

Eagle’s Nest Foundation
Title IX Discrimination and Harassment Policies
For Participants and Staff Members

Title IX provides that “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”

It is the policy of Eagle’s Nest Foundation that participants should not be subjected to forms of unlawful discrimination or harassment, while at Foundation or Foundation-sponsored activities. Furthermore, the policy’s intent is to address the issue in a proactive manner through the establishment of a system for educating students and staff at the Foundation regarding the identification, prevention, intervention, and reporting of such antisocial acts. The Foundation acknowledges the dignity and worth of all students and strives to create a safe, orderly, caring and inviting Foundation environment to facilitate student learning and achievement. The Foundation strives to model an inclusive environment and prohibits discrimination and harassment on the basis of gender or sex, including sexual orientation and LGBTQ+ identification. The Foundation will not tolerate any form of unlawful discrimination or harassment in any of its educational or employment activities or programs based on such protected classifications.

A. PROHIBITED BEHAVIORS AND CONSEQUENCES

1. Discrimination or Harassment

Students, employees, contractors, volunteers and visitors are expected to behave in a civil and respectful manner. In accordance with Title IX, the Foundation expressly prohibits discrimination or harassment, based on sex or gender and prohibits sexual harassment (including sexual violence) and gender-based harassment. Sexual harassment is unwelcome conduct of a sexual nature. It includes unwelcome conduct on the basis of sex, requests for sexual favors in exchange for benefits (quid pro quo), and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual violence is a form of sexual harassment. Sexual violence refers to physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent. A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, sexual abuse, and sexual coercion. In accordance with Title IX, the Foundation also prohibits gender-based harassment, which is unwelcome conduct based on a student’s sex or harassing conduct based on a student’s failure to conform to sex stereotypes.

Sex-based harassment can be carried out by Foundation employees, other students, and third parties. All students can experience sex-based harassment, including male and female students, LGBTQ+ students, students with disabilities, and students of different races, national origins, and ages. Title IX protects all students from sex-based harassment, regardless of the sex of the

parties, including when they are members of the same sex.

2. Retaliation

The Foundation prohibits intimidation, threats, coercion, or discrimination against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under Title IX.

Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX, constitutes retaliation. As such, the Foundation prohibits reprisal or retaliation against any person for reporting or intending to report violations of this policy, supporting someone for reporting or intending to report a violation of this policy, or participating in the investigation of reported violations of this policy. After consideration of the nature and circumstances of the reprisal or retaliation and in accordance with applicable laws, policies, and regulations, the Head of Foundation or designee shall determine the consequences and remedial action for a person found to have engaged in reprisal or retaliation.

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

B. APPLICATION OF POLICY

This policy prohibits unlawful discrimination or harassment by participants, employees, volunteers, contractors, and visitors. This policy is intended to apply to students vis-a-vis other students, faculty, staff, volunteers/visitors, or contractors. This policy also applies to employees, volunteers/visitors, and contractors. This policy applies to behavior that takes place within the Foundation's education program or activity, which includes, but is not necessarily limited to, behavior:

1. in any campus building or on any campus premises before, during, or after campus or program hours;
2. on any bus or other vehicle as part of any Foundation activity;
3. at any bus stop or meeting place;
4. during any Foundation or Foundation-sponsored activity or extracurricular activity, including field-based outdoor programming;
5. at any time or place when the individual is subject to the oversight and authority of the Foundation personnel;

6. at any time or place when the behavior has a direct and immediate effect on maintaining order and discipline in the Foundation's programs.
7. while using Foundation or personal electronic communications, including employee and student emails, text messaging, instant messaging, chat rooms, blogging, websites and social networking websites (i.e., Snapchat or Instagram).

C. DEFINITIONS

For purposes of this policy ONLY, the following definitions apply:

1. Discrimination

Discrimination means any act or failure to act that unreasonably and unfavorably differentiates treatment of others based solely on the basis of gender or sex (including transgender and LGBTQ+ identification). Discrimination may be intentional or unintentional.

2. Harassment

Prohibited harassment, including sexual harassment, under this policy means conduct on the basis of sex/gender that satisfies one or more of the following:

1. An employee conditioning the provision of an aid, benefit or service on an individual's participation in unwelcome sexual conduct (i.e., quid pro quo)
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 an education program, employment, or activity (i.e., hostile environment)
3. Sexual assault (as defined by Clery Act), or "dating violence," "domestic violence" and "stalking" (as defined by Violence Against Women Act).

For purposes of this policy, "hostile environment" means that the harassment is objectively severe and pervasive enough that a reasonable person would agree that it is harassment and must be based on sex or gender. A hostile environment may be created through pervasive or persistent misbehavior if sufficiently severe.

Examples of behavior that may constitute harassment include, but are not limited to, verbal taunts, name-calling and put-downs, epithets, derogatory comments or slurs, lewd propositions, exclusion from peer groups, extortion of money or possessions, implied or stated threats, assault, impeding or blocking movement, offensive touching or any physical interference with normal work or movement, and visual insults, such as derogatory posters or cartoons. Legitimate age-appropriate pedagogical techniques are not considered harassment. Harassment, including sexual or gender-based harassment, is not limited to specific situations or relationships. It may occur between fellow students or co-workers, between supervisors and subordinates, between employees and students, or between non-employees, including visitors, and employees or students. Harassment may occur between members of the opposite sex or the same sex.

Examples of sexually harassing conduct includes, but is not limited to, deliberate, unwelcome touching that has sexual connotations or is of a sexual nature, suggestions or demands for sexual involvement accompanied by implied or overt promises of preferential treatment or threats, pressure for sexual activity, continued or repeated offensive sexual flirtations, advances or propositions, continued or repeated verbal remarks about an individual's body, sexually degrading words used toward an individual or to describe an individual, sexual violence, or the display of sexually suggestive drawings, objects, pictures or written materials. Acts of verbal, nonverbal, or physical aggression, as well as intimidation or hostility based on sex, but not involving sexual activity or language, may be combined with incidents of sexually harassing conduct to determine if the incidents of sexually harassing conduct are sufficiently serious to create a sexually hostile environment.

Gender-based harassment is also a type of harassment. Gender-based harassment may include acts of verbal, nonverbal, or physical aggression, as well as intimidation or hostility based on sex or sex-stereotyping but not involving conduct of a sexual nature.

3. Conduct Not Covered by This Policy

Conduct that does not meet the definitions set forth above in this Title IX Policy are not subject to the Foundation's Title IX Policy or any reporting/grievance procedures that govern Title IX matters. However, such conduct may still constitute a violation of other Foundation policy, including the Foundation's Code of Conduct, non-discrimination policy, and bullying policy. Please refer to and follow those policies for such conduct.

TO REPORT A VIOLATION OF THIS POLICY: PLEASE REFER TO THE FOUNDATION'S TITLE IX REPORTING AND GRIEVANCE POLICY.

This Policy as it pertains to Title IX shall remain in effect to the extent required by law.