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TITLE IX POLICY PROHIBITING DISCRIMINATION ON THE BASIS OF SEX

This Title IX Policy Prohibiting Discrimination on the Basis of Sex (“Policy”) contains the policies and grievance procedures of New Heights Charter School (“New Heights”) to address sex discrimination, including but not limited to sexual harassment, occurring within New Heights’s education program or activity.

New Heights does not discriminate on the basis of sex and prohibits any acts of sex discrimination in any education program or activity that it operates, as required by California law, Title IX (20 U.S.C. § 1681 *et seq.*) and the Title IX regulations (34 C.F.R. Part 106), including in admission and employment.¹

This Policy applies to conduct occurring in New Heights’s education programs or activities including but not limited to incidents occurring on the school campus, during school-sponsored events and activities regardless of the location, and through school-owned technology, whether perpetrated by a student, parent/guardian, employee, volunteer, independent contractor or other person with whom New Heights does business.

Inquiries about the application of Title IX and 34 C.F.R. Part 106 (hereinafter collectively referred to as “Title IX”) may be referred to the New Heights Title IX Coordinator, the Assistant Secretary for Civil Rights of the U.S. Department of Education, or both.

Definitions

Prohibited Sex Discrimination

Title IX and California law prohibit discrimination on the basis of sex, including sex-based harassment and differences in the treatment of similarly situated individuals on the basis of sex with regard to any aspect of services, benefits, or opportunities provided by New Heights.

Prohibited Sexual Harassment

Under Title IX, “sexual harassment” means conduct on the basis of sex that satisfies one or more of the following:

¹ New Heights’s complies with all applicable state and federal laws and regulations and local ordinances in its investigation of and response to reports and complaints of misconduct prohibited by this Policy.

- An employee of New Heights conditioning the provision of an aid, benefit, or service of New Heights on an individual's participation in unwelcome sexual conduct;
- Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to New Heights's education program or activity; or
- "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).

Under California Education Code section 212.5, sexual harassment consists of conduct on the basis of sex, including but not limited to unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct on the basis of sex, regardless of whether or not the conduct is motivated by sexual desire, when: (a) submission to the conduct is explicitly or implicitly made a term or a condition of an individual's employment, education, academic status, or progress; (b) submission to, or rejection of, the conduct by the individual is used as the basis of employment, educational or academic decisions affecting the individual; (c) 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; and/or (d) submission to, or rejection of, the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through New Heights.

Examples of conduct that may fall within the Title IX or the Education Code definition of sexual harassment, or both:

- Physical assaults of a sexual or sex-based nature, such as:
 - Rape, sexual battery, molestation or attempts to commit these assaults.
 - Intentional physical conduct that is sex-based or sexual in nature, such as touching, pinching, patting, grabbing, brushing against another's body, poking another's body, violence, intentionally blocking normal movement or interfering with work or school because of sex.
- Unwanted sexual advances or propositions, derogatory sex-based comments, or other sex-based conduct, such as:
 - Sexually oriented or sex-based gestures, notices, epithets, slurs, remarks, jokes, or comments about a person's sexuality or sexual experience.
 - Preferential treatment or promises of preferential treatment to an individual for submitting to sexual conduct, including soliciting or attempting to solicit any individual to engage in sexual activity for compensation or reward or deferential treatment for rejecting sexual conduct.

- Subjecting or threats of subjecting a student or employee to unwelcome sexual attention or conduct or intentionally making the student's or employee's performance more difficult because of the student's or the employee's sex.
- Retaliation against an individual who has articulated a good faith concern about sex-based harassment.
- Sexual or discriminatory displays or publications anywhere in the work or educational environment, such as:
 - Displaying pictures, cartoons, posters, calendars, graffiti, objections, promotional materials, reading materials, or other materials that are sexually suggestive, sexually demeaning or pornographic or bringing or possessing any such material to read, display or view in the work or educational environment.
 - Reading publicly or otherwise publicizing in the work or educational environment materials that are in any way sexually revealing, sexually suggestive, sexually demeaning or pornographic.
 - Displaying signs or other materials purporting to segregate an individual by sex in an area of the work or educational environment (other than restrooms or similar rooms).

The illustrations above are not to be construed as an all-inclusive list of sex-based harassment acts prohibited under this Policy.

Complainant means an individual who is alleged to be the victim of conduct that could constitute sexual harassment.

Formal Complaint of Sexual Harassment means a written document filed and signed by a complainant who is participating in or attempting to participate in New Heights's education program or activity or signed by the Coordinator alleging sexual harassment against a respondent and requesting that New Heights investigate the allegation of sexual harassment. At the time of filing a formal complaint of sexual harassment, the complainant must be participating in or attempting to participate in New Heights's education program or activity.

Party means a complainant or respondent.

Respondent means a person who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Supportive Measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to a party before or after the filing of a formal complaint of sexual harassment or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to New Heights's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or New Heights's educational environment, or deter sexual harassment.

Title IX Coordinator

The Board of Directors of New Heights (“Board”) has designated the following employee as the Title IX Coordinator (“Coordinator”):

Jamie Parada
Operations Director
Upper Campus Office
3898 S. Hobart Blvd.
Los Angeles, CA 90062 323-508-0155, ext. 106
jparada@newheightscharter.org

The Coordinator is responsible for coordinating New Heights’s efforts to comply with the requirements of Title IX, receiving reports and complaints of sex discrimination, formal complaints of sexual harassment, and inquiries about the application of Title IX to New Heights, coordinating the effective implementation of supportive measures, and taking other actions as required by this Policy. The Coordinator or designee may serve as the investigator for formal complaints of sexual harassment.

Reporting Sex Discrimination

All employees must promptly notify the Coordinator when the employee has knowledge of or notice of allegations of sex discrimination or sexual harassment occurring within New Heights’s education program or activity.

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 Executive Director, 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.

Complaints regarding such misconduct may also be made to the U.S. Department of Education, Office for Civil Rights. Civil law remedies, including, but not limited to, injunctions, restraining orders, or other remedies or orders may also be available to complainants.

While submission of a written report is not required, the reporting party is encouraged to submit a written report to the Coordinator. New Heights will promptly and effectively investigate and respond to all oral and written complaints and reports of misconduct prohibited by this Policy. Reports may be made anonymously, but formal disciplinary action cannot be based solely on an anonymous report.

Privacy

New Heights 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 Coordinator or designee on a case-by-case basis.

Retaliation

New Heights prohibits any form of retaliation against any individual who files a report or complaint, testifies, assists, participates, or refuses to participate in any investigation or proceeding related to misconduct prohibited by this Policy. Such participation or lack of participation shall not in any way affect the status, grades, or work assignments of the individual.

Response to Sexual Harassment

New Heights will respond promptly and in a manner that is not deliberately indifferent when it has actual knowledge, as defined in 34 C.F.R. § 106.30(a), of sexual harassment occurring in its education program or activity against a person in the United States.

New Heights's response will treat complainants and respondents equitably by offering supportive measures to a complainant, and by following the grievance procedures for formal complaints of sexual harassment that are listed below before imposing any disciplinary sanctions or other actions that are not supportive measures on a respondent for sexual harassment under Title IX.

Supportive Measures

Once notified of sexual harassment or allegations of sexual harassment occurring in New Heights's education program or activity against a person in the United States, the Coordinator will promptly 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 to the complainant the process for filing a formal complaint of sexual harassment.

Supportive measures may include but are not limited to: counseling; extensions of deadlines or other course-related adjustments; modifications of work or class schedules; mutual restrictions on contact between the parties; changes in work or on-campus housing locations; leaves of absence; increased security and monitoring of certain areas of the campus; and other similar measures.

Supportive measures will not unreasonably burden either party or be imposed for punitive or disciplinary reasons. New Heights will maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair New Heights's ability to provide the supportive measures. The Coordinator is responsible for coordinating the effective implementation of supportive measures.

Grievance Procedures

Scope and General Requirements

New Heights has adopted and published grievance procedures that provide for the prompt and equitable resolution of student and employee complaints alleging any action that would be prohibited under Title IX and a grievance process that complies with 34 C.F.R. § 106.45 for formal complaints of sexual harassment.

Complaints of misconduct prohibited by this Policy that do not constitute a formal complaint of sexual harassment will be addressed in accordance with New Heights's Uniform Complaint Procedures, its employment discrimination complaint procedures, or the grievance procedures set forth in its Harassment, Intimidation, Discrimination, and Bullying Policy, as applicable. The following grievance procedures will apply to formal complaints of sexual harassment.

Upon receipt of a formal complaint of sexual harassment, the Coordinator or designee will promptly initiate these grievance procedures, or the informal resolution process if available, appropriate, and requested by all parties.

New Heights requires that any Title IX Coordinator, investigator, decisionmaker, and any person designated by New Heights to facilitate an informal resolution process not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.

New Heights will treat complainants and respondents equitably. New Heights presumes that the respondent is not responsible for the alleged sexual harassment until a determination is made at the conclusion of its grievance procedures.

New Heights may consolidate formal complaints of sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, where the allegations of sexual harassment arise out of the same facts or circumstances.

New Heights allows for the temporary delay of the grievance process or limited extension of timeframes on a case-by-case basis for good cause. Requests for extensions must be submitted to the Coordinator in writing at least one (1) business day before the expiration of the timeframe. If the grievance process is temporarily delayed or a timeframe is temporarily extended by New Heights, the Coordinator or designee will notify the parties of the reason for the delay or extension in writing.

New Heights will objectively evaluate all evidence that is relevant and not otherwise impermissible, including both inculpatory and exculpatory evidence.² Credibility determinations will not be based on a person's status as a complainant, respondent, or witness.

Dismissal

New Heights must dismiss a formal complaint of sexual harassment for purposes of sexual harassment under Title IX if the conduct alleged:

- Would not constitute sexual harassment under Title IX even if proved;
- Did not occur in New Heights's education program or activity; or
- Did not occur against a person in the United States.

New Heights may dismiss a formal complaint of sexual harassment or any of the allegations therein if:

- The respondent is no longer enrolled or employed by New Heights;
- A complainant notifies the Coordinator in writing that the complainant would like to withdraw the complaint or any allegations therein; or
- Specific circumstances prevent New Heights from gathering sufficient evidence to reach a determination as to the complaint or allegations therein.

Upon dismissal, the Coordinator or designee will promptly send written notice of the dismissal and reason(s) therefor simultaneously to the parties. Dismissal under Title IX does not preclude action under another applicable New Heights policy.

Notice of the Allegations

Upon receipt of a formal complaint of sexual harassment, the Coordinator or designee will provide written notice of the allegations to the parties whose identities are known. The notice will include:

- New Heights's grievance procedures and any informal resolution process;
- The allegations of sexual harassment including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details includes the identities of the parties involved in the incident(s), if known, the conduct allegedly constituting sexual harassment under Title IX, and the date(s) and location(s) of the alleged incident(s), if known;
- A statement that the respondent is presumed not responsible for the alleged conduct and a determination regarding responsibility is made at the conclusion of the grievance process;
- A statement that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence; and
- A statement that New Heights prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

² Inculpatory means tending to impute guilt or fault, and exculpatory means tending to absolve from guilt or fault.

Emergency Removal

New Heights may place a non-student employee respondent on administrative leave during the pendency of the grievance procedures in accordance with New Heights's policies.

New Heights may remove a respondent from New Heights's education program or activity on an emergency basis, in accordance with New Heights's policies, provided that New Heights undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any person arising from the allegations of sexual harassment justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal.

This provision must not be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act.

Informal Resolution

At any time after a formal complaint of sexual harassment is filed and prior to determining whether sexual harassment occurred under New Heights's Title IX grievance procedures, New Heights may offer an informal resolution process to the parties. New Heights will not offer or facilitate informal resolution to resolve allegations that an employee sexually harassed a student, or when such a process would conflict with Federal, State, or local law. Parties will not be required or pressured to agree to participate in the informal resolution process.

Before initiation of the informal resolution process, New Heights will obtain the parties' voluntary, written consent to participate in the informal resolution and provide the parties with a written notice that explains:

- The allegations;
- The requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint of sexual harassment arising from the same allegations;
- The right to withdraw and initiate or resume the grievance procedures at any time prior to agreeing to a resolution; and
- Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

Investigation

In most cases, a thorough investigation will take no more than thirty (30) business days. New Heights has the burden to conduct an investigation that gathers sufficient evidence to determine whether sexual harassment occurred. The investigator will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance in accordance with Title IX.

The following types of evidence, and questions seeking that evidence, are impermissible (i.e., will not be used, accessed, considered, or disclosed), regardless of whether they are relevant:

- A party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless New Heights obtains that party's voluntary, written consent to do so for these grievance procedures; and
- Evidence about the complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

The parties will be provided with an equal opportunity to present witnesses, to inspect and review any evidence obtained that is directly related to the allegations raised, and to have an advisor present during any investigative meeting or interview. The parties will not be prohibited from discussing the allegations under investigation or from gathering and presenting relevant evidence. A party whose participation is invited or expected at an investigative meeting or interview will receive written notice of the date, time, location, participants, and purpose of the meeting or interview with sufficient time for the party to prepare to participate.

Before the investigator completes the investigative report, New Heights will send to each party and the party's advisor, if any, a copy of the evidence subject to inspection and review, and the parties will have at least ten (10) days to submit a written response for the investigator to consider prior to completing the investigation report.

The investigator will complete an investigation report that fairly summarizes relevant evidence and send a copy of the report to each party and the party's advisor, if any, at least ten (10) days prior to the determination of responsibility.

Determination of Responsibility

Before making a determination of responsibility, the decisionmaker must afford each party the opportunity to submit written, relevant questions that a party wants to ask of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party. The decisionmaker must explain to the party proposing the questions any decision to exclude a question as not relevant.

Determinations will be based on an objective evaluation of all relevant and not otherwise impermissible evidence and credibility determinations will not be based on a person's status as a complainant, respondent, or witness. The standard of evidence used to determine responsibility is the preponderance of the evidence standard.

Within twenty (20) business days after New Heights sends the investigation report to the parties, the decisionmaker, who will not be the same person as the Coordinator or investigator, will simultaneously send the parties a written determination of whether sexual harassment occurred. The written determination will include:

- The allegations of sexual harassment;
- A description of the procedural steps taken including any notifications to the parties, interviews with parties and witnesses, site visits, and methods used to gather other evidence;
- The findings of facts supporting the determination;
- The conclusions regarding the application of New Heights's code of conduct to the facts;
- The decision and rationale for each allegation;
- Any recommended disciplinary sanctions for the respondent, and whether remedies designed to restore or preserve equal access to the education program or activity will be provided to the complainant; and
- The procedures and permissible bases for appeals.

The determination regarding responsibility becomes final either on the date that New Heights provides the parties with the written appeal decision, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

Appeals

Either party may, within five (5) business days of their receipt of New Heights's written determination of responsibility or dismissal of a formal complaint of sexual harassment, submit a written appeal to the President of the New Heights Board, who will serve as the decisionmaker for the appeal or designate a decisionmaker for the appeal.

The complainant and respondent may only appeal from a determination regarding responsibility or New Heights's dismissal of a formal complaint of sexual harassment or any allegations therein, on one or more of the following bases:

- Procedural irregularity that affected the outcome of the matter;
- 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; or
- The Coordinator, investigator(s), or decisionmaker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

The decisionmaker for the appeal will not be the same person as the Coordinator, the investigator or the initial decisionmaker.

The decisionmaker for the appeal will: 1) notify the other party of the appeal in writing; 2) implement appeal procedures equally for the parties; 3) allow the parties to submit a written statement in support of, or challenging, the outcome within five (5) business days of notice of the

appeal; and 4) within fifteen (15) business days of the appeal, provide a written decision simultaneously to the parties describing the result of the appeal and the rationale for the result.

Consequences

Students or employees who engage in misconduct prohibited by this Policy, knowingly make false statements or knowingly submit false information during the grievance process, may be subject to disciplinary action up to and including expulsion from New Heights or termination of employment. If there is a determination that sexual harassment occurred, the Coordinator is responsible for effective implementation of any remedies ordered by New Heights.

Training

All supervisors of staff will receive sexual harassment training within six (6) months of their assumption of a supervisory position and will receive further training once every two (2) years thereafter. All Title IX Coordinators, investigators, decisionmakers, and any person who facilitates a Title IX informal resolution process will receive Title IX training and/or instruction concerning sexual harassment as required by law.

Recordkeeping

New Heights will maintain the following records for at least seven (7) years:

- Records of each sexual harassment investigation, including any determination of responsibility; any audio or audiovisual recording or transcript; any disciplinary sanctions imposed on the respondent; and any remedies provided to the complainant;
- Records of any appeal of a formal complaint or sexual harassment and the results of that appeal;
- Records of any informal resolution of a formal complaint or sexual harassment and the results of that informal resolution;
- All materials used to train Title IX Coordinators, investigators, decisionmakers, and any person who facilitates an informal resolution process; and
- Records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment.

The above records will be maintained in a secure location until destroyed in accordance with applicable laws and regulations.



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TITLE IX SEX DISCRIMINATION AND HARASSMENT COMPLAINT FORM

Your Name: _____ Date: _____

Email Address: _____

Date of Alleged Incident(s): _____

Name of Person(s) you have a complaint against: _____

List any witnesses that were present: _____

Where did the incident(s) occur? _____

Please describe the events or conduct that are the basis of your complaint by providing as much factual detail as possible (i.e., specific statements and conduct; what, if any, physical contact was involved; any verbal statements etc.) (Attach additional pages, if needed):

I hereby authorize New Heights to disclose the information I have provided as it finds necessary in pursuing its investigation. I hereby certify that the information I have provided in this complaint is true and correct and complete to the best of my knowledge and belief. I further understand that providing false information in this regard could result in disciplinary action up to and including termination or expulsion from New Heights.

Signature of Complainant

Date: _____

Print Name

To be completed by New Heights:

Received by: _____ Date: _____

Follow up Meeting with Complainant held on: _____