

## **Highland Prep West**

### **SEXUAL MISCONDUCT/HARASSMENT POLICY**

#### **Section 1: Purpose**

Highland Prep West is committed to maintaining a community in which its staff and students work and learn in a safe and respectful environment that is free from all forms of sex- and gender-based discrimination. Highland Prep West prohibits the following forms of sexual or related misconduct: sex and gender discrimination, sexual assault, sexual harassment, stalking, dating violence, domestic violence, prohibited consensual relationships, sexual exploitation and other sexual misconduct, and intimidation and/or retaliation.

- A. It is the policy of Highland Prep West that sexual harassment of employees, applicant for employment, or students in any form is unacceptable conduct. The purpose of this policy is to clearly state Highland Prep West's position on this issue; to notify all employees and students of the kinds of activities which constitute sexual misconduct or harassment; and to provide a procedure whereby any employee or student who believes he or she is the victim of sexual harassment can submit a complaint which will be investigated by Administration. Sexual misconduct or harassment, whether verbal or physical, and whether arising out of the work or school environment, is unacceptable and will not be tolerated.
- B. This policy shall also constitute the Grievance Procedure required by Title IX of the Education Amendments of 1972 for complaints of gender discrimination within educational institutions receiving federal financial assistance. The Title IX Officer and Sexual Harassment Compliance Officer for the District is:

Sharon Pozzi

Principal

[spozzi@highlandprepaz.org](mailto:spozzi@highlandprepaz.org)

12235 W. Van Buren St. Avondale, AZ 85323

623-274-2540

The School's Title IX Coordinator is responsible for monitoring and overseeing the School's compliance with Title IX and the prevention of sex harassment, sexual misconduct and discrimination. The Title IX Coordinator is:

- Knowledgeable and trained in School policies and procedures and relevant state and federal laws;
- Available to advise any individual, including a complainant, respondent, or a third party, about School and community resources and reporting options;
- Available to provide assistance to any School employee regarding how to respond appropriately to a report of Title IX-related prohibited conduct and related retaliation;
- Participates in ensuring the effective implementation of this Policy, including monitoring compliance with all procedural requirements, record keeping, and timeframes; and
- Responsible for overseeing training, prevention, and education efforts and annual reviews of climate and culture.

## **Section 2: Scope**

This Policy governs sexual misconduct involving students that occurs on any School property or in connection with any School-sponsored program or event. This Policy applies to all students, employees, and third parties conducting business with the School, regardless of the person's gender, gender identity, sexual orientation, age, race, nationality, class status, ability, religion or other protected status. The School encourages victims of sexual violence to talk to somebody about what happened – so victims can get the support they need, and so the School can respond appropriately. As further described in this Policy, the School will seek to respect a victim's request for confidentiality to the extent possible, while remaining ever mindful of the victim's well-being.

## **Section 3: Definitions**

Sexual misconduct comprises a broad range of behaviors focused on sex that may or may not be sexual in nature. Any intercourse or other intentional sexual touching or activity without the other person's consent is sexual assault, which is a form of sexual misconduct under this Policy. Sexual harassment, sexual exploitation, stalking, domestic violence, and dating violence are also forms of sexual misconduct. Intimidation for one of these purposes is sexual misconduct, as is retaliation following an incident of alleged sexual misconduct or attempted sexual misconduct. Misconduct can occur between strangers or acquaintances, or people who know each other well, including between people involved in an intimate or sexual relationship, can be committed by anyone regardless of gender identity, and can occur between people of the same or different sex or gender. This Policy prohibits all forms of sexual misconduct.

Sexual and related misconduct can occur between strangers, acquaintances, or people who know each other well, including people who are involved in an intimate or sexual relationship, and sexual and related misconduct can be committed by anyone regardless of sex, gender, gender identity, gender expression, or sexual orientation. Highland Prep will take prompt and effective steps to end the sexual and related misconduct, eliminate the hostile environment, prevent its recurrence, and remedy its effects.

**Sexual Harassment in the Workplace** – Harassment on the basis of sex is a violation of State and Federal Law. Unwelcome sexual advances, requests for sexual favors, and/or other verbal or physical conduct of a sexual nature constitutes sexual harassment when:

- submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Sexually harassing conduct in the workplace, whether committed by supervisors or non-supervisory personnel, is prohibited. Such prohibited conduct includes, but is not limited to:

- unwelcome sexual flirtations, advances, or propositions
- verbal or written abuse of a sexual nature
- graphic verbal comments about an individual's body;
- sexually degrading words used to describe an individual; and
- the display in the work place of sexually suggestive objects or pictures

### **Quid Pro Quo Harassment**

Any instance in which a HPW employee conditions the provision of an aid, benefit, or service of HPW on a person's (including a student's) participation in unwelcome sexual conduct.

### **Sexual Harassment of and/or Between Students**

Sexual harassment of students consists of verbal or physical conduct of a sexual nature, by an employee, agent, or another student of the District that denies, limits, or conditions the provision of aid, benefits, services, or treatment protected under Title IX of the Education Amendments of 1972 in the basis of sex. Unwelcome sexual advances, requests for sexual favors, and/or other verbal or physical conduct of a sexual nature constitutes sexual harassment when:

- submission to such conduct is made either explicitly or implicitly a term or condition of an individual's education;
- such conduct has the purpose or effect of unreasonably interfering with the individual's education creating an intimidating, hostile, or offensive environment.

Such actions include, but are not limited to, the following conduct directed at students:

- unwelcome sexual flirtations, advances, or propositions;
- verbal or written abuse of a sexual nature
- graphic verbal comments about the student's body
- sexually degrading words used to describe a student; and
- unwelcome and non-consensual physical touching of a sexual nature.

**Sex- or Gender-Based Harassment**

Unwelcome conduct that a reasonable person would consider so severe, pervasive, and objectively offensive that it effectively denies a person equal access to Highland Prep West's education program or activity.

Given the special nature of the relationship between students and employees of the Highland Prep West, extreme caution should be exercised by employees of Highland Prep West to avoid any situation involving comments of a sexual nature, particularly in the presence of students. It is recognized that discussions involving sexual relations and the human body are part of mandated curriculum in certain areas (e.g., health education).

**Sexual Assault**

Any sexual act directed against another person without the consent of that person – including instances in which the person is incapable of giving consent – that satisfies one or more of the following:

1. Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without consent;
2. Oral or anal sexual intercourse with another person: (i) forcibly and/or against that person's will; or (ii) not forcibly or against the person's will in instances where the person is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity;
3. Use of an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person: (i) forcibly and/or against that person's will; or (ii) not forcibly or against the person's will in instances where the person is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity;
4. The touching of the private body parts of another person (buttocks, groin, breasts) for the purpose of sexual gratification: (i) forcibly and/or against that person's will; or (ii) not forcibly or against the person's will in instances where the person is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity;
5. Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by Arizona law; Non-forcible sexual intercourse with a person who is under the statutory age of consent (*i.e.*, 17 years of age).

**Dating Violence**

Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant. The existence of such a relationship shall be determined based on the complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

For the purposes of this definition:

- Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
- Dating violence does not include acts covered under the definition of domestic violence.

### **Domestic Violence**

A felony or misdemeanor crime of violence committed:

1. By a current or former spouse or intimate partner of the complainant;
2. By a person with whom the complainant shares a child in common;
3. By a person who is cohabitating with, or has cohabitated with, the complainant as a spouse or intimate partner;
4. By a person similarly situated to a spouse of the complainant under the domestic or family violence laws of the state of New York;
5. By any other person against an adult or youth complainant who is protected from that person's acts under the domestic or family violence laws of New York State.

For the purposes of this definition:

- The relationship between the respondent and the complainant must be more than just two people living together as roommates.
- The people cohabitating must be current or former spouses or have an intimate relationship.

### **Stalking**

A course of conduct directed at a specific person that would cause a reasonable person to:

1. Fear for their safety or the safety of others; or
2. Suffer substantial emotional distress.

For the purposes of this definition:

- Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- Reasonable person means a reasonable person under similar circumstances and with similar identities to the complainant.
- Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

### **Section3: Policy**

Highland Prep regards sexual harassment as a serious matter. Accordingly, sexual harassment by any employee or agent of Highland Prep or any other employee or agent of Highland Prep, or applicant for employment is hereby prohibited.

- It is the policy of Highland Prep West that all students be free from sexual harassment in the classroom and school environment. Therefore, sexual harassment of students is prohibited. This policy also applies to conduct between students.

#### **Section 4: Sexual Harassment Policy Reporting & Enforcement**

Victims of sexual misconduct may file a report with the Phoenix Police Department. Victims may also file a report with Highland Prep's Title IX Coordinator.

The victim of the sexual assault may choose for the investigation to be pursued through the criminal justice system and the School's disciplinary procedures. The School and the criminal justice system work independently from each other. Law enforcement officers do not determine whether a violation of this Policy has occurred. The Title IX Coordinator will guide the victim through the available options and support the victim in his or her decision.

**A. Procedure for Employees** – Administration has an affirmative duty to maintain his/her work place free from sexual harassment. Administration shall discuss this policy with all employees and assure them that they are not required to endure insulting, degrading, or exploitative conduct of a sexual nature.

1. **Informal Procedure** – Highland Prep West encourages employees who believe that they are being harassed to clearly and promptly notify the offender that his/her behavior is unwelcome. If, for any reason, an individual does not wish to confront the offender directly or if such a confrontation does not successfully end the harassment, the individual should notify the Title IX Coordinator. The informal procedure should be flexible and the best course of action in any case will depend on various factors. However, an individual reporting sexual harassment should be aware that Highland Prep West may decide it is necessary to take action to address the harassment beyond an informal decision.
2. **Formal Procedure** – The following steps should be followed to make a formal complaint about sexual harassment:
  - a. **Notification** – An individual who believes he/she has been subjected to sexual harassment should report the incident to the Title IX Coordinator. The complaint should be reported in writing by the complainant.
  - b. **Description of Misconduct** – An accurate record of allegedly objectionable behavior is necessary to resolve a complaint of sexual harassment. All oral allegations of sexual harassment must be reduced to writing by either the complainant or the recipient of the complaint.
  - c. **Time for Reporting a Complaint** – Prompt reporting of complaints is strongly encouraged. While no time limits for filing complaints are contained in this policy, the accurate resolution of sexual harassment complaints will be expedited in a timely filing of claims. Further, a complainant should be aware that applicable statutes of limitations do constrain the time for instituting outside legal action.

- d. Protection Against Retaliation** – Highland Prep West will not retaliate against any individual who files a sexual harassment complaint in good faith. Retaliation is a serious violation of this policy and should be reported immediately. Any employee or agent of Highland Prep West found to have retaliated against an individual for good faith reporting of sexual harassment, will be subject to appropriate disciplinary action up to and including discharge from employment.
3. Highland Prep West will promptly investigate all allegations of sexual harassment in as confidential and sensitive manner as possible and make every reasonable effort; consistent with the best interest of all parties concerned, to complete the investigation within thirty (30) days of receipt of the formal complaint.
4. The individual submitting a complaint of sexual harassment and the alleged harasser shall be notified of the results of the investigation.
5. Any supervisor, agent, or other employee who is found, after appropriate investigation, to have engaged in sexual harassment, will be subject to appropriate disciplinary action, up to and including discharge from employment.

## **B. Procedure for Students**

1. **Informal Procedure** – Highland Prep West encourages students who believe they are being harassed to clearly and promptly notify the offender that his or her behavior is unwelcome. If for any reason a student does not wish to confront the offender directly, or if such confrontation does not successfully end the harassment, the student should notify the designated Title IX Coordinator. Any student who is uncomfortable for any reason in bringing the matter to the attention of his or her Title IX Coordinator should report it to the Principal.

The informal procedure should be flexible and the best course of action in any case will depend on various factors. However, a student reporting sexual harassment should be aware that Highland Prep West may decide it is necessary to take action to address the harassment beyond an informal discussion.

2. **Formal Procedure** – The following steps should be following to make a formal complaint about sexual harassment:

- a. Notification** – a student who believes he or she has been subjected to sexual harassment by any employee, agent, or other student of Highland Prep West should report the incident to the designated Title IX Coordinator. Any student who is uncomfortable for any reason in bringing the matter to the attention of his or her Title IX Coordinator should report the matter to the Principal. Students are permitted to be accompanied by a friend, relative, guardian, or parent when making a claim of sexual harassment. If a parent of a student of Highland Prep West believes that his/her son/daughter has been subjected to sexual harassment, then (s)he should follow the above referenced reporting procedure.
  - b. Description of Misconduct** – An accurate record of allegedly objectionable behavior is necessary to resolve a complaint of sexual harassment. All allegations of sexual harassment must be reduced to writing by either the complainant or the recipient of the complaint.
  - c. Time for Reporting a Complaint** – Prompt reporting of complaints is strongly encouraged. While no time limits for filing complaints are contained in this policy, the accurate resolution of sexual harassment complaints will be expedited by timely filing of claims. Further, a complainant should be aware that applicable statutes of limitations do constrain the time for instituting outside legal action.
  - d. Protection Against Retaliation** – Highland Prep West will not retaliate against any student who files a sexual harassment complaint in good faith. Retaliation is a serious violation of this policy and should be reported immediately. Any employee, agent, or student of Highland Prep West found to have retaliated against a student for good faith reporting of sexual harassment will be subject to appropriate disciplinary action, up to and including suspension or expulsion for students in accordance with Arizona Education Law.
- 3. Highland Prep West will promptly investigate all allegations of sexual harassment in as confidential and sensitive a manner as possible and shall make every reasonable effort, consistent with the best interests of all parties concerned, to complete the investigation within thirty (30) days of receipt of the formal complaint.
- 4. The student submitting a complaint of sexual harassment and the alleged harasser shall be notified of the results of the investigation.
- 5. Any supervisor, administrator, teacher, employee, agent, or student of Highland Prep West found to have engaged in sexual harassment of any student shall be subject to appropriate disciplinary action, up to and including discharge from employment for employees and agents, and up to and including suspension or expulsion from school for students in accordance with Arizona Education Law.



### Third-Party and Anonymous Reporting

In cases where sexual misconduct is reported to the Title IX Coordinator by someone other than the complainant (by an instructor, classmate or friend, for example), the Title IX Coordinator will promptly notify the complainant that a report has been received. This Policy and the Procedures will apply in the same manner as if the complainant had made the initial report. The Title IX Coordinator will make every effort to meet with the complainant to discuss available options and resources. Reports from an anonymous source will be treated in a similar fashion

An incident of sexual misconduct can be reported to law enforcement at any time, 24 hours a day/7 days a week, by calling 911.

At the complainant's request, the School will assist the complainant in contacting law enforcement. If the complainant decides to pursue the criminal process, the School will cooperate with law enforcement agencies to the extent permitted by law. A complainant has the option to decide whether or not to participate in any investigation conducted by law enforcement. Filing a police report will:

- ensure that a victim of sexual assault receives the necessary medical treatment and tests
- provide the opportunity for collection of evidence helpful in prosecution, which cannot be obtained later (ideally a victim of sexual assault should not wash, douche, use the toilet, or change clothing prior to a medical/legal exam)
- assure the victim has a referral to confidential counseling from counselors specifically trained in the area of sexual assault

### **Appeal**

Any employee or student who wishes to appeal investigation results that there is or is not sexual harassment may do so within ten (10) school days of receipt of those results. Such appeal must be made in writing to Highland Prep West's Principal. The employee or student shall be entitled to present evidence as to why the investigation results are incorrect. Following a review of that evidence, as well as the information obtained in the investigation process and conclusions derived therefrom, the Principal shall render a decision. This decision shall be final and binding.

### **Section 5: Record Keeping**

Highland Prep West shall maintain a written record of all complaints of sexual harassment for a period of at least three (3) years. Highland Prep West shall also document the steps taken with regard to investigations, as well as conclusions reached and disciplinary action (if any) taken. Highland Prep West shall also maintain these documents for, a minimum, three (3) years.

### **Section 6: Questions**

Any questions regarding sexual harassment and compliance with Title IX of the Education Amendments of 1973 may also be brought to the attention of the Office of Civil Rights, Department of Education, Washington, D.C. 20202

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**SEXUAL HARASSMENT COMPLAINT WAIVER**

I have received and read Highland Prep West's anti-harassment policy

I understand that if I choose to make a complaint of workplace harassment, Highland Prep West will investigate my complaint and take remedial steps as it deems appropriate.

On \_\_\_\_\_ I raised concerns about a school or workplace issue which, to my knowledge, only affects me. I do not wish for Highland Prep West to treat my disclosure as a harassment complaint at this time and I do not want Highland Prep West to investigate the issue which I have raised. However, I reserve the right to file a formal written complaint at a later time.

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title IX Coordinator

\_\_\_\_\_  
Date