



17267 Yale Street NW
Elk River, MN
763-595-1213
admin@threeriversmontessori.org

405 TITLE IX SEX NONDISCRIMINATION POLICY, GRIEVANCE PROCEDURE AND PROCESS

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[NOTE: In 2024, the U.S. Department of Education, Office of Civil Rights (OCR), released the latest version of the Final Rule amending Title IX regulations at 34 Code of Federal Regulations, part 106. These regulations have an effective date of August 1, 2024.]

I. GENERAL STATEMENT OF POLICY

- A. Three Rivers Montessori does not discriminate on the basis of sex, including discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity, in any education program or activity that it operates, including in admission and employment. The charter school does not discriminate in such a manner in its implementing regulations. The charter school is committed to maintaining an education and work environment that is free from discrimination based on sex, including sexual harassment.
- B. Except as provided elsewhere under Title IX or its regulations, no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity operated by the charter school.
- C. The charter school prohibits sex-based discrimination or sexual harassment that occurs within its education programs and activities. The charter school shall promptly respond in a manner that is prompt and effective.
- D. Except as provided therein, Title IX and its regulations apply to all sex discrimination occurring under a charter school's education program or activity in the United States. For the purpose of this paragraph, conduct that occurs under the charter school's education program or activity includes but is not limited to conduct that is subject to the charter school's disciplinary authority. The charter school has an obligation to address a sex-based hostile environment under its education program or activity, even when some conduct alleged to be contributing to the hostile environment occurred outside the charter school's education program or activity or outside the United States.
- E. The charter school has adopted, published, and implemented grievance procedures consistent with the requirements of 34 Code of Federal Regulations, section 106.45, and if applicable section 106.46, that provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating or

attempting to participate in the charter school's education program or activity, or by the Title IX Coordinator, alleging any action that would be prohibited by Title IX or its regulations.

- F. The charter school's obligation to comply with Title IX and its regulations is not obviated or alleviated by the Federal Educational Rights and Privacy Act (FERPA), 20 United States Code, section 1232g, or its implementing regulations, 34 Code of Federal Regulations, part 99, or any state law or local law. The obligation to comply is not obviated or alleviated by any rule or regulation of any organization, club, athletic or other league, or association which would render any applicant or student ineligible to participate or limit the eligibility or participation of any applicant or student, on the basis of sex, in any education program or activity operated by the charter school and which receives Federal financial assistance.
- G. The charter school has an obligation to address a sex-based hostile environment under its education program or activity, even when some conduct alleged to be contributing to the hostile environment occurred outside the charter school's education program or activity or outside the United States.
- H. Nothing in Title IX or its regulations may be read in derogation of any legal right of a parent, guardian, or other authorized legal representative to act on behalf of a complainant, respondent, or other person, subject to Paragraph F of this section, including but not limited to making a complaint through the charter school's grievance procedures for complaints of sex discrimination.
- I. In the limited circumstances in which Title IX or its regulations permits different treatment or separation on the basis of sex, the charter school must not carry out such different treatment or separation in a manner that discriminates on the basis of sex by subjecting a person to more than de minimis harm, except as permitted by 20 United States Code, section 1681(a)(1) through (9) and the corresponding regulations sections 106.12 through 106.15, 20 United States Code, section 1686 and its corresponding regulation section 106.32(b)(1), or section 106.41(b). Adopting a policy or engaging in a practice that prevents a person from participating in an education program or activity consistent with the person's gender identity subjects a person to more than de minimis harm on the basis of sex.
- J. Any student, parent, or guardian having questions regarding the application of Title IX and its regulations and/or this policy and grievance process should discuss them with the Title IX Coordinator. The charter school's Title IX Coordinator(s) is/are:
 - o Executive Director
 - o Email: admin@threeriversmontessori.org
 - o Phone: 763-595-1213
 - o Inquiries about Title IX and its regulations may be referred to the Title IX Coordinator(s), the United States Department of Education's Office for Civil Rights, or both.
- K. To report information about conduct that may constitute sex discrimination or make a complaint of sex discrimination under Title IX, please refer to Three Rivers Montessori Employee Handbook for detailed instructions. The effective date of this policy is August

1, 2024, and applies to alleged violations of this policy occurring on or after August 1, 2024

II. DEFINITIONS

- A. "Admission" means selection for part-time, full-time, special, associate, transfer, exchange or any other enrollment, membership, or matriculation in or at an education program or activity operated by the charter school.
- B. "Complainant" means
 - 1. a student or employee of the charter school who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations; or
 - 2. a person other than a student or employee of the charter school who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX and who was participating or attempting to participate in a charter school education program or activity at the time of the alleged sex discrimination.
- C. "Complaint" means an oral or written request to the charter school that objectively can be understood as a request for the charter school to investigate and make a determination about alleged discrimination under Title IX or its regulations.
 - 1. A person is entitled to make a complaint of sex-based harassment only if they themselves are alleged to have been subjected to the sex-based harassment, if they have a legal right to act on behalf of such person, or if the Title IX Coordinator initiates a complaint consistent with the requirements of 34 Code of Federal Regulations, section 106.44(f)(1)(v).
 - 2. The following individuals have a right to make a complaint of sex discrimination, including complaints of sex-based harassment, requesting that the charter school investigate and make a determination about alleged discrimination under Title IX:
 - a complainant;
 - a parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant; or
 - the charter school's Title IX Coordinator.
 - i. [NOTE: When a Title IX Coordinator is notified of conduct that reasonably may constitute sex discrimination under Title IX (and in the absence of a complaint or the withdrawal of any or all of the allegations in a complaint, and in the absence or termination of an informal resolution process), the Title IX Coordinator must determine whether to initiate a complaint of sex discrimination as required under Title IX. The requirements for such a fact-specific determination are set forth in 34 Code of Federal Regulations, section 106.44(f)(1)(v).]
 - 3. With respect to complaints of sex discrimination other than sex-based harassment, in addition to the persons listed above, the following persons have a right to make a complaint:
 - any charter school student or employee; or

- any person other than a charter school student or employee who was participating or attempting to participate in a charter school education program or activity at the time of the alleged sex discrimination.
- D. “Confidential employee” means
 1. A charter school employee whose communications are privileged or confidential under Federal or Minnesota law. The employee’s confidential status, for purposes of this part, 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. A charter school employee whom the charter school has designated as confidential under this part for the purpose of providing services to persons related to sex discrimination. If the employee also 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.
- E. “Day” or “days” means, unless expressly stated otherwise, business days (i.e. day(s) that the charter school office is open for normal operating hours, Monday - Friday, excluding State-recognized holidays).
- F. “Disciplinary sanctions” means consequences imposed on a respondent following a determination under Title IX that the respondent violated the charter school’s prohibition on sex discrimination.
- G. “Parental status” as used in Title IX and its regulations 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;
 3. A foster parent;
 4. A stepparent;
 5. A legal custodian or guardian;
 6. In loco parentis with respect to such a person; or
 7. Actively seeking legal custody, guardianship, visitation, or adoption of such a person.
- H. “Party” means a complainant or respondent.
- I. “Peer retaliation” means retaliation by a student against another student.
- J. “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.
- K. “Program or activity” and “program” means all of the operations of a local education agency as defined in 20 United States Code, section 8801, a special purpose district, a system of vocational education, or other school system.

- L. "Relevant" means related to the allegations of sex discrimination under investigation as part of the grievance procedures under Title IX and 34 Code of Federal Regulations, section 106.44. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged sex discrimination occurred.
- M. "Remedies" means measures provided, as appropriate, to a complainant or any other person the charter school identifies as having had their equal access to the charter school's education program or activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person's access to the charter school's education program or activity after a charter school determines that sex discrimination occurred.
- N. "Respondent" means a person who is alleged to have violated the charter school's prohibition on sex discrimination.
- O. "Retaliation" means intimidation, threats, coercion, or discrimination against any person by the charter school, a student, or an employee or other person authorized by the charter school to provide aid, benefit, or service under the charter school's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or its regulations, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under the Title IX regulations.
- P. "Sex-based harassment" prohibited by Title IX and its regulations is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity, that is:
1. Quid pro quo harassment. An employee, agent, or other person authorized by the charter school to provide an aid, benefit, or service under the charter school's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;
 2. Hostile environment harassment. Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the charter school's education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
 - The degree to which the conduct affected the complainant's ability to access the charter school's education program or activity;
 - The type, frequency, and duration of the conduct;
 - The parties' ages, roles within the charter 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;
 - The location of the conduct and the context in which the conduct occurred; and

- Other sex-based harassment in the charter school's education program or activity; or
3. Specific offenses.
- 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;
 - 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: (a) The length of the relationship; (b) The type of relationship; and (c) The frequency of interaction between the persons involved in the relationship;
 - 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 the family or domestic violence laws of the state of Minnesota, 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 family or domestic violence laws of the jurisdiction; or
 - 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.
- Q. "Student" means a person who has gained admission.
- R. "Student with a disability" means a student who is an individual with a disability as defined in the Rehabilitation Act of 1973, as amended, or a child with a disability as defined in the Individuals with Disabilities Education Act.
- S. "Supportive measures" means individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a complainant or respondent, not for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to
1. Restore or preserve that party's access to the charter school's education program or activity, including measures that are designed to protect the safety of the parties or the charter school's educational environment; or
 2. Provide support during the charter school's grievance procedures or during the informal resolution process.
 - The charter school will offer and coordinate supportive measures as appropriate for the complainant and/or respondent to restore or preserve

that person's access to the charter school's education program or activity or provide support during the charter school's Title IX grievance procedures or during the informal resolution process.

- T. Title IX" means Title IX of the Education Amendments of 1972, as amended.

III. DESIGNATION OF TITLE IX COORDINATOR AND DESIGNEES

- A. The charter school must designate and authorize at least one employee, referred to as a Title IX Coordinator, to coordinate its efforts to comply with its obligations under Title IX and its regulations. If a charter school has more than one Title IX Coordinator, it must designate one of its Title IX Coordinators to retain ultimate oversight over the responsibilities and ensure the charter school's consistent compliance with its responsibilities under Title IX and its regulations.
- B. As appropriate, the charter school may delegate, or permit a Title IX Coordinator to delegate, specific duties to one or more designees.

IV. REPORTING PROHIBITED CONDUCT

- A. Any student who believes they have been the victim of unlawful sex discrimination or sexual harassment, or any person (including the parent of a student) with actual knowledge of conduct which may constitute unlawful sex discrimination or sexual harassment toward a student should report the alleged acts as soon as possible to the Title IX Coordinator.
- B. The charter school requires all employees who are not confidential employees to notify the Title IX Coordinator when the employee has information about conduct that reasonably may constitute sex discrimination under Title IX or its regulations. This requirement does not apply to an employee who has personally been subject to conduct that reasonably may constitute sex discrimination under Title IX or its regulations.
- C. Confidential Employee Requirements
 - 1. The charter school must notify all participants in the charter school's education program or activity of how to contact its confidential employees, if any.
 - 2. The charter school must require a confidential employee to explain to any person who informs the confidential employee of conduct that reasonably may constitute sex discrimination under Title IX or its regulations:
 - a. The employee's status as confidential for purposes of this part, 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 charter 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.
- D. Any employee of the charter school who has experienced, has knowledge of, or has witnessed unlawful sex discrimination, including sexual harassment, or who otherwise

becomes aware of unlawful sex discrimination, including sexual harassment, must promptly report the allegations to the Title IX Coordinator without screening or investigating the report or allegations.

- E. A report of unlawful sex discrimination or sexual harassment may be made at any time, including during nonbusiness hours, and may be made in person, by mail, by telephone, or by email using the Title IX Coordinator's contact information. A report may also be made by any other means that results in the Title IX Coordinator receiving the person's verbal or written report.
- F. Sexual harassment may constitute both a violation of this policy and criminal law. To the extent the alleged conduct may constitute a crime, the charter school may report the alleged conduct to law enforcement authorities. The charter school encourages complainants to report criminal behavior to the police immediately.

V. CHARTER SCHOOL'S RESPONSE TO SEXUAL HARASSMENT

A. General

- Upon knowledge of conduct that reasonably may constitute sex discrimination in its education program or activity, the charter school must respond promptly and effectively. The charter school must also comply with 34 Code of Federal Regulations, section 106.44 to address sex discrimination in its education program or activity.

B. Barriers to Reporting

- The charter school must require its Title IX Coordinator to:
 - 1. Monitor the charter school's education program or activity for barriers to reporting information about conduct that reasonably may constitute sex discrimination under Title IX or its regulations; and
 - 2. Take steps reasonably calculated to address such barriers.

C. Title IX Coordinator Requirements

- The Title IX Coordinator is responsible for coordinating the charter school's compliance with its obligations under Title IX and its regulations. The charter school must require its Title IX Coordinator, when notified of conduct that reasonably may constitute sex discrimination under Title IX or its regulations, to take the following actions to promptly and effectively end any sex discrimination in its education program or activity, prevent its recurrence, and remedy its effects:
 - 1. Treat the complainant and respondent equitably;
 - 2. Offer and coordinate supportive measures, as appropriate, for the complainant. In addition, if the charter school has initiated grievance procedures or offered an informal resolution process to the respondent, offer and coordinate supportive measures, as appropriate, for the respondent;
 - 3. Notify the complainant or, if the complainant is unknown, the individual who reported the conduct, of the grievance procedures and if applicable and the informal resolution process, if available and appropriate. If a

- complaint is made, notify the respondent of the grievance procedures and the informal resolution process, if available and appropriate;
4. In response to a complaint, initiate the grievance procedures or the informal resolution process, if available and appropriate and requested by all parties;
 5. In the absence of a complaint or 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 that complies with the grievance procedures.
 - i. To make this fact-specific determination, the Title IX Coordinator must consider, at a minimum, the following factors:
 - The complainant's request not to proceed with initiation of a complaint;
 - The complainant's reasonable safety concerns regarding initiation of a complaint;
 - The risk that additional acts of sex discrimination would occur if a complaint is not initiated;
 - 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;
 - The age and relationship of the parties, including whether the respondent is an employee of the charter school;
 - The scope of the alleged sex discrimination, including information suggesting a pattern, ongoing sex discrimination, or sex discrimination alleged to have impacted multiple individuals;
 - The availability of evidence to assist a decisionmaker in determining whether sex discrimination occurred; and
 - Whether the charter school could end the alleged sex discrimination and prevent its recurrence without initiating its grievance procedures.
 - ii. 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 charter school from ensuring equal access on the basis of sex to its education program or activity, the Title IX Coordinator may initiate a complaint
 6. If initiating a complaint under Subparagraph e. above, notify the complainant prior to doing so and appropriately address reasonable concerns about the complainant's safety or the safety of others, including by providing supportive measures; and

7. Regardless of whether a complaint is initiated, 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 recur within the charter school's education program or activity.
- The Title IX Coordinator is not required to comply with Paragraph C.1, subparagraphs a. through g. above upon being notified of conduct that may constitute sex discrimination if the Title IX Coordinator reasonably determines that the conduct as alleged could not constitute sex discrimination under Title IX or its regulations.

D. Supportive Measures

- Under the Title IX Coordinator Requirements above, the charter school must offer and coordinate supportive measures, as appropriate, as described below. For allegations of sex discrimination other than sex-based harassment or retaliation, the charter school's provision of supportive measures does not require the charter school, its employee, or any other person authorized to provide aid, benefit, or service on the charter school's behalf to alter the alleged discriminatory conduct for the purpose of providing a supportive measure.
 1. Supportive measures may vary depending on what the charter school deems to be reasonably available. These measures may include but are not limited to: counseling; extensions of deadlines and other course-related adjustments; campus escort services; increased security and monitoring of certain areas of the campus; restrictions on contact applied to one or more parties; leaves of absence; changes in class, work, or extracurricular or any other activity, regardless of whether there is or is not 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 charter school's educational environment, or to provide support during the charter school's grievance procedures, or during the informal resolution process. The charter school must not impose such measures for punitive or disciplinary reasons.
 3. The charter school may, as appropriate, modify or terminate supportive measures at the conclusion of the grievance procedures or at the conclusion of the informal resolution process, or the charter school may continue them beyond that point.
 4. The charter school must provide a complainant or respondent with a timely opportunity to seek, from an appropriate and impartial employee, modification or reversal of the charter 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. The charter school must also provide a party with the opportunity to seek additional modification or termination of a supportive measure applicable to them if circumstances change materially.

5. The charter school must not disclose information about any supportive measures 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 the supportive measure or restore or preserve a party's access to the education program or activity, or when an exception in 34 Code of Federal Regulations section 106.44(j)(1) through (5) applies.
6. The charter school must require the Title IX Coordinator to consult with one or more members, as appropriate, of the student's Individualized Education Program (IEP) team, if any, or one or more members, as appropriate, of the group of persons responsible for the student's placement decision under 34 Code of Federal Regulations, section 104.35(c), if any, to determine how to comply with the requirements of the Individuals with Disabilities Education Act, and Section 504 of the Rehabilitation Act of 1973 in the implementation of supportive measures.

E. Students with Disabilities

- If a complainant or respondent is an elementary student with a disability, the charter school must require the Title IX Coordinator to consult with one or more members, as appropriate, of the student's Individualized Education Program (IEP) team, if any, or one or more members, as appropriate, of the group of persons responsible for the student's placement decision under 34 Code of Federal Regulations, section 104.35(c), if any, to determine how to comply with the requirements of the Individuals with Disabilities Education Act and Section 504 of the Rehabilitation Act of 1973 throughout the charter school's implementation of grievance procedures under 34 Code of Federal Regulations, section 106.45.

F. Emergency Removal

- Nothing in Title IX or its regulations precludes the charter school from removing a respondent from the charter school's education program or activity on an emergency basis, provided that the charter 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, 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 of 1990.

G. Administrative Leave

- Nothing in Title IX or its regulations precludes the charter school from placing an employee respondent on administrative leave from employment responsibilities during the pendency of the charter school's grievance procedures. This provision must not be construed to modify any rights under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act of 1990.
- H. Prohibited Disclosures of Personally Identifiable Information
- The charter school must not disclose personally identifiable information obtained in the course of complying with this part, except in the following circumstances:
 1. When the charter 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 34 Code of Federal Regulations, section 106, including action taken to address conduct that reasonably may constitute sex discrimination under Title IX in the charter 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
 5. To the extent such disclosures are not otherwise in conflict with Title IX or its regulations, when required by Minnesota or local law or when permitted under FERPA or its implementing regulations.

VI. GRIEVANCE PROCEDURES FOR THE PROMPT AND EQUITABLE RESOLUTION OF COMPLAINTS OF SEX DISCRIMINATION

A. General

- The charter school's grievance procedures for the prompt and equitable resolution of complaints of sex discrimination must be in writing and include provisions that incorporate the requirements of this section. The requirements related to a respondent apply only to sex discrimination complaints alleging that a person violated the charter school's prohibition on sex discrimination. When a sex discrimination complaint alleges that a charter school's policy or practice discriminates on the basis of sex, the charter school is not considered a respondent.

B. Basic Requirements for Grievance Procedures

- The charter school's grievance procedures must:
 1. Treat complainants and respondents equitably;
 2. Require that any person designated as a Title IX Coordinator, investigator, or decisionmaker not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. The decision maker may be the same person as the Title IX Coordinator or investigator;

3. Include a presumption that the respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of the charter school's grievance procedures for complaints of sex discrimination;
4. Establish reasonably prompt timeframes for the major stages of the grievance procedures, including a process that allows for the reasonable extension of time frames on a case-by-case basis for good cause with notice to the parties that includes the reason for the delay. Major stages include, for example, evaluation (i.e., the charter school's decision whether to dismiss or investigate a complaint of sex discrimination); investigation; determination; and appeal, if any; [NOTE: The Title IX regulations require reasonably prompt timeframes for major stages of the grievance procedures, but do not specify any particular timeframes. Charter schools may establish their own school-specific timeframes. A sample set of provisions is offered below.]
 - i. Any informal resolution process must be completed within thirty (30) calendar days following the parties' agreement to participate in such informal process.
 - ii. An appeal of a determination of responsibility or of a decision dismissing a formal complaint must be received by the charter school within five (5) days of the date the determination of responsibility or dismissal was provided to the parties.
 - iii. Any appeal of a determination of responsibility or of a dismissal will be decided within thirty (30) calendar days of the day the appeal was received by the charter school.
 - iv. The charter school will seek to conclude the grievance process, including any appeal, within 120 calendar days of the date the formal complaint was received by the charter school.
 - v. Although the charter school strives to adhere to the timelines described above, in each case, the charter school may extend the time frames for good cause. Good cause may include, without limitation: the complexity of the allegations; the severity and extent of the alleged misconduct; the number of parties, witnesses, and the types of other evidence (e.g., forensic evidence) involved; the availability of the parties, advisors, witnesses, and evidence (e.g., forensic evidence); concurrent law enforcement activity; intervening charter school holidays, breaks, or other closures; the need for language assistance or accommodation of disabilities; and/or other unforeseen circumstances.
 - vi. The charter school has established the following process for reasonable extension of time frames on a case-by-case basis for good cause as set forth above. The process includes notice to the parties and the reason for the delay: [NOTE: The charter school

should set forth its process for determining a reasonable extension of a timeframe.]

5. Require the charter school to take reasonable steps to protect the privacy of the parties and witnesses during the pendency of the charter school's grievance procedures, provided that the steps do not restrict the ability of the parties to: obtain and present evidence, including by speaking to witnesses, subject to the prohibition against retaliation; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures;
6. Require an objective evaluation of all evidence that is relevant, as defined in Article II, and not otherwise impermissible—including both inculpatory and exculpatory evidence—and provide that credibility determinations must not be based on a person's status as a complainant, respondent, or witness;
7. Exclude the following types of evidence, and questions seeking that evidence, as impermissible (i.e., must not be accessed or considered, except by the charter school to determine whether an exception in subparagraphs (a) through (c) applies; must not be disclosed; and must not otherwise be used), regardless of whether they are relevant:
 - i. Evidence that is protected under a privilege as recognized by federal or Minnesota law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
 - ii. 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 charter school obtains that party's or witness's voluntary, written consent for use in the charter school's grievance procedures; and
 - iii. 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; and
8. If the charter school adopts grievance procedures that apply to the resolution of some, but not all, complaints articulate consistent principles for how the charter school will determine which procedures apply.

C. Notice of Allegations

- Upon initiation of the charter school's grievance procedures, the charter school must provide notice of the allegations to the parties whose identities are known.
 1. The notice must include:
 - i. The charter school's grievance procedures, and if applicable, any informal resolution process;
 - ii. Sufficient information available at the time to allow the parties to respond to the allegations. Sufficient information includes the identities of the parties involved in the incident(s), the conduct alleged to constitute sex discrimination under Title IX or this part, and the date(s) and location(s) of the alleged incident(s), to the extent that information is available to the charter school;
 - iii. A statement that retaliation is prohibited; and
 - iv. A statement that the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of this evidence; and if the charter school provides a description of the evidence, the parties are entitled to an equal opportunity to access to the relevant and not otherwise impermissible evidence upon the request of any party.
 2. If, in the course of an investigation, the charter school decides to investigate additional allegations of sex discrimination by the respondent toward the complainant that are not included in the notice or that are included in a complaint that is consolidated, the charter school must provide notice of the additional allegations to the parties whose identities are known. [NOTE: If the charter school provides a description of the evidence, the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party.]
 - i. If, in the course of an investigation, the charter school decides to investigate additional allegations of sex discrimination by the respondent toward the complainant that are not included in the notice provided or that are included in a complaint that is consolidated, the charter school will notify the parties of the additional allegations.

D. Consolidation

- The charter school may consolidate complaints of sex discrimination 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. When more than one complainant or more than one respondent is involved, references below to a party, complainant, or respondent include the plural, as applicable.

E. Complaint Investigation

- The charter school must provide for adequate, reliable, and impartial investigation of complaints. To do so, the charter school must:

1. Ensure that the burden is on the charter school – not on the parties – to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred;
2. Provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible;
3. Review all evidence gathered through the investigation and determine 509-17 what evidence is relevant and what evidence is impermissible regardless of relevance, consistent with § 106.2 and with paragraph (b)(7) of this section; and
4. Provide each party with an equal opportunity to access the evidence that is relevant to the allegations of sex discrimination and not otherwise impermissible in the following manner:
 - i. The charter school must provide an equal opportunity to access either the relevant and not otherwise impermissible evidence, or an accurate description of this evidence. If the charter school provides a description of the evidence, it must further provide the parties with an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party;
 - ii. The charter school must provide a reasonable opportunity to respond to the evidence or to the accurate description of the evidence; and
 - iii. The charter school must take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the grievance procedures. For purposes of this paragraph, disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of sex discrimination are authorized.

F. Questioning Parties and Witnesses to Aid in Evaluating Allegations and Assessing Credibility

- The charter school must provide a process that enables the decisionmaker to question 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.

G. Determination Whether Sex Discrimination Occurred

- Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, the charter school must:
 1. Use the preponderance of the evidence standard of proof to determine whether sex discrimination occurred, unless the charter school uses the clear and convincing evidence standard of proof in all other comparable proceedings, including proceedings relating to other discrimination complaints, in which case the charter school may elect to use that standard of proof in determining whether sex discrimination occurred. Both standards of proof require the decisionmaker to evaluate relevant

and not otherwise impermissible evidence for its persuasiveness; if the decisionmaker is not persuaded under the applicable standard by the evidence that sex discrimination occurred, whatever the quantity of the evidence is, the decisionmaker must not determine that sex discrimination occurred.

2. Notify the parties in writing of the determination whether sex discrimination occurred under Title IX or its regulations including the rationale for such determination, and the procedures and permissible bases for the complainant and respondent to appeal, if applicable;
3. If there is a determination that sex discrimination occurred, as appropriate, require the Title IX Coordinator to coordinate the provision and implementation of remedies to a complainant and other persons the charter school identifies as having had equal access to the charter school's education program or activity limited or denied by sex discrimination, coordinate the imposition of any disciplinary sanctions on a respondent, including notification to the complainant of any such disciplinary sanctions, and 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 charter school's education program or activity. The charter school may not impose discipline on a respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the charter school's grievance procedures that the respondent engaged in prohibited sex discrimination;
4. Comply with 34 Code of Federal Regulations, section 106.45, before the imposition of any disciplinary sanctions against a respondent; and
5. Not discipline a party, witness, or others participating in charter school's grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the charter school's determination whether sex discrimination occurred.

H. Additional Provisions

- If the charter school adopts additional provisions as part of its grievance procedures for handling complaints of sex discrimination, including sex-based harassment, such additional provisions must apply equally to the parties.

I. Informal Resolution

- In lieu of resolving a complaint through the charter school's grievance procedures, the parties may instead elect to participate in an informal resolution process under 34 Code of Federal Regulations, section 106.44(k) if provided by the charter school consistent with that paragraph.

J. Provisions Limited to Sex-Based Harassment Complaints

- For complaints alleging sex-based harassment, the grievance procedures must:
 1. Describe the range of supportive measures available to complainants and respondents; and

2. List, or describe the range of, the possible disciplinary sanctions that the charter school may impose and remedies that the charter school may provide following a determination that sex-based harassment occurred.

VII. INFORMAL RESOLUTION OF A COMPLAINT

[NOTE: The 2024 Title IX amendments do not require a charter school to offer an informal resolution process. However, a charter school is free to provide such a process in some circumstances, as long as it complies with certain regulatory requirements.

Requirements related to informal resolution are set forth in 34 Code of Federal Regulations, section 106.44(k).]

- A. At any time prior to determining whether sex discrimination occurred, the charter school may offer to a complainant and respondent an informal resolution process, unless the complaint includes allegations that an employee engaged in sex-based harassment of an elementary school or secondary school student or such a process would conflict with federal, Minnesota, or local law. A charter school that provides the parties an informal resolution process must, to the extent necessary, also require its Title IX Coordinator to take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the charter school's education program or activity.
 1. Subject to the limitations in Paragraph A. above, the charter school has discretion to determine whether it is appropriate to offer an informal resolution process when it receives information about conduct that reasonably may constitute sex discrimination under Title IX or its regulations or when a complaint of sex discrimination is made, and may decline to offer informal resolution despite one or more of the parties' wishes.
 2. In addition to the limitations in Paragraph A. above, circumstances when the charter school may decline to allow informal resolution include but are not limited to when the charter school determines that the alleged conduct would present a future risk of harm to others.
- B. The charter school must not require or pressure the parties to participate in an informal resolution process. The charter school 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 enrollment or continuing enrollment, or employment or continuing employment, or exercise of any other right.
- C. Before initiation of an informal resolution process, the charter school must provide to the parties notice that explains:
 1. The allegations;
 2. The requirements of the informal resolution process;
 3. 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 charter school's grievance procedures;
 4. 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;

5. 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
 6. What information the charter school will maintain and whether and how the charter school could disclose such information for use in grievance procedures, if grievance procedures are initiated or resumed.
- D. The facilitator for the informal resolution process must not be the same person as the investigator or the decision maker in the charter school's grievance procedures. Any person designated by the charter 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 informal resolution must receive training as provided under this policy.
- E. Potential terms that may be included in an informal resolution agreement include but are not limited to:
1. Restrictions on contact; and
 2. Restrictions on the respondent's participation in one or more of the charter school's programs or activities or attendance at specific events, including restrictions the charter school could have imposed as remedies or disciplinary sanctions had the charter school determined at the conclusion of the charter school's grievance procedures that sex discrimination occurred.

VIII. DISMISSAL OF A COMPLAINT

- A. The charter school may dismiss a complaint of sex discrimination made through its grievance procedures under this policy for any of the following reasons:
1. The charter school is unable to identify the respondent after taking reasonable steps to do so;
 2. The respondent is not participating in a charter school education program or activity and is not employed by the charter school;
 3. The complainant voluntarily withdraws any or all of the allegations in the complaint, the Title IX Coordinator declines to initiate a complaint, and the charter school determines that, without the complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination under Title IX even if proven; or,
 4. The charter school determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under Title IX. Before dismissing the complaint, the charter school will make reasonable efforts to clarify the allegations with the complainant.
- B. Upon dismissal, the charter school will promptly notify the complainant of the basis for the dismissal. If the dismissal occurs after the respondent has been notified of the allegations, then the charter school will also notify the respondent of the dismissal and the basis for the dismissal promptly following notification to the complainant, or simultaneously if notification is in writing.

- C. The charter school must notify the complainant that a dismissal may be appealed and will provide the complainant with an opportunity to appeal the dismissal of a complaint on the bases set out in 34 Code of Federal Regulations, section 106.46(i)(1). If the dismissal occurs after the respondent has been notified of the allegations, then the charter school will also notify the respondent that the dismissal may be appealed on the bases set out in 34 Code of Federal Regulations, section 106.46(i)(1). If the dismissal is appealed, the charter school must:
1. Notify the parties of any appeal, including notice of the allegations consistent with paragraph (c) of this section if notice was not previously provided to the respondent;
 2. Implement appeal procedures equally for the parties;
 3. Ensure that the decision maker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
 4. Ensure that the decisionmaker for the appeal has been trained as set out in this policy;
 5. Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
 6. Notify the parties of the result of the appeal and the rationale for the result.
- D. When the charter school dismisses a complaint, it must, at a minimum:
1. Offer supportive measures to the complainant as appropriate;
 2. For dismissals under Paragraph A. 3 and 4 above in which the respondent has been notified of the allegations, offer supportive measures to the respondent as appropriate under 34 Code of Federal Regulations, section 106.44(g); and
 3. Require its Title IX Coordinator to take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the charter school's education program or activity.
- E. Dismissal of a formal complaint or a portion thereof does not preclude the charter school from addressing the underlying conduct in any manner that the charter school deems appropriate. **[NOTE: For example, charter schools are reminded of the obligation under Minnesota Statutes, section 122A.20, subdivision 2, to make a mandatory report to the Minnesota Professional Educator Licensing and Standards Board concerning any teacher who resigns during the course of an investigation of misconduct.]**

IX. APPEAL OF DETERMINATION

[NOTE: Regarding an appeal of a determination, the 2024 Title IX Final Rule states that the charter school must offer the parties an appeal process that, at a minimum, is the same as it offers in all other comparable proceedings, if any, including proceedings relating to other discrimination complaints.]

- A. The charter school offers the following process for appeals from a determination whether sex discrimination occurred. This appeal process will be, at a minimum, the same as the charter school offers in all other comparable proceedings, including proceedings relating to other discrimination complaints.

- B. If notice of an appeal is timely received by the charter school, the charter school will notify the parties in writing of the receipt of the appeal, assign or designate the appellate decision maker, and give the parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome.
- C. After reviewing the parties' written statements, the appellate decision maker must issue a written decision describing the result of the appeal and the rationale for the result.
- D. The written decision describing the result of the appeal must be provided simultaneously to the parties.
- E. The decision of the appellate decision maker is final. No further review beyond the appeal is permitted.

X. SANCTIONS AND REMEDIES

- A. Following a determination that sex-based harassment occurred, the charter school may impose disciplinary sanctions, which may include the following, but should not be considered exhaustive:
 - The following is the range of possible disciplinary sanctions that the charter school might impose upon a respondent, following determination of responsibility: counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, mutual or unilateral restrictions on contact between the parties, changes in work locations, leaves of absence, monitoring of certain areas of the charter school buildings or property, warning, suspension, exclusion, expulsion, transfer, remediation, termination, or discharge.
- B. The charter school may also provide remedies.
 - If the decision maker determines a respondent is responsible for violating this policy, the decision maker will recommend appropriate remedies, including disciplinary sanctions/consequences. The Title IX Coordinator will notify the executive director of the recommended remedies, such that an authorized administrator can consider the recommendation(s) and implement appropriate remedies in compliance with MSBA Model Policy 506 – Student Discipline. The discipline of a student-respondent must comply with the applicable provisions of Minnesota Pupil Fair Dismissal Act, the Individuals with Disabilities Education Improvement Act (IDEA) and/or Section 504 of the Rehabilitation Act of 1972, and their respective implementing regulations.

XI. RETALIATION

The charter school must prohibit retaliation, including peer retaliation, in its education program or activity. When the charter school has information about conduct that reasonably may constitute retaliation under Title IX or its regulations, the charter school is obliged to comply with 34 Code of Federal Regulations, section 106.44. Upon receiving a complaint alleging retaliation, the charter school must initiate its grievance procedures or, as appropriate, an informal resolution process.

XII. TRAINING

[NOTE: Training requirements are set forth in 34 Code of Federal Regulations, section 106.8(d).]

- A. The charter school must ensure that the following persons receive training related to their duties under Title IX promptly upon hiring or change of positions that alters their duties under Title IX or its regulations, and annually thereafter. This training must not rely upon sex stereotypes.
 1. All employees must be trained on:
 - The charter school's obligation to address sex discrimination in its education program or activity;
 - The scope of conduct that constitutes sex discrimination under Title IX and its regulations, including the definition of sex-based harassment; and
 - All applicable notification and information requirements under 34 Code of Federal Regulations, sections 106.40(b)(2) and 106.44.
 2. Investigators, decisionmakers, and other persons who are responsible for implementing the charter school's grievance procedures or have the authority to modify or terminate supportive measures.
 - In addition to the training requirements for all employees described in Paragraphs 1 and 2 above, all investigators, decisionmakers, and other persons who are responsible for implementing the charter school's grievance procedures or have the authority to modify or terminate supportive measures under 34 Code of Federal Regulations, section 106.44(g)(4) must be trained on the following topics to the extent related to their responsibilities:
 - a. The charter school's obligations under 34 Code of Federal Regulations, section 106.44;
 - b. The charter school's grievance procedures under 34 Code of Federal Regulations, section 106.45, and if applicable section 106.46;
 - c. How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias; and
 - d. The meaning and application of the term "relevant" in relation to questions and evidence, and the types of evidence that are impermissible regardless of relevance under 34 Code of Federal Regulations, section 106.45, and if applicable section 106.46.
 3. Facilitators of informal resolution process
 - In addition to the training requirements for all employees described in Paragraph 1 above, all facilitators of an informal resolution process under 34 Code of Federal Regulations, section 106.44(k) must be trained on the rules and practices associated with the charter school's informal resolution process and on how to serve impartially, including by avoiding conflicts of interest and bias.
 4. Title IX Coordinator and Title IX Personnel

- In addition to the training requirements in Paragraphs 1 through 3 above, the Title IX Coordinator and Title IX Personnel must be trained on their specific responsibilities under 34 Code of Federal Regulations, section 106.8(a), section 106.40(b)(3), section 106.44(f) and (g), the charter school's recordkeeping system and the requirements of 34 Code of Federal Regulations, section 106.8 (f), and any other training necessary to coordinate the charter school's compliance with Title IX. "Title IX Personnel" means any person who addresses, works on, or assists with the charter school's response to a report of sexual harassment or formal complaint, and includes persons who facilitate informal resolutions.

XIII. DISSEMINATION OF POLICY

- A. This policy shall be made available to all students, parents/guardians of students, charter school employees, and employee unions.
- B. The charter school shall conspicuously post the name of the Title IX Coordinator, including office address, telephone number, and work email address on its website and in each handbook that it makes available to parents, employees, students, unions, or applicants.
- C. Notice of Nondiscrimination
 1. The charter school must provide notice of nondiscrimination to applicants for admission and employment, students, parents, guardians, or other authorized legal representatives of elementary and secondary school students, employees, and all unions holding collective bargaining agreements with the charter school.
 2. Contents of Notice of Nondiscrimination
 - The notice of nondiscrimination must include the following elements:
 - a. A statement that the charter school does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX and its regulations, including in admission and employment;
 - b. A statement that inquiries about the application of Title IX and its regulations to the charter school may be referred to the charter school's Title IX Coordinator, the federal Office for Civil Rights, or both;
 - c. The name or title, office address, email address, and telephone number of the Title IX Coordinator;
 - d. How to locate the charter school's nondiscrimination policy and the charter school's grievance procedures; and
 - e. How to report information about conduct that may constitute sex discrimination under Title IX; and how to make a complaint of sex discrimination under the regulations.
 3. The charter school must prominently include all elements of its notice of nondiscrimination on its website and in each handbook, catalog, announcement, bulletin, and application form that it makes available to people entitled to notice,



17267 Yale Street NW
Elk River, MN
763-595-1213
admin@threeriversmontessori.org

4. or which are otherwise used in connection with the recruitment of students or employees.
5. If necessary, due to the format or size of any publication, the charter school may instead include in those publications the information covered in the following statement: "Three Rivers Montessori Charter School prohibits sex discrimination in any education program or activity that it operates. Individuals may report concerns or questions to the Title IX Coordinator. The notice of nondiscrimination is located at threeriversmontessori.org
6. The charter school must not use or distribute a publication stating that the charter school treats applicants, students, or employees differently on the basis of sex, except as such treatment is permitted by Title IX or its regulations.

XIV. RECORDKEEPING

- The charter school must create, and maintain for a period of seven years:
 - A. For each complaint of sex discrimination, records documenting the informal resolution process under 34 Code of Federal Regulations, section 106.44(k) or the grievance procedures under section 106.45, and if applicable section 106.46, and the resulting outcome.
 - B. For each notification the Title IX Coordinator receives of information about conduct that reasonably may constitute sex discrimination under Title IX or its regulations, including notifications under 34 Code of Federal Regulations, section 106.44(c)(1) or (2), records documenting the actions the charter school took to meet its obligations under section 106.44
 - C. All materials used to provide training under this policy. The charter school must make these training materials available upon request for inspection by members of the public.

Legal References: Minn. Stat. § 121A.04 (Athletic Programs; Sex Discrimination) Minn. Stat. §§ 121A.40 – 121A.575 (Minnesota Pupil Fair Dismissal Act)

Minn. Stat. Ch. 363A (Minnesota Human Rights Act)

20 U.S.C. §§ 1681-1688 (Title IX of the Education Amendments)

34 C.F.R. Part 106 (Implementing Regulations of Title IX)

20 U.S.C § 1400, et seq. (Individuals with Disabilities Education Act)

29 U.S.C. § 794 (Section 504 of the Rehabilitation Act)

42 U.S.C. § 12101, et seq. (Americans with Disabilities Act)

20 U.S.C. § 1232g (Family Educational Rights and Privacy Act of 1974)

20 U.S.C. § 1092 et seq. (Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act ("Clery Act"))

Cross References: MSBA/MASA Model Policy 102 (Equal Educational Opportunity) MSBA/MASA Model Policy 413 (Harassment and Violence)

MSBA/MASA Model Policy 506 (Student Discipline)

MSBA/MASA Model Policy 528 (Student Parental, Family, and Marital Status Nondiscrimination)

