are entitled to an equal opportunity to access to the relevant and not otherwise impermissible evidence upon the request of any party. Knowingly making false statements or knowingly submitting false information during the grievance process is prohibited and may result in disciplinary action.

## 2. Investigator Conducts Investigation

The Investigator will gather and objectively review evidence related to the allegations. This can include, but is not limited to, interviewing parties or witnesses, as well as reviewing both relevant inculpatory and exculpatory evidence. The Investigator will not require, request, or rely upon any of the following information:

- Evidence that is protected under a legally recognized privilege, unless the person holding such privilege has waived it.
- A party or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless e3 obtains that party's or witness's voluntary, written consent for use in its grievance procedures.
- Evidence that relates to the complainant's sex-based interests or prior sex-based conduct, unless evidence about the complainant's prior sex-based conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sex-based conduct with the respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sex-based conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

Credibility determinations will not be based on a person's status as a complainant, respondent, or witness.

Written notice of all investigative interviews or other meetings must be provided to the parties with sufficient time for the individual to prepare to participate. Notice must include the date, time, location, participants, and purpose of the meeting. Attendees of such meetings will have the right to be accompanied by an advisor of their choice.

## 3. Investigator Provides Parties Equal Opportunity to Review Gathered Evidence

The Investigator will provide both the complainant and the respondent with an equal opportunity to review the evidence that is directly related to the allegations raised in the complaint. The parties will have a period of at least **ten (10) calendar days** before the Investigative Report is provided to the parties to review the evidence, ask the Investigator additional questions, and provide or suggest additional evidence to be considered by the Investigator.

## 4. Investigator Prepares and Shares Investigative Report



The Investigator will prepare an Investigative Report summarizing the relevant evidence. The Investigative Report is not e3's final Written Decision. The Investigator will send the Investigative Report to the parties and their advisors, if any, for their review and written response at least **ten (10) calendar days** before the Decision-Maker issues the Written Decision. The School will inform the parties in writing that they may submit to the Decision-Maker a written response which may include relevant questions that the parties want asked of any party or witness. The Decision-Maker is responsible for determining whether the questions are relevant and providing the responses (if any) to these questions to both parties.

#### 5. Decision-Maker Issues Written Decision

The Decision-Maker will endeavor to issue the Written Decision within **sixty (60) calendar days from the receipt of the complaint**. This deadline may be extended for good cause. The Decision-Maker will issue the Written Decision to both parties simultaneously. The Decision-Maker uses the "preponderance of evidence" standard (i.e., it is more likely than not that the respondent committed the alleged conduct). The Written Decision will include all of the following:

- a. Identification of the allegations potentially constituting Sex-based Harassment.
- b. A description of the procedural steps taken by e3 during the investigation process (e.g., notifications to the parties, interviews with the parties and witnesses, site visits, or methods used to gather other evidence).
- c. Findings of fact supporting the determination.
- d. Conclusions regarding the application of e3's policies to the facts.
- e. A statement of, and rationale for, the result as to each allegation, including an objective evaluation of relevant evidence, a decision regarding responsibility, any disciplinary sanctions e3 imposes on the respondent, and whether remedies designed to restore or preserve equal access to e3's educational program will be provided by e3 to the complainant.
- f. The School's procedures and permissible bases for either party to appeal the decision.

#### 6. Remedies

If e3 determines that the respondent engaged in sex discrimination, e3 will provide remedies to the complainant, as appropriate. This may include supportive measures. Remedies may also include transfer from a class, parent/student conference(s), positive behavior support, warnings, detention, and/or formal discipline, such as suspension and expulsion. When an employee is found to have committed sex discrimination, e3 will take appropriate disciplinary action, up to and including termination, in accordance with e3's policies and as permitted by law.

### VIII. Appeals

Either party may appeal e3's Written Decision, or its dismissal of a complaint or any allegation in the complaint, within **five (5) calendar days of the decision**. An appeal may be made on any of the following grounds:

1. A procedural irregularity affected the outcome.
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made that could affect the outcome of the matter.
3. The Title IX Coordinator, Investigator, or Decision-Maker had a conflict of interest or bias for or against complainant or respondent that affected the outcome of the matter.

Upon receipt of an appeal, e3 will provide a written notification to the other party about the appeal that gives both parties a reasonable, equal opportunity to submit a written statement in support of/challenging the appeal.

The Title IX Appeals Officer (not Decision-Maker, Title IX Coordinator, or Investigator) shall issue a written decision of an appeal, including the rationale for the result, to both parties simultaneously. The Title IX Appeals Officer will endeavor to issue their decision within **thirty (30) calendar days from the receipt of the appeal**.

## **IX. Record Keeping**

The School will maintain for a period of seven (7) years records pertaining to Title IX Sex-based Harassment allegations, as well as all materials used to train Title IX Personnel.

These records include, but are not limited to:

- For each complaint of sex discrimination, records documenting the informal resolution process or the grievance procedures, and the resulting outcome.
- For each notification the Coordinator receives of information about conduct that reasonably may constitute sex discrimination, records documenting the actions e3 took to meet its obligations under 34 C.F.R. § 106.44.
- All materials used to provide required Title IX training. The School will make these training materials available upon request for inspection by members of the public.

## Title IX Complaint Form

**Instructions:** This form can be completed by any individual who has knowledge of a sex-based harassment conduct occurring within an education program or activity of e3 Civic High (“e3”). Please complete the information below. Should you need additional space or would like to provide documentation to support the allegations in the complaint, you can attach those to this complaint form. If you have any questions, please contact e3’s Title IX Coordinator listed below.

### Contact Information and Complainant’s (Victim) Information

Full Name of Person Filing the Complaint: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Complainant’s (Victim) Full Name (if different from above): \_\_\_\_\_

### Respondent’s (Accused) Information

Respondent’s Full Name: \_\_\_\_\_

Is the accused an e3 student?  No  Yes

If yes, what is the student’s grade and relation to complainant: \_\_\_\_\_

Is the accused an e3 staff member?  No  Yes

If yes, what is the staff member’s relation to the complainant (e.g., teacher)? \_\_\_\_\_

If no, what is the accused’s affiliation to e3? \_\_\_\_\_

### Details of Complaint

Date of the Alleged Incident(s): \_\_\_\_\_ Location of Alleged Incident(s): \_\_\_\_\_

Please describe the facts underlying your complaint. Provide details such as the names of those involved, the dates of the incident(s), whether witnesses were present and the names of any witnesses, etc. Please provide any details which you feel might be helpful to a complaint investigator.

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Did the harassment occur at e3 or during an e3 activity? If so, please describe:

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Did this incident interfere with your ability to access or participate in e3 programs or activities? If so, please describe:

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List the individuals involved in the relevant incident(s):

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List any witnesses to the incident(s):

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**Acknowledgements**

By submitting this form to the e3 Title IX Coordinator, I wish to initiate e3's formal Title IX Grievance Procedures.

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Signature of Complainant

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Date

**Once you have completed this form, please submit it to the Title IX Coordinator:**

Dr. Joel Tapia  
Director of Human Resources and State Reporting  
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