

The Board of Education for the Pojoaque Valley Schools finds that the Pojoaque Valley Schools must provide equivalent opportunities and benefits for all genders in its athletics, academics, and training programs as required by Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.) which prohibits discrimination on the basis of sex or gender by educational institutions that receive federal funds directly or indirectly. The Board further acknowledges that the school district must undertake continued evaluations of its compliance with Title IX and take care to maintain a balance in the opportunities and benefits provided by its programs.

A copy of this policy may be obtained at each school-based administrative office and on the District's website. Nothing in this policy applying to Title IX is intended to alter the Pojoaque Valley Schools sexual harassment policy as set forth in policy #230 (employees).

**A. Non-Discrimination Policy Under Title IX.**

The Pojoaque Valley Schools is committed to the philosophy of equal opportunity/equal access in all employment, educational programs, activities, and services. All enrolled students shall have the opportunity to participate in and receive benefits from all programs or activities, including but not limited to, course offerings, graduation requirements, athletics, counseling, employment assistance, extracurricular and other school-related activities. Discrimination in education or employment because of race, color, national origin, ancestry, religion, creed, sex, age, physical or mental handicap, marital or parental status, pregnancy, sexual orientation, or veteran status is prohibited.

This prohibition against discrimination applies to students, employees, non-employee third parties (e.g., volunteers, contractors) who work subject to the control or direction of District authorities (collectively, "Third Parties"), on school property or at school-sponsored events.

**B. Sexual Harassment and Sexual Violence Under Title IX.**

Sex discrimination includes sexual harassment and sexual violence. Such behavior is prohibited by Title IX and this policy and constitutes grounds for disciplinary action up to and including discharge or expulsion. Whereas sexual harassment and sexual violence substantially compromise the attainment of educational excellence, the Pojoaque Valley Schools will not tolerate such behavior between members of the same or opposite sex.

"Sexual harassment" is unwelcome conduct of a sexual nature and includes unwelcome sexual advances, requests for sexual favors, and other verbal (spoken, written, or electronically communicated), nonverbal, or physical conduct of a sexual nature.

"Sexual violence" refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's use of drugs or alcohol. An individual also may be unable to give consent due to an intellectual or other disability. Examples of sexual violence include, but are not limited to, rape, sexual assault, sexual battery, and sexual coercion.

Requests for dates or other age, time and place appropriate expressions of interest or affection between students, however, are not fundamentally inappropriate, and may even contribute to the socialization process that is a large part of education. Accordingly, requests for dates and other age, time and place appropriate expressions of interest between students is not sexual harassment, unless the student to whom such requests or expressions are directed has indicated to the student(s) that these requests or expressions are unwelcome. When a student has made reasonably clear that he or she does not welcome the requests or attention by the other student, it is sexual harassment for the other student to continue to make such requests or give such attention.

### C. Standards of Conduct.

1. **Standard of Conduct for Employees and Third Parties.** Between an employee or Third Party and a student, sexual harassment is any conduct of a sexual nature. No employee or Third Party may engage in any conduct of a sexual nature with a student at any time, any place or under any circumstances regardless of the student's age, ability to consent, or actual consent.

2. **Standard of Conduct for Students.** Between students, sexual harassment is unwelcome conduct of a sexual nature, and includes acts of sexual violence.

3. **"Conduct of a Sexual Nature."** Conduct of a sexual nature may include, but is not limited to:

- verbal or physical sexual advances, including subtle pressure for sexual activity;
- sexually oriented touching, pinching, patting, staring, pulling at clothing, or intentionally brushing against another;
- in the educational setting the offer to afford a student preferential treatment in exchange for sexual favors or the threat to withhold or withholding of earned grades or credits, evaluations or recommendations for awards in order to coerce sexual behavior;
- showing or giving sexual pictures, photographs, illustrations, messages, or notes, including the use of any form of electronic expression, such as texting, email, or use of social media websites (e.g., Facebook, MySpace);
- writing graffiti of a sexual nature on school property;
- comments or name-calling to or about a student regarding alleged physical or personal characteristics of a sexual nature;
- sexually-oriented "kidding," "teasing," double-entendres, and jokes;
- continued expression of sexual interest after being informed the interest is not welcomed; and
- any harassing conduct to which a student is subjected because of or regarding the student's sex, sex stereotyping, or gender orientation.
- inappropriate contact or harassment described in 6.60.9.9.B (7)-(8) NMAC.

4. **“Unwelcome Conduct of a Sexual Nature.”** Verbal or physical conduct of a sexual nature by one student to another may constitute sexual harassment when the allegedly harassed student has indicated, by his or her conduct, that the conduct is unwelcome, or when the conduct, by its nature, is clearly unwelcome or inappropriate. Acquiescence in the conduct or the failure to complain does not automatically mean that the conduct was welcome.

A student of the age of consent who has initially consented to conduct of a sexual nature and has engaged in active participation must give specific notice to the alleged harasser that such conduct is no longer welcome in order for any such subsequent conduct to be deemed unwelcome and harassment under this Policy.

#### **D. Reporting.**

It is the express policy of the Board to encourage students who believe they have been discriminated against based on sex, including claims of sexual harassment and sexual violence, by a school employee, Third Party, or by another student or students to report such claims as soon as possible so that they may be promptly investigated and equitably resolved.

Students should submit formal complaints of sex discrimination, sexual harassment and/or sexual violence to the District’s Title IX Coordinator at 1574 State Road 502 West, Santa Fe, New Mexico 87506. Alternatively, a student may report complaints to any District teacher, counselor or administrator.

Any District employee who either reasonably believes a student has been discriminated against based on sex or who receives a complaint of sex discrimination, harassment or violence from a student must immediately report the information to the Title IX Coordinator. This reporting obligation is in addition to a school employee’s reporting obligations to appropriate officials pursuant to law and Board Policy 231 when the employee has a reasonable belief that a student is being abused.

An employee who believes he or she has been discriminated against on the basis of sex in violation of this policy shall refer to Policy 230.

#### **E. Retaliation.**

The Pojoaque Valley Schools also prohibits retaliation against any employee or student for having made a report of alleged sexual discrimination, including sexual harassment or sexual violence or who has testified, assisted, or participated in the investigation of a report. Retaliation may constitute a basis for disciplinary action up to and including discharge or expulsion.

#### **F. Creation of Title IX Coordinator and Grievance Procedures.**

The Superintendent shall:

1. Designate a district administrator to act as the school district’s Title IX Coordinator for a period of not less than two years or until the end of the designee’s

employment, whichever is shorter;

2. Ensure that the Title IX Coordinator has sufficient authority to monitor and evaluate the school district's compliance with Title IX, conduct necessary investigations and issue reports to the Superintendent regarding the school district's compliance with Title IX, and ensure that he or she has sufficient authority and the necessary procedures to investigate and report on all written complaints of alleged violations of Title IX or the school district's policies regarding Title IX;

3. Promulgate grievance procedures that allow any student or employee of the Pojoaque Valley Schools who believes he or she has been discriminated against, denied a benefit, or excluded from participation in any district education program or activity on the basis of sex in violation of this policy or Title IX to file a written, formal complaint; and

4. Ensure that the grievance procedures provide for investigation and review of all formal written complaints.

See policies 203, 230, 231