

[SCHOOL]

TITLE IX¹ GRIEVANCE PROCEDURES

School (“School”) has adopted these Title IX Grievance Procedures to provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating or attempting to participate in its education program or activity, or made by the Title IX Coordinator, alleging any action that would be prohibited by Title IX or its implementing regulations.

The School’s Title IX Grievance Procedures are followed when processing all Complaints of discrimination based on sex as defined herein, or Complaints of retaliation for making complaints about sex discrimination in violation of Title IX. Every effort to ensure impartiality and non-biased decision making has been employed when appointing those individuals who will implement these Title IX Grievance Procedures. If at any time a participant believes an administrator of this procedure cannot be impartial, they should immediately notify the Title IX Coordinator or the School’s Head Administrator.

NOTE: Students and employees may address alleged violations of other School policies including the School’s anti-bullying and anti-harassment/discrimination rules, using other procedures as described in the School’s handbooks or related procedures. These Title IX Grievance Procedures will not be used to address complaints of discrimination or harassment based on classifications other than sex (e.g., race, ethnicity, age, physical or mental disability, etc.). **These Title IX Grievance Procedures are specifically limited to complaints of discrimination, harassment and retaliation based on sex and according to Title IX of the Education Amendments of 1972 and the April 2024 implementing regulations.**

I. PURPOSE OF THESE PROCEDURES:

These Title IX Grievance Procedures (or “Procedures”) are intended to implement the requirements of 34 CFR Part 106, and apply only to complaints raised to address discrimination based on sex prohibited by Title IX. These Procedures provide students and employees a process to bring formal grievance complaints about conduct that may constitute sex discrimination as defined in these Procedures and to ensure that all parties to a Complaint are treated equitably.

II. DEFINITIONS: The following definitions apply to these Grievance Procedures:

- A. Complaint means an oral or written request to the School that is understood as a request for the School to investigate and make a determination about alleged discrimination under Title IX.
- B. Complainant includes (1) a student or employee of school who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX; or (2) a person other than a student or employee of the school who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX at a time when that individual was participating or attempting to participate in the School’s educational program or activity.
- C. Confidential employee means:
 - 1. A School employee whose communications are privileged or confidential under federal or state law. The employees confidential status for purposes of this Procedure is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies; or
 - 2. An employee of the school whom the school has designated as confidential under this Procedure, for the purpose of providing services to persons related to sex discrimination. If

¹ Reference to Title IX shall include the statute (20 U.S.C. §§1681, 1682, 1683, 1685, 1686) as well as its implementing regulations (34 C.F.R. Part 106)

the employee has a duty not associated with providing those services, the employee's confidential status is only with respect to information received about sex discrimination in connection with providing those services.

- D. Days. Days are defined for the purpose of timelines used in this Procedure as business days.
- E. Decision Maker is an individual trained in accordance with the requirements of Title IX and appointed by the Head Administrator of the School to review the Complaint and the evidence disclosed through the Investigation and to decide whether the Respondent's conduct constitutes sex discrimination as defined herein.
- F. 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, and includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions², sexual orientation, and gender identity.
- G. Impartiality of administrators. Participants in these Procedures, to the greatest extent possible, are assured that the Title IX Coordinator, Investigator, Decision Maker and Appeal Officer as the terms are used in this Procedure shall not have a conflict of interest or bias for or against the Complainant or Respondent, and shall have received appropriate training for their respective roles in this process.
- H. Impermissible Evidence. The following types of evidence and questions seeking evidence pursuant to these Procedures shall be impermissible:
 - 1. Evidence that is protected under a privilege as recognized by federal or state law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived and the privilege or confidentiality;
 - 2. A party's 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 the School obtains the party's or witness's voluntary, written consent for use in the School's Procedures; and
 - 3. Evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless evidence about the Complainant's prior sexual 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 sexual conduct with the Respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual 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.
- I. Investigator. The Investigator is an individual trained in accordance with the requirements of Title IX and appointed by the Head Administrator of the School to investigate the allegations of a Complaint when notified by the Title IX Coordinator. The Investigator may be the same person as the Title IX Coordinator, but may not be the Decision Maker.
- J. Parental Status means the status of a person who, with respect to another person who is under the age of 18 or who is 18 or older but is incapable of self-care because of a physical or mental disability, is:
 - 1. A biological parent;
 - 2. An adoptive parent or a step parent;
 - 3. A foster parent;

² For School's response to issues related to pregnancy or pregnancy related conditions of students see Section VIII. For School's response to issues related to pregnancy or pregnancy related conditions of employees see Section IX.

4. A legal custodian or guardian;
 5. *In loco parentis* with respect to such a person; or
 6. Actively seeking legal custody, guardianship, visitation or adoption of such a person.
- K. Peer Retaliation means retaliation by a student against another student.
- L. Party means a complainant or a respondent (not the School or Title IX Coordinator).
- M. Pregnancy or related conditions means:
1. Pregnancy, childbirth, termination of pregnancy, or lactation;
 2. Medical conditions related to pregnancy, childbirth, termination of pregnancy or lactation; or
 3. Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.
- N. Program or activity of the School includes all programs or activities, whether such programs/activities are held on or off campus. Offending conduct covered by these Grievance 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' or employees' conduct on these technologies.
- O. Respondent means a person who is alleged to have violated the School's prohibition on sex discrimination.
- P. Retaliation means intimidation, threats, coercion, or discrimination against any person by the School, a student or an employee or other person authorized by the School to provide aid, benefit, or service under the School's education program or activity for the purpose of interfering with any right or privilege secured by Title IX, or because the person has reported information, made a complaint, testified, assisted or participated or refused to participate in any manner in an investigation, including in an informal resolution process and grievance procedures, and any other actions taken by the School such as imposition of discipline after a final determination that Title IX has been violated. Notwithstanding, employees and persons authorized by the School to provide aid, benefit, or service under the School's education program or activities are required to participate as witnesses in or otherwise assist with investigations and proceedings contemplated under these Procedures.
- Q. Sex-based harassment is a form of sex discrimination, and means sexual harassment and other harassment on the basis of sex, including on the bases described in the definition of "Discrimination based on sex" above, that is:
1. *Quid pro quo harassment* which is when an employee, contractor, or other person authorized by the School to provide aid, benefits or service in the School's programs or activities, explicitly or impliedly conditions such aid, benefit or service upon another person's participating in unwelcome sexual conduct;
 2. *Hostile environment harassment*. Unwelcome sex-based conduct that, when the totality of the circumstances is considered, 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 School's education program, activity, or employment opportunities. Whether a hostile environment has been created is a fact specific inquiry that includes consideration of the following:
 - a. The degree to which the conduct affected the complainant's ability to access the School's education program or activity;
 - b. The type, frequency, and duration of the conduct;
 - c. The parties' ages, roles within the School's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
 - d. The location of the conduct and the context in which the conduct occurred; and

- e. Other sex-based harassment in the School’s education program or activity; or
- 3. *Specific Conduct.*
 - a. Sexual assault, meaning an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation or under New Mexico law;
 - b. Dating violence, meaning violence committed by a person:
 - i. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
 - ii. Where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - iii. The length of the relationship;
 - iv. The type of relationship; and
 - v. The frequency of interaction between the persons involved in the relationship;
 - c. Domestic violence, meaning felony or misdemeanor crimes committed by a person who:
 - i. Is a current or former spouse or intimate partner of the victim under New Mexico family or domestic violence laws, or a person similarly situated to a spouse of the victim;
 - ii. Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
 - iii. Shares a child in common with the victim; or
 - iv. Commits acts against a youth or adult victim who is protected from those acts under the New Mexico family or domestic violence laws; or
 - d. Stalking, meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
 - i. Fear for the person’s safety or the safety of others; or
 - ii. Suffer substantial emotional distress.
- R. Supportive measures means individualized measures which are offered as appropriate, as reasonably available, without unreasonably burdening a complainant or respondent, which are not for punitive or disciplinary reasons, and which are without fee or charge to the complainant or respondent, to: (1) restore or preserve the parties access to the School’s education program or activity, including measures that are designed to protect the safety of the parties or the School’s educational environment, or (2) provide support during the Procedures or during the informal resolution process.
- S. Title IX Coordinator. The Title IX Coordinator position is **staffed by an employee of the School designated, authorized and trained** to coordinate the School’s efforts to comply with the requirements of Title IX. The School may name more than one person as a Title IX Coordinator; however, one coordinator as determined by the Head Administrator will retain ultimate oversight over implementation of this Policy and the Grievance Procedure. The Title IX Coordinator may act as the Investigator, but not as the Decision Maker.

School’s Title IX Coordinator is:
 [School]
 Name, Title IX Coordinator/[insert other title]
 School Address
 Email Address
 School Telephone Number

III. SCHOOL'S RESPONSE TO SEX DISCRIMINATION

A. General requirements.

1. If the School has knowledge of conduct that reasonably may constitute sex discrimination, in its education program or activity, it must respond promptly and effectively; and
2. The School must also comply with the requirements of 34 CFR 106.44 and 106.45, as set forth in these Procedures, to address sex discrimination in its education program.

B. Barriers to Reporting. The School's Title IX Coordinator must:

1. monitor the School's education program or activity for barriers to reporting information about conduct that reasonably may constitute sex discrimination under Title IX; and
2. take steps reasonably calculated to address such barriers.

C. Employee's duty to notify. All School employees who are not Confidential Employees must notify the Title IX Coordinator when the employee has information about conduct that reasonably may constitute sex discrimination under Title IX. Reporting to the Title IX Coordinator does NOT satisfy an employee's responsibility to report suspected child abuse or neglect to the appropriate authority.

D. Confidential Employee requirements.

1. The School must notify its faculty, staff, volunteers and contractors who are involved in the School's education program or School activities of how to contact its Confidential Employees, if any.
2. A Confidential Employee must explain to any person who informs them of conduct that reasonably may constitute sex discrimination under Title IX:
 - a. Of the employee's status as a Confidential Employee, including the circumstances in which the employee is not required to notify the Title IX Coordinator about conduct that reasonably may constitute sex discrimination;
 - b. How to contact the School's Title IX Coordinator and how to make a complaint of sex discrimination; and
 - c. That the Title IX Coordinator may be able to offer and coordinate supportive measures as well as initiate an informal resolution process or an investigation under the Grievance Procedures.

E. Title IX Coordinator Requirements. The Title IX Coordinator is responsible for coordinating the School's compliance with its obligations under Title IX.

1. The Title IX Coordinator, when notified of conduct that reasonably may constitute sex discrimination under Title IX, shall take the following actions to promptly and effectively end any sex discrimination in the School's education program or activity, prevent its recurrence and remedy its effects:
 - a. Treat the complainant and respondent equitably.
 - b. Offer and coordinate supportive measures as appropriate for the Complainant; if the School initiated a Grievance Procedure, or if the School has offered an Informal Resolution process to the Respondent, the School will offer and coordinate supportive measures as appropriate for the Respondent.
 - c. Notify the Complainant or, if the complainant is unknown, the individual who reported the conduct, of the Grievance Procedures, and of the Informal Resolution process if available and appropriate under the circumstances; and if a Complaint is made, notify the Respondent of the Grievance Procedures and, if applicable, the Informal Resolution process.
 - d. In response to a Complaint, implement the Grievance Procedures and, if applicable, the Informal Resolution process, if available and appropriate and requested by all parties.

- e. In the absence of a Complaint, or in the case of the withdrawal of any or all of the allegations in a Complaint, and in the absence or termination of an Informal Resolution process, determine whether to initiate a Complaint of sex discrimination as contemplated by these Procedures and Title IX.
 - f. When deciding whether or not to initiate a Title IX Complaint under the circumstances described in subparagraph e above, the Title IX Coordinator must make a fact specific determination based on the following factors:
 1. The Complainant's request not to proceed with initiation of a Complaint;
 2. The Complainant's reasonable safety concerns regarding initiation of a Complaint;
 3. The risk that additional acts of sex discrimination would occur if a Complaint is not initiated;
 4. The severity of the alleged sex discrimination, including whether the discrimination if established would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence;
 5. The age and relationship of the parties, including whether the Respondent is a School employee;
 6. The scope of the alleged discrimination, including information suggesting a pattern of ongoing sex discrimination or sex discrimination alleged to have impacted multiple individuals;
 7. The availability of evidence to assist the Decision Maker in determining whether sex discrimination occurred; and
 8. Whether the School could end the alleged discrimination and prevent its recurrence without initiating its Grievance Procedures.

If, after considering these and other relevant factors, the Title IX Coordinator determines that the conduct as alleged presents an imminent and serious threat to the health or safety of the Complainant or other person, or that the conduct as alleged prevents the School from ensuring equal access on the basis of sex to its education program or activity, Title IX Coordinator may initiate a Complaint.
 - g. If the Title IX Coordinator initiates a Complaint, he or she shall notify the Complainant prior to doing so, and shall appropriately address reasonable concerns about the Complainant's safety or the safety of others, including by providing supportive measures.
 - h. Regardless of whether a Complaint is initiated, the Title Coordinator shall take other appropriate, prompt and effective steps, in addition to steps necessary to effectuate the remedies provided to an individual Complainant, if any, to ensure that sex discrimination does not continue or reoccur within the School's education program or activity.
2. A Title IX Coordinator is not required to comply with Section 1 (and its subparts) above, if, after being notified of conduct that may constitute sex discrimination, the Title IX Coordinator reasonably determines that the conduct as alleged could not constitute sex discrimination under Title IX.
- F. Supportive Measures/appeal. Under Section E, above, the School must offer and coordinate supportive measures as contemplated. However, for allegations of sex discrimination *other than* sex-based harassment or retaliation, the School is not required to provide supportive measures.
1. Supportive measures may vary depending on what the School deems to be reasonably available. These measures may include, but are not limited to: counseling, extensions of deadlines and other course related adjustments, School escort services, increased security and monitoring of certain areas of the school's campus, restrictions on contact applied to one

- or more parties, leaves of absences, changes in class, work, extracurricular or any other activity, regardless of whether there is a comparable alternative, and training and education programs related to sex based harassment.
2. Supportive measures must not unreasonably burden either party and must be designed to protect the safety of the parties or the School's education environment, or to provide support during the School's Grievance Procedures, and if applicable, during the Informal Resolution process. The School must not impose such measures for punitive or disciplinary reasons.
 3. The School may, as appropriate, modify or terminate supportive measures at the conclusion of the Procedures, and, where applicable, at the conclusion of the informal resolution process, or the School may continue them at its discretion.
 4. The School must provide a Complainant or Respondent with a timely opportunity to seek, from an appropriate and impartial employee, modification or reversal of the School's decision to provide, deny, modify, or terminate supportive measures applicable to them. The impartial employee must be someone other than the employee who made the challenged decision, and must have authority to modify or reverse the decision if the impartial employee determines that the decision to provide, deny, modify, or terminate the supportive measure was inconsistent with the definition of supportive measures in Title IX. The School must also provide a party with the opportunity to seek additional modification or termination of a supportive measure applicable to them if the circumstances change materially.
 5. The School may not disclose information about any supportive measure to persons other than the person to whom they apply, including informing one party of supportive measures provided to another party, unless necessary to provide supportive measures or to restore or preserve a party's access to the education program or activity.
 6. If the Complainant or Respondent is a student with a disability, the Title IX Coordinator must consult with one or more members, as appropriate, of the student's IEP team, or one or more members, as appropriate, of the group of persons responsible for the student's placement decision as contemplated by Section 504 of the Rehabilitation Act of 1973, to determine how to comply with the requirements of the IDEA or Section 504 of the Rehabilitation Act of 1973, in the implementation of Supportive Measures.
- G. Emergency Removal. Nothing in this part precludes the School from removing a Respondent from the School's education program or activity on an emergency basis, provided that the School undertakes an individualized safety and risk analysis, determines that an imminent and serious threat to the health or safety of a Complainant or any students, employees, or other persons arising from the allegations of sex discrimination justifies removal of the Respondent, and provided that the School provides the Respondent with notice and an opportunity to challenge the removal decision immediately following the removal. This provision must not be construed to modify any rights under IDEA or Section 504 of the Rehabilitation Act of 1973.
- H. Administrative leave. A School employee/Respondent may be placed on administrative leave with pay during the pendency of the Grievance Procedures.
- I. Disclosure of personally identifiable information prohibited. The School must not disclose personally identifiable information obtained in the course of complying with Title IX requirements, except in the following circumstances:
1. When the School has obtained prior written consent from a person with the legal right to consent to the disclosure;
 2. When the information is disclosed to a parent, guardian or other authorized legal representative with the legal right to receive disclosures on behalf of the person whose personally identifiable information is at issue;

3. To carry out the purposes of Title IX, including action taken to address conduct that reasonably may constitute sex discrimination under Title IX and the School's education program or activity;
 4. As required by federal law, federal regulations, or the terms and conditions of a federal award, including a grant, award or other funding agreement; or
 5. To the extent disclosures are not otherwise in conflict with Title IX, when required by state or local law or when permitted under FERPA.
- J. Informal Resolutions. At any time prior to determining whether sex discrimination occurred, the School may offer a Complainant and Respondent an informal resolution process, *unless* the complaint includes allegations that an employee engaged in sex-based harassment of a student, or unless such a process would conflict with federal, state or local law. If an Informal Resolution process is offered, to the extent necessary, the Title IX Coordinator must take appropriate, prompt and effective steps to ensure that sex discrimination does not continue or reoccur within the School's education program or activity.
1. Subject to the limitations stated above, it is within the School's discretion to offer an Informal Resolution process. If School decides, under the circumstances, that it is not appropriate to offer an Informal Resolution process, it may decline to do so despite one or more of the parties' wishes.
 2. The School may not require or pressure the parties to participate in an Informal Resolution process. The recipient must obtain the parties' voluntary consent to the Informal Resolution process and must not require waiver of the right to an investigation and determination of a complaint as a condition of continuing enrollment or employment, or exercise of any other right.
 3. Before initiation of an Informal Resolution process, the School must provide to the parties written notice that explains.
 - a. The allegations;
 - b. The requirements of the Informal Resolution process;
 - c. That, prior to agreeing to a resolution, any party has the right to withdraw from the Informal Resolution process and to initiate or resume the recipients grievance procedures;
 - d. That the parties' agreement to a resolution at the conclusion of the Informal Resolution process would preclude the parties from initiating or resuming grievance procedures arising from the same allegations;
 - e. The potential terms that may be requested or offered in an Informal Resolution agreement, including notice that an Informal Resolution agreement is binding only on the parties; and
 - f. What information the School will maintain and whether and how the School could disclose such information for use in future Grievance Procedures, and if applicable, if grievance procedures are initiated or resumed.
 4. The facilitator for the Informal Resolution process must not be the same person as the investigator or the decision maker in the School's Grievance Process. Any person designated by the School to facilitate an informal resolution process must not have a conflict of interest or bias for or against complainants or respondents generally, or an individual complainant or respondent. Any person facilitating must receive training.
 5. Potential terms that may be included in an Informal Resolution agreement include, but are not limited to:
 - a. Restrictions on contact; and
 - b. Restrictions on the Respondent's participation in one or more of the School's programs or activities or attendance at specific events, including restrictions the School could have

imposed as remedies or disciplinary sanctions had the School determined at the conclusion of the School's Grievance Procedures that sex discrimination occurred.

- K. Burden of proof. The Decision Maker must determine, using a preponderance of the evidence standard, that a violation of Title IX occurred before the School can impose sanctions on the Respondent.
 - L. Confidentiality. The School will take steps to protect the privacy of the parties and witnesses during the Grievance Procedures, but cannot guarantee full confidentiality. The School's steps to protect confidentiality will not restrict the ability of the parties to obtain and present evidence. The parties shall be permitted to speak to witnesses and to consult with their family members, confidential resources, or advisers, and shall be afforded the opportunity to prepare for or participate in the Grievance Procedures. The parties cannot engage in retaliation against the other party, witnesses or other participants in the Grievance Procedure.
 - M. Retaliation. Retaliation, including peer to peer retaliation, is strictly prohibited. If the School learns of conduct that reasonably may constitute retaliation under Title IX, the School will comply with the Grievance Procedures to commence a separate Complaint or to consolidate the retaliation with an ongoing Complaint being pursued under the Grievance Procedures.
- IV. TIMEFRAMES: The School has established the following timelines for these Grievance Procedures:
- A. Complaint. A Complaint shall be made by a person entitled to make such complaint (see Section VI.B), **within 90 days of the alleged discriminatory conduct or** knowledge of such alleged conduct.
 - B. Evaluation. The School will evaluate whether to initiate the Grievance Procedures for a Complaint on behalf of any person entitled to file a Complaint within five (5) school days of receipt of a complaint.
 - C. Appeal not to initiate a complaint. Appeal of decision to not initiate a Complaint must be made within five (5) school days of notice of the decision not to process the complaint.
 - D. Investigation. The School will make every effort to complete the Investigation of the allegations in a Complaint within 30 days of commencement of the Complaint.
 - E. Decision. The Decision Maker shall render a decision within 10 working days of receipt of the Investigation file.
 - F. Appeal of Decision. The party seeking an appeal of the Decision shall file its notice of appeal within five (5) business days of receipt of the Decision. The other party may, but is not required to, submit a response to the notice of appeal within five days from the date of the notice of appeal.
 - G. Decision to Dismiss Complaint. A decision to dismiss a Complaint ("Dismissal") consistent with these Grievance Procedures may be made at any time during the Grievance Process if grounds for Dismissal as stated in Section VI.H below exist. Notice of the Dismissal and right to appeal will be provided within five days of the decision to dismiss.
 - H. Appeal from Dismissal of Complaint. Appeal from a Dismissal shall be made in writing and submitted to the Title IX Coordinator within five (5) days from notice of the Dismissal. The other party may but is not required to submit a response to the appeal within five days from the date the written appeal is submitted to the Title IX Coordinator.
 - I. Decision on Appeal of Dismissal shall be issued to the parties within five days of receipt of the appellant's submission or the appellee's submission, whichever is later.
 - J. Extensions. Extensions of the foregoing timeframes may be approved after a request in writing has been made by the Complainant or the eligible person who filed the Complaint, or by the Investigator, the Decision Maker, or the Respondent to the Head Administrator. The Head Administrator may grant an appropriate extension for good cause and, thereafter, notify the

parties. The notice shall include the reason for the delay. The decision to grant or deny an extension is not appealable.

V. PROCEDURES FOR RESOLUTION OF COMPLAINTS

A. Basic Requirements.

1. The school must treat complainants and respondents equitably.
2. The School must require that any person designated as a Title IX Coordinator, Investigator, or Decision Maker not have a conflict of interest or bias for or against complainants or respondents generally, or against an individual complainant or respondent.
3. There will always be a presumption that the Respondent is not responsible for the alleged sex discrimination as set forth in the Complaint until a determination is made at the conclusion of the School's Grievance Procedures.

VI. PROCESSING COMPLAINTS

A. Form of Complaint. The Complaint is not required to be in writing, but to the extent available to the person entitled to make the Complaint, the Complaint should include the identities of the parties involved in the incidents, should contain a description of the conduct alleged to constitute sex discrimination under Title IX, and should provide the best information available about the dates and locations of the alleged incidents.

B. Persons entitled to make a Title IX Complaint:

1. The following people have a right to make a complaint of sex discrimination, including complaints of sex-based harassment, requesting that the school investigate and make a determination about alleged discrimination under Title IX:
 - a. A complainant which includes:
 - i. a student or employee of the school who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX; or
 - ii. a person other than a student or employee of the school who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX at a time when that individual was participating or attempting to participate in the School's education program or a School activity;
 - b. a person with parental status as defined above or other authorized legal representative with legal right to act on behalf of a Complainant; or
 - c. the School's Title IX Coordinator.

C. Required reporting by employees. Any employee, except a Confidential Employee, who believes a student has been the subject of sexual discrimination and/or retaliation by a student, employee, or third person (e.g., contractor, visitor, etc.) or who has reason to believe that said conduct has occurred, **must contact** the Title IX Coordinator or **[Alternate Contact Title]**. **This report is in addition to any mandatory obligation to report child abuse or neglect.**

D. Complaints involving students with disabilities. If a Complainant or Respondent is student with a disability, the Title IX Coordinator must consult with one or more members of the student's IEP Team, if applicable, or with the group of persons responsible for the student's placement decision under special education rules, if any, or the members of the student 504 team to determine how to comply with the requirements of IDEA throughout the recipients implementation of grievance procedures.

E. Consolidation of Complaints. School may consolidate complaints of sex discrimination, including sex-based harassment, against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations of sex discrimination arise out of the same facts or circumstances.

- F. Notice of Complaint. Upon initiation of the School's Grievance Procedures, the School shall provide written notice of the allegations to the parties whose identities are known. The notice shall include:
1. a copy of the School's Grievance Procedures, which includes a description of the Informal Resolution process;
 2. Sufficient information, available to the School at the time of the notice, to allow the parties to respond to the allegations. Sufficient information includes: (1) the identities of the parties involved in the incidents; (2) the conduct alleged to constitute sex discrimination under Title XI; and (3) the dates and locations of the alleged incidents to the extent that information is available to the School;
 3. A statement that retaliation is prohibited;
 4. An accurate description of the evidence and a statement that the parties are entitled to an equal opportunity to access the relevant and not otherwise Impermissible Evidence upon the request of any party. If, during the course of the investigation the School learns of additional allegations against the Respondent, the School shall notify the parties that it intends to investigate the additional allegations in the context of the Complaint made;
 5. any Informal Resolution process available.
- G. Evaluation of Complaint. Upon receipt of a Complaint, the Title IX Coordinator shall evaluate whether to dismiss the Complaint or proceed to investigate the Complaint of sex discrimination. A decision on whether to dismiss the complaint shall be made within five business days.
- H. Dismissal of complaint/appeal right.
1. The School may dismiss a Complaint of sex discrimination made pursuant to its Grievance Process for any of the following reasons:
 - a. The School is unable to identify the Respondent after reasonable efforts to do so;
 - b. The Respondent is not a person participating in the School's education program or school sponsored activity and is not an employee of the School;
 - c. The Complainant voluntarily withdraws any or all of the allegations of the Complaint and the Title IX Coordinator declines to initiate a Complaint by the School, and the School determines that without the withdrawn allegations, the conduct that remains alleged in the Complaint, if any, would not constitute sex discrimination under Title IX even if proven; or
 - d. The School determines the conduct alleged in the Complaint, even if proven would not constitute sex discrimination under Title IX. Prior to dismissing the Complaint, the School shall take reasonable steps to clarify allegations with the Complainant.
 2. If the School dismisses the Complaint, it shall notify the Complainant and include the basis for the dismissal in its notification. If the dismissal occurs after the Respondent has been notified of the Complaint, the Respondent shall also be notified of the dismissal and the basis for the decision promptly following notification to the Complainant, or simultaneously if the notification is in writing.
 3. The notice of dismissal shall include a statement of the Complainant's right to appeal and the deadline for submitting any appeal which shall be in writing and by no later than the end of the fifth (5th) day after receipt of the notice of dismissal. If the Respondent has been notified of the allegations, the Respondent shall be notified of the Complainant's right to appeal the decision. An appeal of a dismissal must be based on one or more of the following:
 - a. Procedural irregularities that would change the outcome;
 - b. New evidence that would change the outcome and that was not reasonably available when the dismissal was made; or

- c. The Title IX Coordinator, Investigator or Decision Maker had a conflict of interest or bias for or against complainants or respondent generally, or the individual complainant or the respondent that would change the outcome.
4. Appeal of the Dismissal.
- a. If the dismissal is appealed, the School will:
 - i. Notify the parties within five days of receipt of a written appeal, including providing notice in a form consistent with the notice requirements of subsection F, above.
 - ii. Notify the Respondent of the allegations consistent with subsection F above, if notice was not previously provided to the Respondent.
 - iii. Implement the procedures described in this subsection H.4.
 - b. Upon receipt of a timely written appeal, the School will appoint a trained appeal officer for the appeal who did not take part in the investigation of the allegations or the decision to dismiss the Complaint.
 - c. The School shall ensure that the appeal officer for the appeal has been trained as required by Title IX.
 - d. The appeal officer shall provide the parties with a reasonable and equal opportunity to make a written statement in support of or challenging the dismissal. The parties' written statements shall be submitted to the appeal officer within five (5) days of the notice of dismissal.
 - e. The appeal officer shall provide a written decision on the appeal to the parties within ten days of receipt of the parties' written statements.
5. School's actions post-dismissal:
- a. Offer supportive measures to the Complainant as appropriate;
 - b. For dismissals in which the Respondent has been notified of the allegations, offer supportive measures to the Respondent, as appropriate.
 - c. The School shall require the Title IX Coordinator to take other appropriate, prompt and effective steps to ensure that sex discrimination does not continue or recur within the School's education program or activity.
- I. Investigation of Complaint allegations.
- 1. If the Complaint is not dismissed, the School shall appoint an Investigator to promptly commence an adequate, reliable and impartial investigation of the allegations in the Complaint.
 - 2. All parties, witnesses and school employees are required to cooperate in the Investigation. Failure to cooperate may result in the Investigator or Decision Maker giving lesser weight to that party's evidence when determining whether the Respondent's conduct violated Title IX.
 - 3. The burden is on the School, not on the parties, to conduct an Investigation that gathers sufficient evidence to determine whether sex discrimination occurred;
 - 4. The Investigator will ensure that each party has an equal opportunity to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise Impermissible Evidence as defined in Section II. H, above;
 - 5. The Investigator shall review all evidence gathered through the investigation and shall determine what evidence is relevant and what evidence is impermissible;
 - 6. Prior to concluding the Investigation, the Investigator shall provide each party with an equal opportunity to access the evidence determined by the Investigator to be relevant to the allegations of sex discrimination, in the following manner:
 - a. By providing an equal opportunity to access either the relevant and not otherwise impermissible evidence, or by providing an accurate, written description of the relevant evidence; and

- b. If the Investigator provides a description of the relevant evidence, the Investigator must further provide the parties with an equal opportunity to access the relevant and not otherwise impermissible evidence, upon the request of any party; and
 - c. The Investigator must provide the parties with a reasonable opportunity to respond to the evidence or to the accurate description of the evidence described.
 - 7. The School shall take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence received. However, for the purposes of these Grievance Procedures, disclosures of evidence (except Impermissible Evidence) obtained during the Grievance Procedures are considered an authorized disclosure.
 - 8. Within three (3) days of concluding the Investigation, after providing the parties with the opportunities described in Subsection I.6 above, the Investigator shall present the relevant evidence obtained during the Investigation to the Decision Maker.
- J. Decision Maker.
 - 1. After receipt of the relevant evidence from the Investigator, the Decision Maker shall review the evidence.
 - 2. Parties to the Complaint and all witnesses shall be available upon reasonable notice, which shall be no less than 24 hours, to be interviewed by the Decision Maker to question the parties and witnesses to adequately assess a party's or witness's credibility, to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex discrimination.
 - 3. Interviews may be conducted in person at the School, by telephone or over a virtual platform, i.e., Zoom.
 - 4. Failure of a party or witness to be make themselves available for an interview by the Decision Maker may result in exclusion of the relevant evidence in question.
 - 5. The Decision Maker shall record the interviews of party or witness, which recordings shall be considered evidence to the extent it is relevant and not Impermissible Evidence, for purposes of the Determination.
- K. Determination by Decision Maker.
 - 1. Following an investigation and evaluation of all relevant and not otherwise Impermissible Evidence, the Decision Maker shall:
 - a. Use the preponderance of the evidence standard of proof to determine whether sex discrimination occurred. If the Decision Maker is not persuaded that sex discrimination occurred after applying the standard to the evidence, whatever the quantity of the evidence is, the Decision Maker shall not determine that sex discrimination occurred.
 - b. Notify the parties in writing of the Determination of whether sex discrimination occurred under Title IX, including the Decision Maker's rationale for such Determination, and the procedures and permissible basis for the Complainant and Respondent to appeal, if applicable.
 - c. If there is a determination that sex discrimination occurred, the Title IX Coordinator will manage the provision and implementation of remedies to a Complainant and other persons, if any, that the Decision Maker identified as having had their equal access to the School's education program or activity limited or denied by the sex discrimination.
 - d. The Title IX Coordinator shall also manage imposition of the disciplinary sanctions on a Respondent, including notification to the Complainant of any such disciplinary sanctions.
 - e. The Title IX Coordinator shall take such other appropriate, prompt and effective steps to ensure that sex discrimination does not continue or recur within the School's education program or activity.

- f. The School may not impose discipline on a Respondent for sex discrimination prohibited by Title IX unless the Grievance Procedure has been followed and unless there is a determination at the conclusion of the School's Grievance Process that the Respondent engaged in prohibited sex discrimination.
2. The School may not discipline a party, witness or others participating in the Schools Grievance Procedure for making a false statement, or for engaging in consensual sexual conduct, that is based solely on the School's determination whether sex discrimination occurred. School may discipline a party, witness, or participant for false statements by initiating a disciplinary process under other School policies, so long as there is evidence independent of the determination of whether sex discrimination occurred.
3. Appeal of Determination. The written Determination whether sex discrimination occurred shall include a statement of the Complainant's and Respondent's right to appeal and the deadline for submitting the appeal, which appeal shall be in writing and be submitted to the Title IX Coordinator by no later than the end of the fifth (5th) day after receipt of the written Determination. An appeal must be based on one of the following bases:
 - a. Procedural irregularities that would change the outcome;
 - b. New evidence that would change the outcome and that was not reasonably available when the determination whether sex-based harassment occurred, or dismissal was made; or
 - c. The Title IX Coordinator, Investigator or Decision Maker had a conflict of interest or bias for or against complainants or respondent generally, or the individual complainant or the respondent that would change the outcome.
4. Determination Appeal process:
 - a. If the Determination is appealed, the School will:
 - b. Notify the parties within five (5) days of receipt of a written appeal, including the grounds for the appeal and supporting evidence provided by the appellant; and
 - c. The School will appoint a trained appeal officer for the appeal who did not take part in the investigation of the allegations, the decision to dismiss the Complaint, and who was not the Decision Maker.
 - d. Ensure that the appeal officer for the appeal has been trained as required by Title IX;
 - e. The appeal officer shall provide the parties with a reasonable and equal opportunity to make a written statement in support of or challenging the decision. The parties' written statement shall be submitted to the appeal officer within five (5) days of the notice of dismissal.
 - f. The appeal officer shall provide a written decision on the appeal to the parties within ten days of receipt of the parties' written statements.

VII. DISCIPLINARY SANCTIONS AND REMEDIES.

- A. Following a determination that sex-based harassment occurred, the School may impose the following disciplinary sanctions:

1. [insert list or describe range] for students
2. [insert list or describe range] for employees.

Sanctions of long term suspension or expulsion for students, or long-term suspension, termination or discharge for employees, shall only be imposed after appropriate due process measures have been imposed as contemplated by NMSA 1978, §22-10A-24 or -27, or 6.11.2.12 NMAC, and/or other applicable federal or state laws.

- B. Following a determination that sex-based harassment occurred, the School may provide the following remedies to the student or persons suffering the consequences of sex-based harassment:

- 1. [insert list]

VIII. NONDISCRIMINATION BASED ON STUDENT PREGNANCY OR RELATED CONDITIONS.

- A. Status generally. The School will not adopt or implement any policy, practice or procedure concerning a student's current, potential or past parental, family, or marital status that treat students differently on the basis of sex.

- B. Pregnancy related conditions.

- 1. *Nondiscrimination.* It is not prohibited discrimination if the School allows a student, based on pregnancy or related conditions, to voluntarily participate in a separate portion of its education program or activity, provided that the School ensures that the separate portion is comparable to those programs or activities offered to students who are not pregnant and who do not have related conditions.

- 2. *Title IX Coordinator Access.* The School must ensure that when a student or person who has a legal right to act on behalf of the student informs any employee of the student's pregnancy or related conditions, that the informed employee promptly provides that person with the Title IX Coordinator's contact information and informs that person that the Title IX Coordinator is obligated to help the student by taking steps to prevent sex discrimination and to ensure the student's equal access to the School's educational program or activity. If the employee receiving such information has reason to believe the Title IX Coordinator has already been made aware of the student's status, the employee is not required to provide this information.

- 3. *Notice of School's obligation to prevent discrimination.* Once notified of the student's pregnancy-related condition, the School will notify the student or person with legal right to act on behalf of the student of the School's obligations to ensure nondiscrimination in its programs and activities, and shall provide a copy of its NOTICE OF NONDISCRIMINATION, which can be found at [insert website link].

- 4. *Reasonable modifications.* The School will make reasonable modifications to its policies, practices or procedures as necessary to prevent sex discrimination based on pregnancy or related conditions, and to ensure equal access to the School's education program or activity. Each reasonable modification must be based on the student's individualized needs when determining what modification is required under this paragraph, by consulting with the affected student. A modification that the School can demonstrate would fundamentally alter the nature of its education program or activity is not a reasonable modification. The student has discretion to accept or decline each reasonable modification offered by the School. If a student accepts one or more of the School's offered reasonable modifications, the School must implement them.

- 5. *Examples of reasonable modifications.* Reasonable modifications may include, but are not limited to, breaks during class to express breast milk, to breastfeed, or to attend to health needs associated with pregnancy or related conditions, including eating, drinking or using the restroom; intermittent absences to attend medical appointments; access to online or homebound education, if available; changes in schedule or course sequence; extensions of time for coursework and rescheduling of tests and examinations; allowing a student to sit or stand or carry or keep water nearby; counseling; changes in physical space or supplies (e.g., access to a larger desk or foot rest); use of elevator; or other changes to policies, practices, or procedures.

6. *Voluntary access to separate and comparable portion of program or activity.* Students that are pregnant or with related conditions will be allowed to voluntarily access any separate and comparable portion of the School's education program or activity that is made available to other students on a voluntary basis.
7. *Voluntary leaves of absences.* The School must allow the student to voluntarily take a leave of absence from the School's education program or activity to cover, at a minimum, the period of time deemed medically necessary by the student's licensed healthcare provider. To the extent the student is eligible for leave consistent with the Attendance for Success Act³ which may afford a greater period of time than the leave that is medically necessary, the School will permit the student to take voluntary leave under that policy instead, if the student so chooses. When the student returns to the recipient's education program or activity, the student must be reinstated to the academic status and, as practicable, to the extracurricular status that the student held when the voluntary leave began.
8. *Lactation space.* Students will be afforded access to a lactation space which is not a restroom, which is clean and shielded from view and free from intrusion from others, which may be used by a student for expressing breast milk or breastfeeding as needed. This may be the same lactation space afforded to employees.
9. *Limitation on supporting documentation.* A recipient must not require supporting documentation unless the documentation is necessary and reasonable for the School to determine the reasonable modifications to make or whether to take additional specific actions to assist the student.
10. *Certification to participate.* The School will not require a student who is pregnant or who has related conditions to provide certifications from any health care provider or any other person that the student is physically able to participate in the School's class, program, or extracurricular activity unless:
 - a. The certified level of physical ability or health is necessary for participation in the class, program, or extracurricular activity;
 - b. The recipient requires such certification of all students participating in the class, program, or extracurricular activity; and
 - c. The information obtained is not used as the basis for discrimination.

IX. NONDISCRIMINATION BASED ON EMPLOYEE PREGNANCY OR RELATED CONDITIONS.

- A. Status generally. The School will not adopt or implement any policy, practice or procedure or take any employment action on the basis of sex:
 1. Concerning the current, potential, or past parental, family, or marital status of an employee or applicant for employment which treats a person differently; or
 2. That is based upon whether an employee or applicant for employment is the head of household or principal wage earner for their family.
- B. Pregnancy or related conditions. The School will not discriminate against any employee or applicant for employment on the basis of current, potential, or past pregnancy or related conditions.
- C. Comparable treatment to other temporary medical conditions. The School will treat pregnancy or related conditions as any other temporary medical condition for all job related purposes, including initial employment, leave benefits, payment of disability income, accrual of seniority, and any other benefit or service and reinstatement; and under any fringe benefit offered to employee by virtue of employment.

³ NMSA 1978, §22-12A-9(B)(C).

- D. Voluntary leave of absence. If an employee who is pregnant or has pregnancy related conditions has insufficient leave or has not accrued enough employment time to qualify for any available Family Medical Leave Act protections, the School will treat employee pregnancy or pregnancy-related conditions as a justification for voluntary leave of absence without pay for a reasonable period of time. After the employee's voluntary leave, the employee will be reinstated to the status held when the leave began or to a comparable position, without decrease in rate of compensation or loss of promotional opportunities or any other right or privilege of employment.
 - E. Lactation time and space. The School will provide reasonable break time for an employee to express milk or breastfeed as needed. The School shall ensure that an employee can access a lactation space, which must be a space other than a bathroom that is clean, shielded from view, free from intrusion from others, and which may be used by an employee for expressing breast milk or breastfeeding as needed.
- X. PRE-EMPLOYMENT INQUIRIES.
- A. Applicants for employment with the School will not be asked for information about the employee's marital status, including whether such applicant is a "Miss" or "Mrs."
 - B. The school may ask an applicant for employment to self-identify their sex, but only if this question is asked of all applicants and if the response is not used as a basis for discrimination.