



**Backus, Dawson & Smith, PC**  
**Foundation & Charitable Giving - 2022 Update**  
**Peter N. Dawson, Partner**

*- You'll never see a U-Haul behind a hearse... Now, I've been blessed to make hundreds of millions of dollars in my life. I can't take it with me, and neither can you. It's not how much you have but what you do with what you have. - Denzel Washington*

## **Charity - The Why**

In my mind, the purest definition of charity is doing for another what they are unable to do for themselves.

Every organization needs money to survive, whether that is a business, non-profit, or governmental entity. Money is essential. However, money is the third most important item in any organization. The first two elements of success in an organization are vision and people. Those looking to give to a non-profit don't give money, simply to just give money. They give because they believe in the vision, mission and people that work in and are part of the organization. Those donors want to be part of something bigger than themselves. Leaving a legacy that they were here and acknowledging that life is much more than stuff and a bank account.

Acknowledging that money is the life blood of all organizations, but comes after critical visions are defined and quality people are rallied to the cause... how does an organization go about accessing the vast sums of money "available" to non-profit organizations? Most people want to help, but few know the best way to give to a non-profit organization. Further, people want to be asked for help, don't assume. The primary goal in writing this overview is to discuss how to make the "ask" simple, direct and informative to get out the message regarding your non-profit.

## **Forms of Giving - The How**

### **I. Donate Appreciated Stock**

A. An example: An individual committed to donate \$1,000 to the non-profit organization.

B. In this scenario, this person has a marginal federal tax rate of 24% and Utah rate of 4.95%, if cash were given that means, that person has to make \$1,407.46 in order to donate \$1,000.

1. Itemization can help mitigate this result... however, many are ineligible for itemization;
2. Even if eligible, charitable donations have caps set on them with many variables;
3. Itemization is subject to Alternative Minimum Tax (AMT) potentially reducing the benefit of the donation.

C. Let's say instead the person decides to sell stock that had been held for long-term capital gain (LTCG, one year). That person's federal rate is 15% and Utah rate is 4.95%. They are selling a stock that had a basis of \$700.

1. That stock would now need to be worth approximately \$1,075, in order to donate \$1,000 to the charity.

D. A better alternative instead is to donate the stock directly to the charity.

1. The charity in this scenario would receive \$1,075;
2. If the stock was held for at least a year, and the donor is able to itemize, then the donor is able to deduct the full \$1,075 from their taxes;
3. No tax is paid, there is no increase in Adjusted Gross Income (AGI), and the AGI of the donor is decreased;
4. This is a triple tax benefit! Amazing bang for the buck!

E. It should be noted that if someone wants to donate stock that has a loss, they will typically want to sell the stock, realize the loss, and then donate cash.

## II. Required Minimum Distributions (RMDs)

A. Forced withdrawal (RMDs) of qualified monies starts at age 72.

B. As mentioned above, many older individuals do not qualify for itemized deductions, as many itemized items like mortgage interest are no longer applicable at older ages due to the home being paid off, and reduced deductions in other areas as well.

C. The law allows someone to donate directly from an IRA to a charity.

1. The cap is a \$100,000 each year;
2. Amounts donated in this manner count as RMDs and are not part of the donor's AGI;
3. With high standard deduction amounts this can be very tax advantageous.

## III. RMDs Continued

A. Once the above strategy is exhausted or potentially not utilized, additional RMDs can be used to leverage life insurance purchases. This idea is utilized frequently when RMDs are not needed to sustain the donor's quality of life.

1. A comparatively small amount of premium can be utilized to purchase a much larger life insurance policy;

2. Premiums will vary based on health and age of the donor.

B. An example: say a donor would like to give \$500,000 to a charity, but does not want to gift it immediately, the donor could instead purchase a \$500,000 life insurance policy and use RMDs to pay for the policy.

1. Could draft an Irrevocable Life Insurance Trust (ILIT) to hold the assets outside the estate of the donor

#### **IV. Charitable Remainder Trust (CRT)**

A. The donor places stock, real estate, or other assets into a specially drafted trust.

1. The donor will receive a partial tax deduction.

B. During the lifetime of the donor, the donor or another specified beneficiary receives income from the trust.

1. A substantial benefit is that the income continues for the lifetime of the donor and is coupled with charitable intentions of the donor

C. Upon the death of the donor, the non-profit organization receives the remainder of the trust.

#### **V. Charitable Lead Trust (CLT)**

A. Inverse of the CRT. The trust in this scenario provides the income to the non-profit organization typically for the lifetime of the donor (this could be changed to a specified period of time as well).

B. The remainder of the trust is given to the beneficiaries (typically donor heirs) after the death of the donor or the specified timeframe of the trust.

#### **VI. Specific Beneficiary Bequests**

A. Potential donors can give/make specific bequests in a will, trust, bank account, life insurance policy or any other type of asset.

#### **VII. Monthly Payments**

A. Most of the items above are designed to target donors that would like to give sizable donations to a non-profit organization. Many people would still like to give even if they do not have large sums to give. A monthly donation campaign can be very effective, and all amounts are welcome. Auto draft on a bank account or auto charge on a credit card can be set up to facilitate this type of giving.

1. Note, in 2020, Congress allowed individuals to take a deduction of up to \$600 per year for amounts given to a non-profit organization, regardless of whether the donor itemizes or not.

a. In order to maximize the donation every year, it would make sense to set the “standard” or “minimum” donation at \$50 per month to hit the \$600 annual amount

### **The Follow Up - Rewarding the Donor**

This is the most important part and is often overlooked. Ask yourselves what you would want in exchange for the money given if the roles were reversed. Ask donors what they want in exchange. Some want recognition, some want to know how their money was utilized, others simply give because they want to. Regardless of their motive, they are giving every time for a specific reason. It is imperative we understand why they are doing what they are doing and take the time to make the emotional connection back to them to validate why they gave in the first place.

*- Why do we close our eyes when we pray, cry, kiss, or dream? Because the most beautiful things in life are not seen but felt by the heart. - Denzel Washington*

## Effective Educator Standards Policy

### **Purpose**

Vista School believes that each of its students should have the opportunity to learn from an effective educator. Vista School strives to recruit, prepare, and retain effective educators as a way in which to boost the academic success of its students. The purpose of this policy is to help ensure that the school's licensed educators meet the Utah Effective Educator Standards applicable to them as set forth in Utah Administrative Code Rule R277-530.

### **Policy**

#### Application of Effective Educator Standards

The Effective Educator Standards in Utah Administrative Code Rule R277-530 are comprised of three separate sets of standards: Effective Teaching Standards, Educational Leadership Standards, and Educational School Counselor Standards. The Effective Educator Standards apply to licensed educators at the School as follows:

- a. Administrators are responsible for meeting the Effective Teaching Standards and demonstrating the traits, skills, and work functions in the Educational Leadership Standards;
- b. Counselors are responsible for meeting the Effective Teaching Standards and Educational Leadership Standards and demonstrating the traits, skills, and work functions in the Educational School Counselor Standards; and
- c. Teachers are responsible for demonstrating the skills and work functions in Effective Teaching Standards.

#### Implementation of the Effective Educator Standards

Vista School shall, under the direction of the Executive Director, help its licensed educators meet the applicable Effective Educator Standards by using the Effective Educator Standards as a basis when doing the following:

- a. Developing professional learning experiences and professional learning plans for educators' relicensing.
- b. Establishing a collaborative professional culture to facilitate student learning.
- c. Adopting formative and summative educator assessment systems; and
- d. Implementing induction and mentoring activities for beginning teachers and administrators.

The Executive Director shall determine how the activities described above are conducted and the frequency in which they occur.

### Charter School Administrators

Vista School understands that a charter school administrator is not required to be licensed under Utah law. If a School administrator is not licensed, they are still expected to work toward meeting the Effective Teaching Standards and demonstrating the traits, skills, and work functions in the Educational Leadership Standards.

School Board Approved:

## Vista School Profit & Loss Budget Overview July through September 2022

	<u>Jul - Sep 22</u>	<u>Less Construction</u>	<u>Budget</u>	<u>\$ Over Budget</u>	<u>% of Budget</u>
<b>Ordinary Income/Expense</b>					
<b>Income</b>					
1000 · Local Revenue	222,512.01	222,512.01	689,472.47	-466,960.46	32.27%
3000 · State Revenue	3,026,811.33	3,026,811.33	9,903,526.35	-6,876,715.02	30.56%
4000 · Federal Revenue	176,077.49	176,077.49	999,341.19	-823,263.70	17.62%
<b>Total Income</b>	<b>3,425,400.83</b>	<b>3,425,400.83</b>	<b>11,592,340.01</b>	<b>-8,166,939.18</b>	<b>29.55%</b>
<b>Gross Profit</b>	<b>\$ 3,425,400.83</b>	<b>\$ 3,425,400.83</b>	<b>\$ 11,592,340.01</b>	<b>\$ (8,166,939.18)</b>	<b>\$ 0.30</b>
<b>Expense</b>					
10 · INSTRUCTION	1,452,191.54	1,452,191.54	5,786,079.78	-4,333,888.24	25.1%
21 · STUDENT SUPPORT SERVICES	108,752.06	108,752.06	523,256.20	-414,504.14	20.78%
22 · SUPPORT SERV. INSTR. STAFF	4,551.71	4,551.71	169,549.96	-164,998.25	2.69%
23 · SUPPORT SERVICES-BOARD	0.00	0.00	1,000.00	-1,000.00	0.0%
24 · SUPPORT SERV. ADMINISTRATION	120,184.49	120,184.49	847,479.80	-727,295.31	14.18%
25 · SUPPORT SERV. CENTRAL	93,752.08	93,752.08	558,790.64	-465,038.56	16.78%
26 · SUPPORT SERV. OPER. & MAINT.	96,232.18	96,232.18	546,541.89	-450,309.71	17.61%
27 · STUDENT TRANSPORTATION	7,660.17	7,660.17	131,802.19	-124,142.02	5.81%
31 · FOOD SERVICES LUNCH	72,637.81	72,637.81	367,955.91	-295,318.10	19.74%
33 · After School Program	11,767.55	11,767.55	63,469.08	-51,701.53	18.54%
45 · BLDG AQUISITION & CONSTRUCTION	2,087,470.79	-6,939.38	5,813,341.46	-3,725,870.67	35.91%
51 · Debt Service	12,048,937.50	378,937.50	1,758,042.50	10,290,895.00	685.36%
<b>Total Expense</b>	<b>16,104,137.88</b>	<b>2,339,727.71</b>	<b>16,567,309.41</b>	<b>-463,171.53</b>	<b>97.2%</b>
<b>Net Ordinary Income</b>	<b>-12,678,737.05</b>	<b>1,085,673.12</b>	<b>-4,974,969.40</b>	<b>-7,703,767.65</b>	<b>254.85%</b>
<b>Net Income</b>	<b>\$ (12,678,737.05)</b>	<b>\$ 1,085,673.12</b>	<b>\$ (4,974,969.40)</b>	<b>\$ (7,703,767.65)</b>	<b>\$ 2.55</b>
		564,114.50			
<b>Less NOTE:</b>		<b>\$ 521,558.62</b>			

**Note:**

-SpEd Rolled funds	275,817.05
-Other State Programs	68,517.30
-School Land Trust	148,402.45
-Educator Professional Time	71,377.70
	<u>564,114.50</u>
	\$ 564,114.50

**RISE data from 2021-22 School Year**

<b>School</b>	<b>English</b>	<b>Math</b>	<b>Science</b>	<b>School Grade</b>
State	45%	44%	48%	
Vista School	55%	38%	53%	C - 54.5%
Red Mountain	34%	34%	35%	C - 50.7%
Paradise Canyon	34%	38%	28%	C - 47.0%
Santa Clara	47%	48%	55%	B - 61.3%
Tonaquiant	40%	30%	47%	C - 48.6%
Lava Ridge	41%	38%	55%	B - 56.3%
Valley Academy	32%	29%	40%	C - 44.5%
MVM	32%	29%	29%	C - 52.1%
GWA	62%	65%	72%	A - 66.0%

## School Board Code of Conduct

Vista School has established this policy to provide professional conduct expectations for Board members to cultivate and sustain the positive culture of the Board. This policy is not intended to override any applicable laws or administrative rules, Board bylaws, or to limit the duties, obligations or legal requirements with which the Board, or its members, must comply.

### General Statement of Expectation:

Board members are expected to exercise the duties and responsibilities of their positions with integrity, collegiality, and care. Board members are expected to adhere to a high standard of ethical conduct and to act in accordance with the Board's Mission, Vision, and Core Values. Unethical actions, or the appearance of unethical actions, are not acceptable.

### Conflicts of Interest:

No Board member shall derive any personal profit or gain, directly or indirectly, by reason of his/her service on the Board. It is expected that Board members will conduct their personal affairs in such a manner as to avoid any possible conflict of interest with their duties and responsibilities as members of the Board. Nevertheless, conflicts may arise from time to time. Those conflicts are to be handled as outlined in the Board's bylaws.

### Meeting Preparation:

Board members are expected to prepare in advance for each meeting by carefully reviewing all materials provided and, if needed, requesting clarification of staff in advance of the meeting.

### Confidentiality:

Board members are reminded that confidential matters may be included in Board materials or discussed from time to time. Board members are not to disclose such confidential information to anyone.

### Active Participation:

Board members are to make attendance at all meetings of the Board a high priority. It is expected that Board members actively contribute to the discussions. Board members should be fully engaged and attentive during board meetings, not multitasking.

### Professional Conduct:

Board members are expected to conduct themselves in a civil and professional manner. They are expected to be courteous and respectful of the opinions of fellow Board members, leaving personal prejudices out of all board discussions. Board members will use titles when addressing each other, and where appropriate, staff and other individuals present. When representing the Board, members are expected to do so in a positive and supportive manner at all times.

Transparency:

Decisions are to be made and discussed during board meetings in accordance with the Open and Public Meeting Act. Board members are expected to foster open, honest, and effective dialogue in their communication with each other and schools. Members are also expected to avoid sentimental or superficial comments, as well as statements that minimize, exaggerate, or dismiss the views or communication of others.

Thoughtful and Deliberate Votes:

The Board should be able to defend all actions, and Board members are expected to be able to provide a clear rationale for their individual votes. Board members are expected to support actions of the Board, even when the Board member personally did not support the action taken.

Governance vs. Management:

The Board has the responsibility to establish effective policies, and revisit and revise policies from time to time to ensure that Board objectives and goals are achieved. Board members are expected to refrain from intruding on administrative issues that are the responsibility of staff, except to monitor the results and ensure that procedures are consistent with Board policy. All members are expected to observe the established lines of communication and to direct requests for information or assistance to the executive director, as outlined in the Board Communications Policy.

School Board Approved:

School Board Conflict of Interest and Ethics Policy

As an elected or appointed member of the Vista School Board of Directors, I understand that I have an obligation to the organization I serve, the constituents I represent, and to myself to maintain the highest standards of ethical conduct. I understand that I have a responsibility to:

- Maintain private, protected, or controlled information received in the course of my official duties unless legally obligated to disclose Information.
- Refrain from using private, protected, or controlled information acquired in the course of my official service, with particular attention to information or opportunities that would benefit me financially, for unethical or illegal advantage.
- Avoid direct or indirect conflicts of interest and advise all appropriate parties (including fellow Board members and administration, if appropriate) of any potential conflict.
- Avoid any activity or gift that would compromise my ability to carry out my duties fairly and ethically.

I do hereby certify that my employment whether full-time, part-time, contracted or temporary, ownership (in whole or in part), or position as a Director at the following business may result in a conflict of interest:

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(name of business, nature of involvement)

I understand that this Statement will be filed with the Secretary of the Board.

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

School Board Approved:

## Title IX Sexual Harrassment Policy

### 1. Purpose

Vista School is dedicated to cultivating an educational environment in which all individuals are treated with respect and dignity. No person on the basis of sex, shall be subjected to discrimination or sexual harassment under any education program or activity receiving Federal financial assistance. (20 U.S.C. 1681(a)).

### 2. Policy

Sexual harassment is prohibited by Title IX of the Education Amendments of 1972 and by this policy in all of Vista School's educational programs including academics and extracurricular activities. Allegations that originate off-campus which impact the victim's ability to effectively access and continue their educational program **may** be addressed under this policy at the discretion of the Designated Title IX Coordinator. This may include allegations of sexual harassment through the internet, electronic mobile devices, and/or social media.

2.1 This policy applies to all students, staff members, administrators, or third parties. The Board is resolute in its determination to enforce this policy by investigating complaints (if needed) and taking appropriate action when violations are identified.

2.1.1. Vista School's Designated Title IX Coordinator, as well as Investigator(s), Decision-Maker(s), or any person designated to facilitate an Informal Resolution Process shall not have a conflict of interest or bias for or against Complainants or Respondents generally, or an individual Complainant or Respondent.

#### 2.2. Inquiries:

Students, parents, guardians, or citizens who have inquiries; or are alleging violations of this policy may contact the Designated Title IX Coordinator as follows:

**Executive Director**

**Vista School**

**585 E. Center St.**

**Ivins, UT 84738**

**(435) 673-4110**

#### 2.3. Definitions:

2.3.1. Actual Knowledge: Notice of allegations of sexual harassment to any employee of Vista School.

2.3.2. Complainant: An individual who is alleged to be the victim of conduct that could constitute sexual harassment and makes a complaint.

2.3.3. Formal Complaint: A document filed by a Complainant and/or signed by the Designated Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the school investigate the allegation of sexual harassment.

2.3.4. Respondent: An individual who has been reported to be the perpetrator of conduct as per Policy.

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

(1) Quid Pro Quo: A Vista School employee that directly or indirectly requires a student or subordinate to submit to unwelcome sexual conduct to participate in a program or activity and/or requires sexually based actions in order for the student or subordinate to receive aid, benefit, or a service of the school; including influencing an educational decision, a good grade, attending an event, or participation.

(2) Unwelcome sexual conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to Vista School's education program or activity.

a. Severe: Based on whether the described occurrence or conduct was severe from the perspective of a reasonable person in the Complainant's position.

b. Pervasive: A single instance of an unwelcome act typically does not meet the Title IX standard for sexual harassment requiring investigation, but there are instances when a single unwelcome act may meet the standard. Factors to be considered include, but are not limited to, whether there is a pattern of sexual harassment, the number of people involved, and whether the unwelcome sex-based conduct involves widespread dissemination of offensive material.

c. Objectively Offensive: Whether the described occurrence or conduct was offensive from the perspective of a reasonable person in the Complainant's position. "Just joking" is not an accepted excuse.

d. Denied of Equal Access: Does not require that the Complainant be entirely or physically excluded from educational opportunities, but rather that the sexual harassment has so undermined and detracted from the Complainant's educational experience that he/she is effectively denied school resources and opportunities. No concrete injury is required to show a denial of equal access. Examples may include, but are not limited to skipping class to avoid the harasser, a decline in a student's academic performance, difficulty concentrating, etc.

(3) Sexual harassment includes dating violence, domestic violence, stalking or sexual assault as defined in the Clery Act and in this Policy as follows:

a. **Dating Violence:** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be based upon the reporting party's statement with consideration of the following factors: the length or relationship; the type of the relationship; and the frequency of the interaction between the persons involved in the relationship. 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.

b. **Domestic Violence:** 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 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 Utah, 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 Utah.

c. **Stalking:** Two or more acts of conduct that is directed at a specific person that would cause a reasonable person to fear for his/her safety or suffer substantial emotional distress, including, 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.

d. **Sexual Assault:** is defined as any sexual act directed against another person for the purposes of sexual gratification, without consent of the victim, including instances where the victim is incapable of giving consent. It includes rape, fondling, incest, and statutory rape as defined below:

i. **Rape:** The 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 the consent of the victim.

ii. **Fondling:** The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

iii. **Incest:** Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

iv. **Statutory Rape:** Sexual intercourse with a person who is under the statutory age of consent.

2.3.6. **Sexual Misconduct:** Conduct of a sexual nature, including inappropriate sexual behavior or threatened behavior that poses a threat to the welfare, safety, or morals of other students or school personnel, but does not rise to the level of Sexual Harassment. Sexual misconduct is prohibited and will be investigated and addressed.

2.3.7. **Reasonable person** means an individual under similar circumstances and with similar identities to the victim/Complainant.

2.3.8. Substantial Emotional Distress: Is significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

2.3.9. Supportive Measures: Non-disciplinary, non-punitive individualized services offered promptly as appropriate, as reasonably available, and without fee/charge to the Complainant or Respondent before and after the filing of a complaint. Such measures are designed to restore or preserve equal access to the educational program or activity without unreasonable burdening either party, including measures designed to protect the safety of all parties and protect the educational environment.

2.3.10. Third Party: The jurisdiction of this policy includes allegations occurring at Vista School, and programs; enroute to school activities; and where Vista School has exercised substantial control over both the Respondent and the Complainant and the context in which the reported Sexual Harassment occurs. Third party for the purposes of this policy therefore includes volunteers, vendors, visitors and independent contractors who are present in described settings; or who have knowledge of an alleged violation and report it.

### 3. Complaint Procedure

The intent of the complaint process is to provide a prompt and equitable resolution of complaints alleging any form of sexual harassment. The essential components of the complaint process include:

- (1) Reporting the complaint, i.e., Notice;
- (2) Implementing supportive measures;
- (3) Determining if the complaint is formal;
- (4) Investigating the complaint;
- (5) Providing a response regarding the outcome of the complaint to both parties; and
- (6) Filing an appeal.

3.1. Reporting: All employees of Vista School are required to report any allegation or observation of discrimination, sexual misconduct, and sexual harassment to the employee's immediate supervisor, who will report to the school principal where the student/employee is enrolled or employed. Receiving a complaint from anyone (not just the victim), constitutes notice and therefore triggers a required response.

3.1.1. Reporting to Law Enforcement: In cases involving potential criminal conduct, school personnel must immediately notify appropriate law enforcement authorities. When any person has reason to believe that a child has been subjected to abuse or neglect, that person shall immediately notify the nearest peace officer, law enforcement agency, or office of the Division of Child and

Family Services. A law enforcement investigation does not relieve the school of its independent obligation to investigate the conduct.

3.1.2. Timelines: Any reported allegations of sexual harassment will be investigated promptly; without deliberate indifference; and in accordance with the complaint procedures set forth below. Timelines may vary depending on the complexity of the investigation and the severity and extent of the sexual harassment. This includes complaints filed by students against school employees, other students, or third parties. The school's process may be delayed for good cause including the absence of a party, concurrent law enforcement activity, or the need for language assistance or accommodation of disabilities.

3.1.3. Initial Inquiry: Upon actual knowledge, the school administrator shall without delay conduct an initial inquiry to receive information about the allegation (this is not an interview). The school administrator shall then notify the Designated Title IX Coordinator about the allegation to determine if the conduct, on the face of the allegations, is more likely sexual misconduct or sexual harassment as defined in this policy.

3.2. Supportive Measures: Supportive measures shall be offered. The determination of supportive measures shall be made when the school administrator notifies and coordinates with the Designated Title IX Coordinator. Complainants and Respondents are to be treated equitably. Every effort to preserve equal access for all parties shall be implemented. Individualized supportive measures as defined in this policy shall be made available to both the Complainant and Respondent depending on their circumstances.

3.2.1. Supportive measures may include altering work arrangements, changes in work locations or leave of absence (specific to employees); mutual restrictions on contact between parties; counseling; school safety plan; supervised transitions; increased security and monitoring of certain area of campus; and course related adjustments including extensions of deadlines, modifications to the amount of work required, changing class schedules, separate classes, etc.

3.2.1.2. All supportive measures or reasons for not offering supportive measures must be documented and made available to the Designated Title IX Coordinator.

3.3. Emergency Removal: A Respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is made; therefore, the school **shall not** impose any disciplinary actions until the conclusion of the process; however, it may be necessary to impose an emergency removal if there is an **immediate threat to the physical health or safety** to the Complainant and/or other students, based upon an individualized safety and risk analysis. A removal cannot be based solely upon an allegation.

3.3.1. Notice of Emergency Removal: Prior to imposing an emergency removal, the Respondent must be given notice and may have the opportunity to challenge the decision.

3.3.2. Removal of Employees: An employee Respondent may be placed on paid administrative leave with or without a showing that the Respondent poses an immediate threat to the physical health or safety of individuals.

3.4. Formal Complaint: Upon learning through actual knowledge and initial inquiry that the conduct that could constitute sexual harassment, the school administrator shall notify the Designated Title IX Coordinator who may interview the Complainant. The procedures in this policy must be followed if the allegations, if true, meet the definition of sexual harassment.

3.4.1. Filing a Formal Complaint: A student and/or parent/guardian may complete a written complaint on behalf of a minor Complainant requesting that the school investigate an allegation of sexual harassment. An employee is required to file his/her own complaint. However, in either case, the Designated Title IX Coordinator may also issue/sign a formal complaint on behalf of the Complainant if the Complainant refused to file but the allegation, on its face, it meets the definition of sexual harassment. The Designated Title IX Coordinator shall file a formal complaint if there is a physical threat to the Complainant, but the Complainant cannot proceed, or where there is an institutional problem.

3.4.2. Contents: A written formal complaint may be submitted on Vista School's form or other written document and may be submitted via mail or electronic means. It must include the following:

- a. A request for an investigation including the name, address, telephone number and signature of the Complainant.
- b. The date(s) on which the alleged sexual harassment took place.
- c. The name(s) of alleged person(s) responsible for the alleged violation (the Respondent(s)).
- d. A sufficient description of the nature of the alleged sexual harassment, i.e., explain what occurred and the harm caused by the incident.
- e. A statement of requested resolution/imposition of remedies (which may include supportive measures). Disciplinary action lies only within the authority and sole discretion of the school.

3.4.3. Complaint Notice: Upon receipt of a formal complaint, the Designated Title IX Coordinator shall provide written notice to the known parties, which shall include:

- a. Notice of the allegations, including the name of the Complainant, a description of the alleged harassment, and a range of dates during which the harassment is alleged to have occurred.
- b. A statement that the Respondent is presumed not responsible until a determination of the responsibility has been made at the conclusion of the investigation.
- c. An outline of the investigation process.
- d. The standard of evidence that will be applied.

e. Directives not to retaliate (for the Respondent).

f. Information about and offer of the Informal Resolution Process.

#### 3.4.4. Dismissal of a Complaint:

3.4.4.1. Mandatory Dismissal: If the alleged conduct does not meet the definition of sexual harassment defined in this policy or that the alleged conduct did not occur in the school's education program or activity a complaint **must** be dismissed at any time by the Designated Title IX Coordinator.

3.4.4.2. Discretionary Dismissal: The complaint **may** be dismissed if the Complainant makes a request in writing to the Designated Title IX Coordinator that he/she would like to withdraw his/her formal complaint; or if the Respondent is no longer enrolled or employed by Vista School; or if circumstances prevent the school from gathering sufficient evidence to reach a conclusion.

3.4.4.3. Dismissal Notice: Upon dismissal of a formal complaint, written notice of the dismissal and reasons why must be sent to the Respondent and Complainant simultaneously. Dismissal does not preclude action. The Complainant may appeal the dismissal in accordance with the procedures for appeal in this policy.

3.4.5. Informal Resolution Process: Following a formal complaint, the Complaint and the Respondent will be given the option of participating in an Informal Resolution Process which may be facilitated any time after the complaint has been filed and prior to the determination with the voluntary written consent of both parties. If the Informal Resolution Process fails, the Formal Complaint will resume. Informal Resolution is not an option when the allegations are of an employee sexually harassing a student.

3.4.5.1. Informal Resolution Notice: An informal resolution process may be facilitated provided that the parties receive written notice with the following information:

a. the allegations;

b. the requirements of the process, including the circumstances that would preclude the parties from resuming/re-filing a formal complaint arising from the same allegations;

c. the right to withdraw from the Informal Resolution Process and resume the investigative process at any time, and

d. consequences that might result from participating in the informal process including records that will be maintained by the school or that could be shared.

3.5. Investigation: Specifically assigned trained administrators, i.e., "Investigators" shall conduct investigations of Formal Complaints.

3.5.1. Written Notice: Investigators shall provide written notice to the parties, including the date, time, location, purpose of all investigative interviews, the right to bring an advisor, and the right to bring any document, evidence, or other information the party would like the investigator to consider. Sufficient time (at least two days) should be allowed following the notice for the parties to prepare to participate.

3.5.2. Interviews: The Complainant and Respondent may be accompanied by an advisor for support, but not to speak for them. The Investigators shall also provide an equal opportunity for the parties to suggest witnesses for the investigator to consider interviewing.

3.5.3. Evidence: The Investigator(s), rather than the parties, shall ensure burden of proof by gathering sufficient evidence. The Complainant may present evidence supporting the allegations. The Respondent may present evidence refuting the allegations.

3.5.3.1. All evidence shall be reviewed and preserved including video/camera footage, photos, physical evidence, documents, correspondence, reports, and electronic information.

3.5.3.2. Investigative Summary: Prior to completing the Final Investigative Report, Investigator(s) shall send a summary of the evidence to both parties for inspection and review. This may be done through electronic means or via hard copy.

3.5.3.3. Both parties have 10 calendar days to submit a written response to the summary. Investigator(s) will consider the responses but need not adopt them.

3.5.4. Final Investigative Report: After the 10 days, Investigator(s) shall draft a Final Investigative Report and provide it to the Complainant, Respondent and Designated Decision-Maker.

3.5.4.1. The report must contain: a description of the complaint; a description of the interim supportive measures including steps taken to date toward an equitable solution; a detailed description of the investigation (names and dates of individuals interviewed), and summary of the evidence considered.

3.6. Decision-Maker Investigation: Decision-Maker(s) are designated administrators who provide a determination regarding the responsibility of the Respondent and the outcome of the complaint to both parties.

3.6.1. Upon receipt of the Final Investigative Report, the Decision-Maker(s) shall notify both parties that they have 10 days to submit cross-examination questions in writing for the other party and/or any witnesses to answer. Additional questions may be allowed at the sole discretion of the Decision-Maker(s). Should the Decision-Maker(s) determine that a question is not relevant, they must explain why to the requesting party.

3.6.2. Decision-Maker Written Determination: The Decision-Maker(s) shall base their conclusions on the preponderance of the evidence standard. Careful judgment of credibility must be considered

based upon factors such as plausibility and consistency. The Respondent, Complainant and Designated Title IX Coordinator shall be provided with the Written Determination, including:

- a. Identification of the allegations potentially constituting sexual harassment as defined by policy.
- b. A description of the procedural steps taken from the receipt of the formal complaint through to the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, and methods used to gather evidence.
- c. Findings of fact supporting the determination.
- d. Conclusions regarding the application of this policy or other policies to the facts
- e. A statement of, and rationale for, the finding of fact to each allegation, including a determination regarding responsibility.
- f. Disciplinary actions that will be imposed on the Respondent or for employees. (The Decision-Maker(s) shall verify with the school administrator that such documentation is entered into the school's student information system.)
- g. Remedies designed to restore or preserve equal access for the Complainant to the school's educational program or activity. (The Designated Title IX Coordinator shall verify with the school administrator that effective implementation of any remedies).
- h. Procedures to appeal (as per below).

3.7. Appeal Process: Within 10 days of the receipt of the Final Investigative Report or Written Determination a party may appeal in writing to the Executive Director.

3.7.1. The purpose of an appeal is to determine whether the procedures as per this policy were followed; or if a party believes there was a conflict of interest regarding the Designated Title IX Coordinator(s), Investigator(s), and/or Decision-Maker(s). If an appeal does not introduce new evidence, allege conflict of interest, or is a violation of the process, it may be denied.

3.7.2. If the appeal is granted, both parties will be given a reasonable, equal opportunity to submit a written statement in support of or challenging the outcome.

3.7.3. The Executive Director will review the complaint, findings, and render a decision in writing which will be provided simultaneously to both parties. The written decision on the appeal may take one of three positions:

- Affirm the Decision-Maker(s) decision
- Repeal the Decision-Maker(s) decision
- Remand the Decision-Maker(s) decision

3.8. Retaliation is prohibited: 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 this policy, or because an individual has made a report or complaint, testified, assisted or participated or refused to participate in any manner of an investigation or proceedings.

3.8.1 Monitoring Outcomes: School administrators should monitor the impact of the complaint, if any, on the campus climate. Such consideration is intended to protect any person who was involved in the complaint from retaliation and/or implement further supportive measures. Anyone found to have engaged in retaliation is subject to disciplinary action.

3.9. Record Retention: All records created during the entire process must be maintained for 7 years, or 2 years after the student graduates (whichever is longer); including, but not limited to, supportive measures, informal resolution, the determination, disciplinary sanctions, remedies, appeal and training materials used during the process.

3.10. Training: All employees and students shall be provided with access to this policy. Ongoing Title IX training shall be provided.

3.10.1. The Executive Director shall receive training on this policy including:

- a. The definition of sexual harassment
- b. The scope of the school's education program or activity
- c. How to conduct an investigation including how to determine relevance to create an investigative report that fairly summarizes relevant evidence, how to write and issue an investigative report,
- d. How to serve impartially, including prejudgment of the facts at issue, conflicts of interest and bias.

3.10.2. All Decision-Makers must receive training on the issues of relevance of questions and evidence, including where questions and evidence about the Complainant's predisposition or prior sexual behavior are not relevant.

School Board Approved: