

Sexual Harassment

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The purpose of this policy is to affirm Excelsior Village Academies's commitment to providing students with an educational environment free from sexual harassment and sex-based discrimination. The intent of this policy is to comply with the Title IX federal regulations concerning sexual harassment. If the Title IX federal regulations are revised, Excelsior Village Academies shall comply with any revised requirements.

Scope. This policy applies to allegations of sexual harassment made by and against students or employees.

Definitions.

Actual Knowledge. Notice of sexual harassment or allegations of sexual harassment to Excelsior Village Academies's Title IX Coordinator or to any official or employee of Excelsior Village Academies. This notice requirement is not met when the only Excelsior Village Academies official or employee with actual knowledge is the respondent.

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

Days. For the purposes of this policy it means "school days."

Deliberately Indifferent. A response to sexual harassment that is clearly unreasonable in light of the known circumstances.

Formal Complaint. A document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that Excelsior Village Academies investigate the allegation of sexual harassment. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in a Excelsior Village Academies education program or activity. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information listed for the Title IX Coordinator in Excelsior Village Academies's nondiscrimination notice posted on its website. As used in this policy, the phrase "document filed by a complainant" means a document or electronic submission that contains the complainant's physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint. Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a complainant or otherwise a party under this policy.

Respondent. An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Sexual Harassment. Conduct on the basis of sex that satisfies one or more of the following:

1. An employee of the school conditioning the provision of an aid, benefit, or service on a student's participation in unwelcome sexual conduct.
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a student equal access to Excelsior Village Academies's education program or activity.
3. "Sexual Assault," which is an offense classified as forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation; or

"Dating Violence," which is sex-based violence committed by a person -

- who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - The length of the relationship.
 - The type of relationship.
 - The frequency of interaction between the persons involved in the relationship; or

"Domestic Violence"- sex-based violence which includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction; or

"Sex-based Stalking" - engaging in a course of conduct directed at a specific person that would cause a reasonable person to-

- fear for his or her safety or the safety of others; or
- suffer substantial emotional distress.

Complainant. An individual who is alleged to be the victim of sexual harassment. If the complainant is under 18, a parent or guardian may act on the student's behalf.

Respondent. An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Supportive Measures. Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the recipient's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or Excelsior Village Academies's educational environment, or deter sexual harassment. Excelsior Village Academies shall presume that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process. The grievance process will be followed before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. Excelsior Village Academies shall maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of Excelsior Village Academies to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

Non Discrimination Policy. Excelsior Village Academies is committed to maintaining an educational and work environment that is free from discrimination and harassment in any form.

This Sexual Harassment Policy is adopted as part of the school's broader Non-Discrimination Policy and should be read in conjunction with that policy. Allegations of sexual harassment will be addressed consistent with the requirements of Title IX of the Education Amendments of 1972, applicable federal and state law, and applicable Excelsior Village Academies policy.

Excelsior Village Academies prohibits discrimination based on sex and sexual harassment of employees by other employees, board members, students, volunteers, or others over whom Excelsior Village Academies has authority in any Excelsior Village Academies education program or activity. Education program or activity includes locations, events, or circumstances over which Excelsior Village Academies exercises substantial control over both the respondent and the context in which the sexual harassment occurs.

Excelsior Village Academies shall respond promptly in a manner that is not deliberately indifferent when it has actual knowledge of sexual harassment against a person in an education program or activity.

Excelsior Village Academies shall require that any individual designated and authorized as a Title IX Coordinator, investigator, decision-maker, or any person designated to facilitate an informal resolution process, not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. Excelsior Village Academies

shall ensure that Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, will receive training on the definition of sexual harassment, the scope of Excelsior Village Academies's education program or activity, how to conduct an investigation and grievance process including questioning, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. Excelsior Village Academies shall ensure that decision-makers receive training on any technology to be used during questioning, and on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant. Excelsior Village Academies also shall ensure that investigators receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.

Grievance Process.

1. Reports or complaints may be verbal or written and may be made at any time (including during non-business hours), in person, by mail, by telephone, or by electronic mail using the contact information posted on the Excelsior Village Academies website.
2. Any employee, applicant for employment, or other person wishing to report or file a complaint alleging a violation as described above shall promptly notify either the Executive Director or the Title IX Coordinator designated and authorized by Excelsior Village Academies. Any employee who receives information alleging sexual harassment of an employee shall report it to the Chief Executive Officer or Title IX Coordinator. If the alleged offending individual is the Chief Executive Officer, the report or complaint should be made by the complainant to the Title IX Coordinator.
3. The Title IX Coordinator shall promptly contact the complainant to discuss the availability of supportive measures as defined in this policy, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint. Excelsior Village Academies shall treat complainants and respondents equitably by following this grievance process before punishing the respondent or providing remedies to the complainant. Remedies will be designed to restore or preserve equal access to Excelsior Village Academies's education program or activity. Such remedies may include the same individualized services described as "supportive measures." However, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the respondent.
4. **Formal Complaint.** Upon receipt of a formal complaint, Excelsior Village Academies shall within 10 days provide the following written notice to the parties who are known:
 - a. Notice of Excelsior Village Academies's grievance process;
 - b. Notice of the allegations potentially constituting sexual harassment, including sufficient details known at the time and with sufficient time to prepare a response

before any initial interview. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident, if known. The written notice shall:

- include a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;
 - inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence;
 - inform the parties of any consequences of making false statements or knowingly submitting false information during the grievance process, or any policies addressing the same; and
 - describe potential disciplinary sanctions and remedies that Excelsior Village Academies may implement following any determination of responsibility.
- c. If, in the course of an investigation, Excelsior Village Academies decides to investigate allegations about the complainant or respondent not included in the notice provided pursuant to paragraph (4)(B), Excelsior Village Academies shall provide notice of the additional allegations to the parties whose identities are known.
5. **Dismissal of a formal complaint.** Excelsior Village Academies shall investigate the allegations in a formal complaint. If the conduct alleged in the formal complaint would not constitute sexual harassment as defined herein even if proved or did not occur in Excelsior Village Academies 's education program or activity or in the United States, then Excelsior Village Academies shall dismiss the formal complaint with regard to that conduct for purposes of sexual harassment under Title IX; such a dismissal does not preclude action under another provision of Excelsior Village Academies 's policies.
- a. Excelsior Village Academies may dismiss the formal complaint or any allegations therein, if at any time during the investigation: A complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein; the respondent is no longer employed by or attends Excelsior Village Academies ; or specific circumstances prevent Excelsior Village Academies from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.
 - b. Upon a dismissal required or permitted pursuant to paragraph (5), Excelsior Village Academies shall promptly send written notice of and reason(s) for the dismissal simultaneously to the parties.

6. **Consolidation of formal complaints.** Excelsior Village Academies may consolidate formal complaints as to allegations of sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances.
7. **Investigation of a formal complaint.** After providing written notice to the parties of the receipt of a formal complaint, Excelsior Village Academies shall have 15 days to investigate. When investigating a formal complaint and throughout the grievance process, Excelsior Village Academies shall:
 - a. Assume the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility and not place such burdens on the parties provided that Excelsior Village Academies cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless Excelsior Village Academies obtains that party's voluntary, written consent to do so;
 - b. Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence;
 - c. Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence;
 - d. Provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the complainant or respondent in any meeting or grievance proceeding; however, Excelsior Village Academies may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties;
 - e. Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all investigative interviews or other meetings, with sufficient time for the party to prepare to participate;
 - f. Provide both parties an equal opportunity to inspect and review any non-privileged evidence obtained as part of the investigation directly related to the allegations raised in a formal complaint, including the evidence upon which Excelsior Village Academies does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. Prior to

completing the investigative report, Excelsior Village Academies shall send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties shall have at least 10 days to submit a written response, which the investigator will consider prior to completion of the investigative report. Excelsior Village Academies shall make all such evidence subject to the parties' inspection and review available at any meeting to give each party equal opportunity to refer to such evidence during the meeting, including for purposes of cross-examination; and

- g. After providing both parties the opportunity to review the evidence as described above, and at least 10 days before a determination regarding responsibility, Excelsior Village Academies will create an investigative report that fairly summarizes relevant evidence. The report will be sent to each party and the party's advisor, if any, in an electronic format or a hard copy, for their review and written response.
 - h. Reported sexual harassment determined not to be sexual harassment as defined under Title IX may be investigated in accordance with other applicable Excelsior Village Academies policies.
8. **Questions.** Excelsior Village Academies has sent the investigative report to the parties and before reaching a determination regarding responsibility, the decision-maker(s) shall afford a 10-day period for each party to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party. The complainant's sexual predisposition or prior sexual behavior are not relevant unless offered to prove that someone other than the respondent committed the alleged conduct or if specific incidents of the complainant's prior sexual behavior with respect to the respondent are offered to prove consent. Questions or evidence that seek disclosure of information protected under a legally recognized privilege shall not be permitted unless the privilege has been waived. The decision-maker(s) shall explain to the party proposing the questions any decision to exclude a question as not relevant.
9. **Determination regarding responsibility.** The decision-maker(s), who cannot be the same person(s) as the Title IX Coordinator or the investigator(s), shall, within 10 days after the end of the question and answer period, issue a written determination regarding responsibility. Excelsior Village Academies shall apply the preponderance of the evidence standard to all complaints.

The written determination shall include:

- a. Identification of the allegations potentially constituting sexual harassment as defined in this policy;
- b. A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties,

interviews with parties and witnesses, site visits, and methods used to gather other evidence;

- c. Findings of fact supporting the determination;
- d. Conclusions regarding the application of Excelsior Village Academies 's policies to the facts;
- e. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions Excelsior Village Academies imposes on the respondent, and whether remedies designed to restore or preserve equal access to Excelsior Village Academies 's education program or activity will be provided by Excelsior Village Academies to the complainant; and
- f. Excelsior Village Academies 's procedures and permissible bases for the complainant and respondent to appeal.

Excelsior Village Academies shall provide the written determination to the parties simultaneously. The determination regarding responsibility becomes final either on the date that Excelsior Village Academies provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

The Title IX Coordinator is responsible for effective implementation of any remedies.

10. Appeals. Excelsior Village Academies shall offer both parties 10 days after a decision for an appeal from a determination regarding responsibility, and from Excelsior Village Academies 's dismissal of a formal complaint or any allegations therein, on the following bases:

- a. Procedural irregularity that affected the outcome of the matter;
- b. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
- c. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

For all appeals, Excelsior Village Academies shall:

- a. Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;

- b. Ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator;
 - c. Ensure that the decision-maker(s) for the appeal complies with the training standards set forth in this policy;
 - d. Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
 - e. Issue a written decision describing the result of the appeal and the rationale for the result; and
 - f. Provide the written decision simultaneously to both parties within 10 days of the receipt of the appeal.
11. **Informal resolution.** Informal resolution is a less formal process such as mediation that does not involve a full investigation and adjudication. It may be used in lieu of the process above, where both the complainant and respondent consent to the informal process. However, (a) it may not be used where a student alleges sexual harassment by an employee; (b) Excelsior Village Academies shall not require it as a condition of employment or enjoyment of any other right, and shall not require the parties to participate in an informal resolution process unless a formal complaint is filed. Informal resolution may be used if Excelsior Village Academies :
- a. Provides to the parties a written notice disclosing: The allegations, the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;
 - b. Obtains the parties' voluntary, written consent to the informal resolution process.
12. **Confidentiality.** Excelsior Village Academies shall keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted by federal or state law or regulations, or to carry out the purposes of Title IX requirements, including the conduct of any investigation or judicial proceeding arising thereunder.
13. **Retaliation Prohibited.**

- a. No person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation or proceeding under Title IX. Intimidation, threats, coercion, or discrimination, including charges against an individual for employee code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX, constitutes retaliation.

Complaints alleging retaliation may be filed in accordance with the Excelsior Village Academies grievance process.

- b. The exercise of rights protected under the First Amendment does not constitute retaliation prohibited under subparagraph (a).
- c. Charging an individual with an employee code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this policy does not constitute retaliation prohibited under subparagraph (a); provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

14. **Time Frame.** Excelsior Village Academies shall allow for the temporary delay of the grievance process or the limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

15. **Notice:** Excelsior Village Academies does not discriminate on the basis of sex in the operation of its education programs or activities, including admissions and employment.

Contact information for Excelsior Village Academies's Title IX Coordinator is located on its website and in its Non-Discrimination Statement. Inquiries about Title IX and its implementing regulations may be referred to Excelsior Village Academies's Title IX Coordinator, to the Assistant Secretary of the U.S. Department of Education, or both.

Accountability and Compliance. The Chief Executive Officer shall designate a Title IX Coordinator annually and ensure contact information is publicly available. The Title IX Coordinator shall:

- Receive, document, and respond to reports of sexual harassment.
- Coordinate investigations and ensure implementation of supportive measures.
- Oversee the school's grievance process, ensuring impartiality and compliance with Title IX.

- Provide annual training for staff, investigators, decision-makers, and facilitators of informal resolution processes.
- Maintain required records of reports, investigations, determinations, and training materials in compliance with federal law.
- Report annually to the Governing Board regarding implementation and compliance with this policy.

Cross Reference. This policy is adopted pursuant to Title IX and its implementing regulations, and shall be read in conjunction with the school’s Non-Discrimination Policy, Complaints, Grievances, and Whistleblower Policy, and the Civil Rights, Discrimination, Harassment, & Retaliation Complaints Regulation and related Exhibits.

Legal and Regulatory References.

Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681
 34 C.F.R. Part 106 (Title IX regulations)
 Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g
 Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d
 Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-2
 O.C.G.A. § 20-2-59 (Nondiscrimination in public schools)
 O.C.G.A. § 20-2-1185 (School safety plans)
 O.C.G.A. § 45-1-4 (Whistleblower protections)

Date	Description	Approved By
~ 11/1/2024	Initial policy adoption	Governing Board
10/23/2025	Revision:	Governing Board