

		SUBJECT  <b>TITLE IX, HARASSMENT, INTIMIDATION, DISCRIMINATION AND ANTI-BULLYING</b>	
DATE ISSUED <b>08/19/13</b>	DATE REVISED <b>08/11/2016</b> <b>06/13/2017</b> <b>12/5/2019</b>	NOVA POLICY #	
ISSUED BY	REVIEWED BY	APPROVED BY  <b>NOVA BOARD</b>	COA POLICY #

## SUBJECT

TITLE IX, HARASSMENT, INTIMIDATION, DISCRIMINATION AND BULLYING

## POLICY STATEMENT

The Board of Directors of NOVA Academy (“NOVA”) believes all students have the right to a safe and civil learning environment. Discrimination, sexual harassment, harassment, intimidation, and bullying are all disruptive behaviors which interfere with students’ ability to learn, negatively affect student engagement, diminish school safety, and contribute to a hostile school environment. As such, NOVA prohibits any acts of discrimination, sexual harassment, harassment, intimidation, and bullying related to school activity or school attendance. This policy is inclusive of instances that occur on any area of the school campus, at school-sponsored events and activities, regardless of location, through school-owned technology, and through other electronic means, consistent with this policy.

As used in this policy, “discrimination, sexual harassment, harassment, intimidation, and bullying” are described as the intentional conduct, including verbal, physical, written communication, or cyberbullying, including cyber-sexual bullying, based on the actual or perceived characteristics of disability, pregnancy, gender, gender identity, gender expression, nationality, ancestry, race or ethnicity, immigration and citizenship status, religion, religious affiliation, sexual orientation, childbirth or related medical conditions, marital status, age, or association with a person or group with one or more of these actual or perceived characteristics, or any other basis protected by federal, state, local law, ordinance or regulation. In addition, bullying encompasses any conduct described in the definitions set forth in this policy. Hereafter, such actions are referred to as “misconduct prohibited by this Policy.”

To the extent possible, NOVA will make reasonable efforts to prevent students from being discriminated against, harassed, intimidated and/or bullied, and will take action to investigate, respond, address, and report on such behaviors in a timely manner. NOVA staff who witness acts of misconduct prohibited by this Policy will take immediate steps to intervene, so long as it is safe to do so.

Moreover, NOVA will not condone or tolerate misconduct prohibited by this Policy by any employee, independent contractor or other person with whom NOVA does business, or any other individual, student, or volunteer. This Policy applies to all employees, students, or volunteer actions and relationships, regardless of position or gender. NOVA will promptly and thoroughly investigate any complaint of such misconduct prohibited by this Policy and take appropriate corrective action, if warranted.

Title IX, Harassment, Intimidation, Discrimination and Bullying Coordinator ("Coordinator"):

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## **Definitions**

### **Prohibited Unlawful Harassment**

- Verbal conduct such as epithets, derogatory jokes or comments or slurs
- Physical conduct including assault, unwanted touching, intentionally blocking normal movement or interfering with school or work because of sex, race or any other protected basis
- Retaliation for reporting or threatening to report harassment
- Deferential or preferential treatment based on any of the protected classes above

### **Prohibited Unlawful Harassment under Title IX**

Title IX (20 U.S.C. § 1681 *et. seq*; 34 C.F.R. § 106.1 *et. seq*) and California state law prohibit harassment on the basis of sex. In accordance with these existing laws, discrimination on the basis of sex in education institutions is prohibited. All persons, regardless of sex, are afforded equal rights and opportunities and freedom from unlawful discrimination in education programs or activities conducted by NOVA.

NOVA is committed to provide a workplace and educational environment free of sexual harassment and considers such harassment to be a major offense, which may result in disciplinary action.

Sexual harassment consists of sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when: (a) Submission to the conduct is explicitly or implicitly made a term or a condition of an individual's employment, education, academic status, or progress; (b) submission to, or rejection of, the conduct by the individual is used as the basis of employment, educational, or academic decisions affecting the individual; (c) the conduct has the purpose or effect of having a negative impact upon the individual's work or academic performance, or of creating an intimidating, hostile, or offensive work or educational environment; and/or (d) submission to, or rejection of, the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through the educational institution.

It is also unlawful to retaliate in any way against an individual who has articulated a good faith concern about sexual harassment against themselves or against another individual.

Sexual harassment may include, but is not limited to:

- Physical assaults of a sexual nature, such as:
  - Rape, sexual battery, molestation or attempts to commit these assaults
  - Intentional physical conduct that is sexual in nature, such as touching, pinching, patting, grabbing, brushing against another's body, or poking another's body
- Unwanted sexual advances, propositions or other sexual comments, such as:
  - Sexually oriented gestures, notices, remarks, jokes, or comments about a person's sexuality or sexual experience
  - Preferential treatment or promises of preferential treatment to an individual for submitting to sexual conduct, including soliciting or attempting to solicit any individual to engage in sexual activity for compensation or reward or deferential treatment for rejecting sexual conduct
  - Subjecting or threats of subjecting an employee or a student to unwelcome sexual attention or conduct or intentionally making the performance of the employee's job or the student's academic performance more difficult because of the employee's or student's sex

- Sexual or discriminatory displays or publications anywhere in the workplace or educational environment, such as:
  - Displaying pictures, cartoons, posters, calendars, graffiti, objections, promotional materials, reading materials, or other materials that are sexually suggestive, sexually demeaning or pornographic or bringing or possessing any such material to read, display or view at work or in the educational environment
  - Reading publicly or otherwise publicizing in the work or educational environment materials that are in any way sexually revealing, sexually suggestive, sexually demeaning or pornographic, and
  - Displaying signs or other materials purporting to segregate an individual by sex in an area of the workplace or educational environment (other than restrooms or similar rooms)

The illustrations of harassment and sexual harassment above are not to be construed as an all-inclusive list of prohibited acts under this Policy.

### **Prohibited Bullying**

Bullying is defined as any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act. Bullying includes one or more acts committed by a student or group of students that may constitute sexual harassment, hate violence, or creates an intimidating and/or hostile educational environment, directed toward one or more students that has or can be reasonably predicted to have the effect of one or more of the following:

- A. Placing a reasonable pupil\* or pupils in fear of harm to that pupil's or those pupils' person or property.
- B. Causing a reasonable pupil to experience a substantially detrimental effect on his or her physical or mental health.
- C. Causing a reasonable pupil to experience a substantial interference with his or her academic performance.
- D. Causing a reasonable pupil to experience a substantial interference with his or her ability to participate in or benefit from the services, activities, or privileges provided by NOVA.

\*"Reasonable pupil" is defined as a pupil, including, but not limited to, an exceptional needs pupil, who exercises care, skill and judgment in conduct for a person of his or her age, or for a person of his or her age with his or her exceptional needs.

**“Cyberbullying”** is an electronic act that includes the transmission of harassing communication, direct threats, or other harmful texts, sounds, or images on the Internet, social media, or other technologies using a telephone, computer, or any wireless communication device. Cyberbullying also includes breaking into another person’s electronic account and assuming that person’s identity in order to damage that person’s reputation.

**“Electronic act”** means the creation and transmission, originated on or off the schoolsite, by means of an electronic device, including, but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager, of a communication, including but not limited to, any of the following:

- A. A message, text, sound, video, or image.
- B. A post on a social network Internet Web site including, but not limited to:
  - a. Posting to or creating a burn page. A “burn page” means an Internet Web site created for the purpose of having one or more of the effects listed in the definition of “bullying,” above.
  - b. Creating a credible impersonation of another actual pupil for the purpose of having one or more of the effects listed in the definition of “bullying,” above. “Credible impersonation” means to knowingly and without consent impersonate a pupil for the purpose of bullying the pupil and such that another pupil would reasonably believe, or has reasonably believed, that the pupil was or is the pupil who was impersonated.
  - c. Creating a false profile for the purpose of having one of more of the effects listed in the definition of “bullying,” above. “False profile” means a profile of a fictitious pupil or a profile using the likeness or attributes of an actual pupil other than the pupil who created the false profile.
- C. An act of “Cyber sexual bullying” including, but not limited to:
  - a. The dissemination of, or the solicitation or incitement to disseminate, a photograph or other visual recording by a pupil to another pupil or to school personnel by means of an electronic act that has or can be reasonably predicted to have one or more of the effects described in definition of “bullying,” above. A photograph or other visual recording, as described above, shall include the depiction of a nude, semi-nude, or sexually explicit photograph or other visual recording of a minor where the minor is identifiable from the photograph, visual recording, or other electronic act.
  - b. “Cyber sexual bullying” does not include a depiction, portrayal, or image that has any serious literary, artistic, educational, political, or scientific value or that involves athletic events or school-sanctioned activities.
- D. Notwithstanding the definitions of “bullying” and “electronic act,” above, an electronic act shall not constitute pervasive conduct solely on the basis that it has been transmitted on the Internet or is currently posted on the Internet.

### **Bullying and Cyberbullying Prevention Procedures**

NOVA has adopted the following procedures for preventing acts of bullying, including cyberbullying.

## **1. Cyberbullying Prevention Procedures**

NOVA advises students:

- a. To never share passwords, personal data, or private photos online.
- b. To think about what they are doing carefully before posting and by emphasizing that comments cannot be retracted once they are posted.
- c. That personal information revealed on social media can be shared with anyone including parents, teachers, administrators, and potential employers. Students should never reveal information that would make them uncomfortable if the world had access to it.
- d. To consider how it would feel receiving such comments before making comments about others online.

NOVA informs Charter School employees, students, and parents/guardians of NOVA's policies regarding the use of technology in and out of the classroom. NOVA encourages parents/guardians to discuss these policies with their children to ensure their children understand and comply with such policies.

## **2. Education**

NOVA employees cannot always be present when bullying incidents occur, so educating students about bullying is a key prevention technique to limit bullying from happening. NOVA advises students that hateful and/or demeaning behavior is inappropriate and unacceptable in our society and at NOVA and encourages students to practice compassion and respect each other.

NOVA educates students to accept all student peers regardless of protected characteristics (including but not limited to actual or perceived sexual orientation, gender identification, physical or cognitive disabilities, race, ethnicity, religion, and immigration status) and about the negative impact of bullying other pupils based on protected characteristics.

NOVA's bullying prevention education also discusses the differences between appropriate and inappropriate behaviors and includes sample situations to help students learn and practice appropriate behavior and to develop techniques and strategies to respond in a non-aggressive way to bullying-type behaviors. Students will also develop confidence and learn how to advocate for themselves and others, and when to go to an adult for help.

NOVA informs NOVA employees, students, and parents/guardians of this Policy and encourages parents/guardians to discuss this Policy with their children to ensure their children understand and comply with this Policy.

### **3. Professional Development**

NOVA annually makes available the online training module developed by the California Department of Education pursuant Education Code section 32283.5(a) to its certificated employees and all other NOVA employees who have regular interaction with pupils.

NOVA informs certificated employees about the common signs that a student is a target of bullying including:

- Physical cuts or injuries
- Lost or broken personal items
- Fear of going to school/practice/games
- Loss of interest in school, activities, or friends
- Trouble sleeping or eating
- Anxious/sick/nervous behavior or distracted appearance
- Self-destructiveness or displays of odd behavior
- Decreased self-esteem

NOVA also informs certificated employees about the groups of students determined by NOVA, and available research, to be at elevated risk for bullying. These groups include but are not limited to:

- Students who are lesbian, gay, bisexual, transgender, or questioning youth (“LGBTQ”) and those youth perceived as LGBTQ; and
- Students with physical or learning disabilities.

NOVA encourages its employees to demonstrate effective problem-solving, anger management, and self-confidence skills for NOVA’s students.

#### Grievance Procedures

NOVA has adopted and published these grievance procedures providing for prompt and equitable resolution of student and employee complaints alleging any action which would be prohibited by Title IX.

#### REPORTING

All staff are expected to provide appropriate supervision to enforce standards of conduct and, if they observe or become aware of misconduct prohibited by this Policy, to intervene as soon as it is safe to do so, call for assistance, and report such incidents. The Board requires staff to follow the procedures in this policy for reporting alleged acts of misconduct prohibited by this Policy.

Any employee or student who believes they have been subject to misconduct prohibited by this Policy or has witnessed such prohibited misconduct is encouraged to immediately report such misconduct to the Coordinator:

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Complaints regarding such misconduct may also be made to the U.S. Department of Education, Office for Civil Rights.

While submission of a written report is not required, the reporting party is encouraged to use the report form available in the Main Office. However, oral reports shall also be considered official reports. Reports may be made anonymously, but formal disciplinary action cannot be based solely on an anonymous report.

Students are expected to report all incidents of misconduct prohibited by this Policy or other verbal or physical abuses. Any student who feels she/he is a target of such behavior should immediately contact a teacher, counselor, principal, Coordinator, a staff person or family member so that she/he can get assistance in resolving the issue in a manner that is consistent with this policy.

NOVA acknowledges and respects every individual's right to privacy. All reports shall be investigated in a manner that protects the confidentiality of the parties and the integrity of the process. This includes keeping the identity of the reporter confidential, as appropriate, except to the extent necessary to carry out the investigation and/or to resolve the issue, as determined by the Coordinator or administrative designee on a case-by-case basis.

NOVA prohibits any form of retaliation against any reporter in the reporting process, including but not limited to a reporter's filing of a complaint or the reporting of instances of misconduct prohibited by this policy. Such participation shall not in any way affect the status, grades or work assignments of the reporter.



All supervisors of staff will receive sexual harassment training within six (6) months of their assumption of a supervisory position and will receive further training once every two (2) years thereafter. All staff will receive sexual harassment training and/or instruction concerning sexual harassment in the workplace as required by law.

## INVESTIGATION

Upon receipt of a report of misconduct prohibited by this Policy from a student, staff member, parent, volunteer, visitor or affiliate of NOVA, the Chief Executive Officer or designee will promptly initiate an investigation. At the conclusion of the investigation, the Chief Executive Officer or designee will notify the complainant of the outcome of the investigation. However, in no case may the Chief Executive Officer or designee reveal confidential information related to other students or employees, including the type and extent of discipline issued against such students or employees.

Complaints shall be investigated and resolved as expeditiously as possible, but not to exceed thirty (30) school days unless circumstances reasonably require additional time.

All records related to any investigation of complaints under this Policy are maintained in a secure location in the Main Office.

In those instances when the complaint filed under this policy also requires investigation under the Uniform Complaint Procedures, such investigation will be undertaken concurrently.

## APPEAL

Should the Complainant find the Chief Executive Officer or designee resolution unsatisfactory, he/she may within five (5) school days of the date of resolution, file an appeal with the Designated Appeals Committee. In such cases, at least three (3) certificated NOVA employees who are unfamiliar with the case and who have been previously designated and trained for this purpose shall be assembled to conduct a confidential review of the Complainant's appeal and render a final disposition.

## CONSEQUENCES

Students or employees who engage in misconduct prohibited by this Policy will be subject to disciplinary action.

## UNIFORM COMPLAINT PROCEDURES

When harassment, discrimination, intimidation or bullying is based upon one of the protected characteristics set forth in this Policy, a complainant may also fill out a Uniform Complaint Procedures (“UCP”) complaint form at any time during the process.

**NOVA CHARTER SCHOOL**

**TITLE IX, HARASSMENT, INTIMIDATION, DISCRIMINATION & BULLYING COMPLAINT FORM**

Your Name: \_\_\_\_\_ Date: \_\_\_\_\_

Date of Alleged Incident(s): \_\_\_\_\_

Name of Person(s) you have a complaint against: \_\_\_\_\_

List any witnesses that were present: \_\_\_\_\_

Where did the incident(s) occur? \_\_\_\_\_

Please describe the events or conduct that are the basis of your complaint by providing as much factual detail as possible (i.e. specific statements; what, if any, physical contact was involved; any verbal statements; what did you do to avoid the situation, etc.) (Attach additional pages, if needed):

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**I hereby authorize NOVA to disclose the information I have provided as it finds necessary in pursuing its investigation. I hereby certify that the information I have provided in this complaint is true and correct and complete to the best of my knowledge and belief. I further understand providing false information in this regard could result in disciplinary action up to and including termination.**

\_\_\_\_\_  
Signature of Complainant

Date: \_\_\_\_\_

\_\_\_\_\_  
Print Name

**To be completed by the Charter School:**

Received by: \_\_\_\_\_ Date: \_\_\_\_\_

Follow up Meeting with Complainant held on: \_\_\_\_\_