Vista Charter School Nondiscrimination/Equal Opportunity Policy

I. Purpose and Scope

Schools must adopt a nondiscrimination/equal opportunity policy prohibiting discrimination on the basis of a protected class. This policy is established by Vista Charter School utilizing the CSI sample Nondiscrimination/Equal Opportunity Policy framework. While this sample language provides a helpful starting point, the policy is tailored to the school's own practices and preferences within the confines of statutory requirements. This document may not be inclusive of everything a school could have in its Non-Discrimination Policy, and the school is encouraged to have all policies reviewed by legal counsel prior to adoption.

The school is committed to providing a safe learning and work environment where all members of the school community are treated with dignity and respect. It is critical to this commitment that anyone who may have experienced discrimination or harassment in the context of the school's educational programs, activities, or employment can report their concerns without fear of retaliation. This policy is designed to foster a climate that provides preventative measures and encourages the reporting of discrimination and harassment and related retaliation.

The school administrators will engage in prevention efforts, train the school community, respond to all complaints promptly, provide supportive measures, and develop fair and equitable processes to investigate and address complaints of discrimination and harassment, and related retaliation, and ensure all parties are treated fairly and impartially. This policy defines prohibited conduct and guides individuals to the specific policy governing the applicable reporting and response processes.

II. Governing Frameworks & Grievances

Complaints and investigations are processed through targeted procedural tracks based on the nature of the allegation:

- Complaints of harassment or discrimination against a student and complaints of bullying against a student based on membership in a protected class should be made pursuant to the school's Harassment and Discrimination Investigation Procedures for Students Policy.
- Complaints under Title IX should be made under the school's Sex-based Harassment Investigation Procedures Policy.
- Supportive measures and prompt response times are required components of all policies.

III. Definitions

- **"Bullying"**: Any written or oral expression, physical or electronic act or gesture, or a pattern thereof, that is intended to coerce, intimidate, or cause any physical, mental or emotional harm to another. Bullying is student-on-student behavior. The school's Bullying Prevention and Education Policy has more details on the definition of bullying, the prevention process, and the reporting process. If the bullying is based on a student's protected class, the behavior may constitute discrimination or harassment. Bullying based on a student's protected class should be addressed through the school's Bullying Prevention and Education Policy.
- **"Protected Classes"**: Include race, color, gender, sex, sexual orientation, gender identity or expression, transgender status, religion, national origin, immigration/citizenship status, ancestry, age,

pregnancy, marital status, veteran status, disability, family composition and genetic information of an employee or applicant for employment.

- **"Race"**: Includes hair texture, hair type, hair length, or a protective hairstyle, such as braids, locs, twists, tight coils or curls, cornrows, Bantu knots, afros, and headwraps, that is commonly or historically associated with race.
- **"Sexual Orientation"**: An individual's identity (or another person's perception of their identity), in relation to the gender(s) to which the individual is sexually or emotionally attracted and the behavior or social affiliation that may result from the attraction.
- **"Gender Expression"**: An individual's way of reflecting and expressing gender to the outside world, typically demonstrated through appearance, dress, and behavior.
- **"Gender Identity"**: An individual's innate sense of the individual's own gender, which may or may not correspond with the individual's sex assigned at birth.
- **"Harassment"**: Any unwelcome, physical or verbal conduct or any written, graphic, or visual communication directed at a student, employee, applicant, or member of the public based on their protected class that is objectively offensive to a reasonable individual who is a member of the same protected class. Harassment depends on several evaluation factors, and must also meet specific criteria based on the individual's role:
    - **For a student**: Is either made a term or condition of access to educational services, is used or threatened to be used as a basis for educational decisions affecting the student, interferes with a student's ability to participate in the school's educational services, or creates an intimidating, hostile, or offensive educational environment.
    - **For an applicant or an employee**: Is subjectively offensive to the individual alleging harassment, is made a term or condition of employment, is used as a basis for employment decisions affecting the individual, unreasonably interferes with the individual's work performance, or creates an intimidating, hostile, or offensive working environment.
    - **For a member of the community**: Is subjectively offensive to the individual alleging harassment, and unreasonably interferes with a community member's ability to participate in the school's services, activities, or opportunities.
- **"Discrimination"**: Occurs when a student or community member is denied or limited in the ability to participate in or benefit from the school's services, activities, or opportunities on the basis of their protected class. Discrimination also occurs when the school fails or refuses to hire an employee, discharges an employee, or otherwise treats an employee differently with respect to compensation, terms, conditions, privileges, opportunities, or status on the basis of their protected class. Harassment of a student, employee, or community member is a form of discrimination.
- **"Retaliation"**: Intimidating, threatening, coercing, or discriminating against an individual who has reported an incident of harassment, discrimination, or bullying. Retaliation includes charges against a student for code of conduct violations related to the incident for the purpose of punishing a student for making a report or otherwise interfering with a student's rights under this policy.
- **"Sex-based Harassment"**: Under Title IX, this is conduct on the basis of sex that could include unwelcome sexual advances, requests for sexual favors, or other unwelcome physical or verbal conduct or communication of a sexual nature. Because Title IX's definition of sex-based harassment is a federal standard, the definitions and procedures differ slightly from sex-based harassment under state law. More information on sex-based harassment can be found in the school's Sex-based Harassment Investigation Procedures Board policies.
- **"Respondent"**: A student or employee who has been reported to have engaged in conduct that could constitute harassment.
- **"Complainant"**: A student, employee, or community member alleged to have experienced discrimination or harassment. A complainant may or may not be the reporting party.

- **"Reporting Party"**: A person who raises a concern or allegation of discrimination or harassment on behalf of a complainant with the compliance officer. Any school student, employee, or community member may be a reporting party.
- **"Compliance Officer"**: The school employee who is responsible for coordinating and overseeing the school's discrimination and harassment prevention and response efforts. Among other responsibilities, the compliance officer will coordinate and oversee the school's discrimination and harassment investigation, consultation, recordkeeping, monitoring, and training processes. To facilitate this work, all school employees must inform the compliance officer of all reports and complaints raising discrimination and harassment issues implicating this policy. The compliance officer may appoint a designee to perform any of their assigned duties, including performing the investigation and issuing the report.
- **"Supportive Measures"**: Individualized services to restore or preserve equal access to education, protect student and employee safety, or deter harassment and discrimination. Supportive measures may be provided regardless of whether a complaint has been filed.
- **"Title IX Coordinator"**: The employee designated by the school to coordinate its efforts to comply with Title IX of the Education Amendments and the school's Title IX program. Contact info: [Insert Title IX Coordinator's Name, Title, and Contact Information (Address, Phone Number, and Email)].

Factors Contextualizing Harassment

Whether conduct constitutes harassment depends on several factors, including, but not limited to:

- The type, frequency, and duration of the conduct.
- The number of individuals involved and their relationships.
- The age and education level of individuals involved.
- The location and context in which the conduct occurred.
- Whether the conduct is threatening or any real or perceived power differential exists.
- Any use of stereotypes, epithets, slurs, or degrading conduct or communication.
- Whether the conduct includes an act of physical violence.
- The effect on the complainant's education or employment, if applicable.

Permitted Supportive Measures Options

Supportive measures may include, but are not limited to:

- Counseling.
- Extensions of deadlines or other course-related adjustments.
- Extra time for homework or tests.
- The opportunity to resubmit homework or retake a test.
- Remedying an impacted grade.
- Excused absences.
- The opportunity for home instruction.
- Modifications to class schedules.
- Restrictions on contact between the parties to a complaint of harassment or discrimination.

IV. General Prohibitions

Discrimination, harassment, and bullying on the basis of a protected class are prohibited at any school or school-sanctioned activity or event, on any school property (or off school property when such conduct has a connection to the school), or any school curricular or non-curricular activity or event. Retaliation for reporting harassment or for participating in any way in an investigation of harassment or discrimination is also prohibited.

No student, employee, or member of the public may be subject to adverse treatment in retaliation for any good faith complaint of harassment or discrimination under this policy.

V. Student Chosen Names Overview

Harassment or discrimination includes the knowing or intentional use of a name other than a student's chosen name, or the refusal to use a student's chosen name. The school will honor a student's request to use a chosen name (or a preferred first name such as a nickname) and may include the student's chosen name on school records by following the processes outlined explicitly within the school's standalone Name Changes Policy.

VI. School Action and Investigation Procedures

The school encourages anyone—students, parents and family members, volunteers, educators, or staff members—who witness bullying, harassment, discrimination, or retaliation to report the conduct by making a complaint in accordance with the appropriate Board policy. All school staff who witness or receive complaints of harassment or discrimination are required to promptly share any such complaints with the compliance officer.

The school will take appropriate action to promptly and impartially investigate allegations of discrimination and harassment, to end unlawful behavior, to prevent the recurrence of such behavior, and to prevent retaliation against the individual who files the complaint and/or any person who participates in the investigation. When appropriate, the school will take additional action during the investigation to protect against further discrimination, harassment, or retaliation.

- To the extent possible, all complaints of discrimination and harassment will be kept confidential.
- Students or employees who knowingly file false complaints or give false statements in an investigation may be subject to discipline, up to and including suspension/expulsion for students and termination of employment for employees.
- Upon determining that incidents of discrimination or harassment are occurring in particular school settings or activities, the school will implement measures designed to stop the discrimination or harassment and otherwise remedy the problem in those areas or activities.
- Any student or employee who engages in discrimination or harassment will be disciplined according to applicable Board policies, and the school will take reasonable action to restore lost educational or employment opportunities to the complainant(s) and others impacted.
- The compliance officer will refer any potential criminal charges to law enforcement.

VII. Notice and Training Requirements

The school will issue a written notice prior to the beginning of each school year that advises students, parents, employees, and the general public that the educational programs, activities, and employment opportunities offered by the school are offered without regard to disability, race, creed, color, sex, sexual orientation, gender identity, gender expression, family composition, marital status, national origin, religion, ancestry, or need for special education services. With respect to employment practices, the written notice will prohibit discrimination on the basis of age, genetic information, and conditions related to pregnancy or childbirth.

- The announcement will also include the name, address, email address, and telephone number of the person(s) designated to coordinate Title IX, Section 504, and ADA compliance activities.
- Where possible, the notice will be disseminated to persons with limited English language skills in the person's own language.
- It will also be made accessible to persons who are visually or hearing impaired.

- This policy and the corresponding Board policies, which include the grievance process, must be prominently posted on the school's website in plain language, and made available to all students, parents, and staff through electronic or hard-copy distribution.
- Students and school employees will receive periodic training related to recognizing, reporting and preventing discrimination and harassment.
- School employees must receive additional training related to handling reports of discrimination and harassment.

The standard employee training will comply with Colorado state law and will include, but not be limited to, instruction on the following:

- Recognizing harassment or discrimination, including indicators of grooming and child sexual abuse.
- The appropriate immediate response when harassment or discrimination is reported to or witnessed by an employee.
- Reporting harassment or discrimination to the school.

VIII. Legal References

- 20 U.S.C. 1681 (Title IX, Education Amendments of 1972)
- 20 U.S.C. 1701-1758 (Equal Educational Opportunities Act of 1974)
- 29 U.S.C. 621 et seq. (Age Discrimination in Employment Act of 1967)
- 29 U.S.C. 701 et seq. (Section 504 of the Rehabilitation Act of 1973)
- 42 U.S.C. 12101 et seq. (Title II of the Americans with Disabilities Act)
- 42 U.S.C. 2000d (Title VI of the Civil Rights Act of 1964, as amended in 1972)
- 42 U.S.C. 2000e (Title VII of the Civil Rights Act of 1964)
- 42 U.S.C. 2000ff et seq. (Genetic Information Nondiscrimination Act of 2008)
- 34 C.F.R. Part 100 through Part 110 (civil rights regulations)
- C.R.S. 2-4-401(3.4) (definition of gender expression)
- C.R.S. 2-4-401(3.5) (definition of gender identity)
- C.R.S. 2-4-401(13.5) (definition of sexual orientation)
- C.R.S. 18-9-121 (bias-motivated crimes)
- C.R.S. 22-1-143 (definition of harassment or discrimination)
- C.R.S. 22-1-145 (use of a student's chosen name)
- C.R.S. 22-32-109(1)(ll) (Board duty to adopt written policies prohibiting discrimination)
- C.R.S. 22-32-110(1)(k) (definition of racial or ethnic background includes hair texture; definition of protective hairstyle)
- C.R.S. 24-34-301 et seq. (Colorado Civil Rights Division)
- C.R.S. 24-34-301(3.3) (definition of gender expression)
- C.R.S. 24-34-301(3.5) (definition of gender identity)
- C.R.S. 24-34-301(7) (definition of sexual orientation)
- C.R.S. 24-34-402 et seq. (discriminatory or unfair employment practices)
- C.R.S. 24-34-402(1.3)(a) (definition of "harass" or "harassment")
- C.R.S. 24-34-402.3 (discrimination based on pregnancy, childbirth or related conditions; notice of right to be free from such discrimination must be posted "in a conspicuous place" accessible to employees)
- C.R.S. 24-34-601 (unlawful discrimination in places of public accommodation)
- C.R.S. 24-34-602 (penalty and civil liability for unlawful discrimination)

Adopted: XXX, 20XX