



**Momentum Academy ("The School")**

**TITLE IX POLICY (SEXUAL HARASSMENT)**

Title IX of the Federal Education Amendments Act protects people from discrimination based on sex in education programs or activities that receive Federal financial assistance. The School does not discriminate on the basis of sex and adheres to all conditions established by Title IX by recognizing the right of every student who attends the School to do so without the fear of sexual harassment.

The School is committed to maintaining an educational and working environment free from sex discrimination and harassment and encourages any student or employee who believes they have been subjected to discrimination on the basis of sex, whether by students or by School employees, to utilize this procedures set out in this Policy. The protections of this Policy apply to all students, employees, parents, and visitors to School property or School-sponsored activities or events.

The School shall identify an employee to serve as the Title IX Coordinator and authorize that individual to coordinate and facilitate the School's compliance efforts regarding its responsibilities under Title IX. Inquiries about the application of Title IX or formal complaints should be directed to the School's Title IX Coordinator:

**Title IX Coordinators:**

**Nicole Lampert**

Director of Federal Programs

Title IX Coordinator

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The contact information for the Title IX Coordinator and the School's nondiscrimination notice will be prominently posted on the School's website and in any student or employee handbooks. Any documents used to train the Title IX Coordinator, investigators, decision makers and others involved in the grievance process will be posted on the School's website. In addition, the School will notify students, parents or guardians of students, employees, applicants for admission and employment, and unions or similar employee professional organizations that have an agreement with the School of this Policy and the grievance procedures included in this Policy, including how to report sexual harassment and how the School will respond to such reports. The required notification may be accomplished in any way that the School deems appropriate and effective.

Any person may report sex discrimination, including sexual harassment, regardless of whether the person reporting is the person alleged to be the victim of the reported conduct or not. A report may be made in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Complaints of sex discrimination that are not sexual harassment will be handled pursuant to the School's regular procedures for resolving student or employee grievances promptly and equitably. Formal complaints of sexual harassment will be handled using the grievance procedure set forth in this Policy.

The School is committed to offering supportive services to every Complainant regardless of whether a formal complaint is submitted, to investigating each formal complaint submitted and to taking appropriate action on all confirmed violations of Policy. The School shall follow grievance procedures that provide for the prompt and equitable resolution of formal complaints from students and employees alleging sexual harassment.

## Definitions Used in this Policy

The following definition of sexual harassment has been established by the Title IX regulations and implemented by the School in regard to this Policy.

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 of the School on an individual'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 person equal access to the School's education program or activity; or
3. "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).

**Complainant:** Any person who is participating in or attempting to participate in the School's education or employment programs and/or activities and who is alleged to be the victim of conduct that could constitute sexual harassment.

**Respondent:** A person who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

**Party/Parties:** All Complainant(s) and Respondent(s) involved in a formal complaint; formal complaints may involve multiple Complainants and/or Respondents

**Formal Complaint:** A document filed by a Complainant or one that is signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the School investigate the allegation of sexual harassment.

**Actual Knowledge:** Notice of sexual harassment or allegations of sexual harassment to the School's Title IX Coordinator or any official of the School who has the authority to institute corrective measures on behalf of the School, or to any employee of the School.

**Program or Activity:** Any location, events or circumstances over which the School exhibits substantial control over both the alleged harasser and the context in which the harassment occurred.

**Supportive Measures:** Non-disciplinary, non-punitive, individualized services offered as appropriate and as reasonably available, and without fee or charge to a Complainant or Respondent before or after the filing of a formal complaint or where no formal complaint has been filed, which are designed to restore or preserve equal access to education or employment programs and/or activities without unreasonably burdening the other party, including measures designed to protect the safety of parties or the educational/work environment or to deter sexual harassment.

## Allegations of Sexual Harassment

Upon receiving notification of alleged sexual harassment the Title IX Coordinator shall promptly and confidentially contact the Complainant to discuss the availability of supportive measures, 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 the process for filing a formal complaint, if applicable.

The Title IX Coordinator shall offer supportive measures to the Complainant, either before or after the filing of a formal complaint or following a report where no complaint has been filed. Supportive measures may include, but are not limited to counseling, class modifications or class schedule changes, and/or increased monitoring and supervision, as deemed appropriate by the Title IX Coordinator.

## Grievance Process Generally

The investigator, decision maker and appeal officer involved in the investigation of a formal complaint shall not be the same person and although the Title IX Coordinator may also be the investigator, the Title IX Coordinator shall not serve as the decision maker or appeal officer in any investigation

In the event that any person involved in an investigation has a concern that the designated investigator, decision-maker, or appeal officer may have a bias or conflict of interest, or for any other reason, the Title IX Coordinator will evaluate the situation and determine in their sole discretion whether to designate a different internal investigator, decision-maker, or appeal officer. In their sole discretion, the Title IX Coordinator may choose to retain an outside investigator, decision-maker, or appeal officer.

Prior to a determination of responsibility for the conduct alleged, the School may remove a student who is a Respondent from the School's educational program or activity on an emergency basis, only when such removal is necessary to protect the student or another individual from an immediate threat to physical health or safety. If a student has an IEP or a Section 504 Plan, the decision to remove the student on an emergency basis must be coordinated with the School's special education staff and in compliance with relevant IDEA or Section 504 requirements. The School may place an employee who is a Respondent on administrative leave while allegations are investigated and resolved in accordance with this Policy.

The School will attempt to complete the grievance process within 60 school days, not including any time for an appeal of the Determination of Responsibility. The grievance process may be temporarily delayed and/or timelines may be extended for good cause with written notice to the parties explaining the reason(s) for the delay or extension.

Title IX sexual harassment complaints may include violations covered in A.R.S. § 13-3620, *Duty to report abuse, physical injury, neglect and denial or deprivation of medical or surgical care or nourishment of minors; medical records; exception; violation; classification; definitions*. Any abuses classified by statute as "reportable offenses" must be reported as such to local law enforcement authorities, as not reporting a reportable offense is classified as a Class 6 Felony. When the Title IX Coordinator, investigator, decision-maker, or appeal officer reasonably believe that a law enforcement investigation will commence in regard to the sexual harassment reported to the School, they reserve the right to temporarily suspend the grievance process and investigative efforts, but will continue supportive measures as appropriate; unless in conjunction with the law enforcement authorities it is determined that continuation of the internal investigation during a pending law enforcement investigation is permissible and necessary. If the investigation has been delayed due to a law enforcement investigation, as soon as the School becomes aware that the law enforcement investigation has concluded, the grievance process will resume. A finding by law enforcement that no wrongdoing occurred will not determine the outcome of the School's investigation but will be considered along with the other evidence.

## Grievance Process for Formal Complaints

A Complainant may file a formal complaint by submitting the complaint in person, by mail, by telephone, or by e-mail to the Title IX Coordinator or designee. If a verbal report of sexual harassment is made, the Complainant will be asked to submit a written complaint. If a Complainant refuses or is unable to submit a written complaint, the Compliance Coordinator or other School employee to whom the report was made will summarize the verbal complaint in writing and sign the summary.

If a Complainant does not file a formal complaint, the Title IX Coordinator in their sole discretion may sign a formal complaint and initiate the grievance process. The Title IX Coordinator will initiate the grievance process over the wishes of the Complainant only where such action is not clearly unreasonable in light of the known circumstances.

A complaint should be filed immediately after alleged sexual harassment occurs and as soon as possible in order to ensure the best possible investigation. Delay in filing can result in an impaired investigation due to lack of sufficient evidence and a compromised ability to rely on recollections of parties and witnesses.

Following the filing of a formal complaint, the Title IX Coordinator will provide written notice to the Complainant and the Respondent of the allegations of the formal complaint and the grievance process, including any informal resolution process. The notice of the allegations must include

- Sufficient detail to allow the Respondent to prepare a response, including a description of the conduct alleged, the date and location of the conduct and the names of the Complainant and other involved parties, if any.
- A statement that the Respondent is presumed not to be responsible for the conduct and that responsibility will be determined at the conclusion of the process.
- A notice of the Complainant's and Respondent's rights to have an attorney or non-attorney advisor.
- The right of Complainant and Respondent to inspect and review any evidence.
- The prohibition on providing false statements or evidence in connection with the investigation of the complaint.

If additional allegations arise during an investigation and will be investigated, the Title IX Coordinator or investigator will provide written notice of those additional allegations to both the Complainant and Respondent.

## Informal Resolution

After a formal complaint has been filed and at any time during the grievance process before a determination is reached, allegations may be resolved informally only if a formal complaint is filed and only if the complaint does not allege that a School employee harassed a student. Both parties to a formal complaint must voluntarily agree in writing to participate in an informal resolution process. As part of the informal resolution process, the Title IX Coordinator may engage in interviews and other fact finding. Available methods of informal resolution include arbitration, mediation, and restorative justice procedures. Either party may withdraw from an informal resolution at any time before agreeing to a resolution and resume the grievance process. Once an informal resolution is agreed to by the parties, it becomes binding. The Title IX Coordinator has the discretion to decline informal resolution for some complaints, including complaints of sexual violence, and instead require a formal investigation.

## Summary Dismissal

If the Title IX Coordinator or investigator determines that the allegations in a formal complaint, with all facts assumed to be true for this purpose, do not meet the definition of “sexual harassment” under the applicable Title IX regulations, did not occur in the School’s educational program or activity, or did not occur against a person in the United States, the Title IX Coordinator or investigator *shall* summarily dismiss the formal complaint. The Title IX Coordinator or investigator *may* dismiss a formal complaint if the Complainant requests withdrawal of the complaint, the Respondent withdraws from the School or terminates their employment with the School, or specific circumstances prevent the School from gathering appropriate evidence to make a determination regarding the allegations.

Upon dismissal of a formal complaint or any allegations contained in a formal complaint, the Title IX Coordinator will promptly and simultaneously provide written notice of the dismissal and the reason(s) for the dismissal to the Complainant and Respondent. If a complaint is summarily dismissed, the School may nevertheless take whatever additional disciplinary action it deems appropriate against the Respondent under its Student Code of Conduct and procedures related thereto.

## Investigation

The investigation will be premised on a presumption that the Respondent is not responsible for the alleged act(s) of sexual harassment, and both parties will be treated equitably during the investigation. The burden of proof is on the School to prove a violation of this Policy by a preponderance of the evidence, which means that it is more likely than not that the Respondent engaged in the prohibited behavior.

This Policy prohibits the Complainant, the Respondent, and any witnesses from knowingly making a false statement or providing false evidence in connection with a Title IX investigation. The School may take disciplinary action under the Student Code of Conduct or Employee Handbook against individuals who make such false statements.

Both the Complainant and the Respondent will have a reasonable opportunity to present witnesses and other evidence to the investigator. The investigator will meet with each party and give them at least 24 hours’ advance written notice of the date, time, location, and purpose of any interview that will be conducted. The School will not restrict the ability of either party to discuss the allegations and gather evidence related to the allegations of the formal complaint.

The designated investigator will interview the Complainant, the Respondent, any witnesses identified by either party, and review relevant records. School employees and students are required to fully participate in investigations, but in no event will a party be subjected to any disciplinary sanctions or consequences for refusing or failing to participate.

Before the investigator prepares the final investigation report, the Complainant, the Respondent and their advisors (if any) will be provided with an equal opportunity to review all evidence that is directly related to the allegations in the formal complaint. If possible, the evidence will be provided to the parties in an electronic format and manner that does not permit copying or downloading of the evidence. The evidence provided must include any evidence that the investigator does not intend to rely upon, and any exculpatory or inculpatory evidence from any source. Within 10 calendar days of the date on which they were provided with access to the evidence, the parties may prepare and submit to the investigator a written response to the evidence, which the investigator must consider before preparing a final, written investigation report. Following the expiration of the date on which the parties may provide responses to the evidence, the investigator will promptly prepare and issue a written investigation report that fairly summarizes the relevant evidence discovered during the investigation, but no determination of responsibility will be made by the investigator.

## Determination of Responsibility

The written investigation report and any responses submitted by the Complainant and/or Respondent will be provided to the School's assigned Decision Maker, who will make the determination regarding responsibility. The Decision Maker will provide each party with an opportunity to submit written, relevant questions for any party or witness within 5 calendar days of the date on which the Decision Maker is provided with a copy of the final written investigation report and any responses to the report.

If written questions are submitted, the Decision Maker will promptly provide the questions to the appropriate individual so the individual can provide answers to the questions. Answers to the questions must be provided to the Decision Maker within 5 calendar days of the date on which they are provided. The Decision Maker will promptly provide each party with the answers to the questions and allow for additional, limited follow-up questions in writing from both the Complainant and Respondent within 3 calendar days. If written follow-up questions are submitted to the Decision Maker, the Decision Maker will promptly obtain the answers and provide both parties with the responses to the additional questions. Any questions regarding a Complainant's prior sexual behavior or sexual predisposition will be deemed irrelevant unless they are offered to provide evidence that someone other than the Respondent committed the alleged misconduct or are offered to prove consent.

No sooner than 10 calendar days after receiving the investigation report, the Decision Maker will issue a written determination of responsibility (the "Determination") that includes:

- A statement of the allegations;
- A description of the procedural steps taken from 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;
- The findings of fact supporting the Determination;
- Conclusions regarding the application of the School's code of conduct to the facts;
- A statement of and rationale for the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the School imposes on the respondent, and whether remedies designed to restore or preserve equal access to the School's education program or activity shall be provided to the Complainant; and

- A description of the right to an appeal, how to request and appeal, and the permitted bases for an appeal.

The deadline for the Decision Maker to issue the Determination may be extended for good cause at the Decision Maker's sole discretion. The Determination must be based upon a preponderance of the evidence (i.e., whether it is more likely than not that the violation occurred). The Complainant and the Respondent will be notified concurrently of the Determination.

Students found to have violated Title IX will be referred for potential disciplinary action. Employees found to have violated Title IX will be subject to employment actions, including discipline or termination of employment.

## Appeals

Either the Complainant or the Respondent may appeal from: (a) the Determination regarding a formal complaint, (b) the School's handling of a report, or (c) the dismissal of a formal complaint, by submitting a written notice of appeal that includes the bases of the appeal to the Decision Maker within 10 calendar days of the date of the Determination. No hearing will be held for an appeal.

Written notice of the appeal will be provided to both parties by the School. Either party may file a written response in support of or challenging the Determination and the bases for the appeal within 5 calendar days of the date on which written notice of the appeal was provided to all parties.

An appeal may be filed on the following bases only:

- A procedural irregularity affected the outcome of the matter;
- There is newly discovered evidence that could affect the outcome of the matter and that was not available at the time the Determination was made; and/or
- The Title IX Coordinator, the investigator or the Decision Maker had a conflict of interest or bias that affected the outcome of the matter.

The Parties will simultaneously be provided with a written decision regarding the appeal, which will describe the result of the appeal and the rationale for the decision.

## Confidentiality and Retention of Investigation Information and Records

Except as necessary to complete a thorough and effective investigation and grievance process under this policy and as required by law or School policy, the identity of Complainants, Respondents, and witnesses, information related to investigations, evidence gathered, and records created during investigations will be maintained in strict confidence.

In implementing this policy, the School will comply with state and federal laws regarding the confidentiality of student and employee records. Information and records regarding any disciplinary sanctions imposed on an employee or student will be maintained and disclosed in the same manner as any other disciplinary record.

The Title IX Coordinator will retain investigation files for a time period of no less than 7 years, and investigation determination notices will be permanently retained in individual employee and student files. The records maintained by the School will document that the School's response to allegations of sexual harassment was not deliberately indifferent and that measures were taken to restore or preserve equal access to the School's educational program or activity. If the School did not offer supportive measures in response to a report made under this Policy, the School's records will document why that response was not clearly unreasonable under the circumstances known at the time.

## Training

The School will provide annual training to employees on identifying and reporting acts that may constitute discrimination, harassment or retaliation. The Title IX Coordinator, designated investigators, designated decision-makers, designated appeal officer, and any School employees who are designated to facilitate informal resolution processes, will receive additional training on this policy and implementation of the grievance process at least as often as required by the Title IX Regulations.













## Title IX Coordinators

Student Support Services Director • Operations





