

**Subject: Sexual Harassment – School Personnel and Students Policy**

**Effective Date: June 05, 2009**

**Approved By: Board of Directors**

**Policy:** It is the policy to provide and maintain an employment and an educational environment free of sexual harassment. The policy is designed to secure, at the earliest level possible, an appropriate resolution to an allegation of sexual harassment.

This policy is intended to supplement, and not replace, any applicable state or federal laws and regulations. Complaints under these laws and regulations shall be processed through the procedures established by the appropriate state and/or federal agencies.

It is the position of this School that sexual harassment is unlawful and will not be tolerated. It is a violation of this policy for any employee, agent, student or party with which the School has a cooperative agreement, to engage in sexual harassment.

For the purpose of this policy, the “Compliance Officer” for complaints of sexual harassment involving an employee will be the Human Resources Director. The “Compliance Officer” for complaints of sexual harassment not involving an employee (student Vs. student, student Vs. independent contractor or vendor) will be the Executive Director or their designee.

### ***Definition of Sexual Harassment***

As defined by Education Code Section 212.5, “Sexual harassment means unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone from or in the work or educational setting, under the following conditions:

1. Submission to the conduct is explicitly or implicitly made a term or condition of an individual’s employment, academic status, or progress.
2. Submission to, or rejection of, the conduct by the individual is used as the basis of employment or academic decisions affecting the individual.
3. The conduct has the purpose or effect of having a negative impact upon the individual’s work or academic performance, or of creating an intimidating, hostile, or offensive work or educational environment.
4. Submission to, or rejection of, the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through the educational institution.

Specifically, sexual harassment may occur as a pattern of degrading sexual speech or actions ranging from verbal or physical annoyances or distractions to deliberate intimidations and frank threats or sexual demands. Examples of conduct, which may constitute sexual harassment include, but are not limited to:

1. Unwelcome leering, sexual flirtations or propositions.
2. Suggestive or obscene letters, notes, invitations, derogatory comments or sexually degrading descriptions, slurs, jokes, epithets, assault, threats, verbal abuse, touching, impeding or blocking normal movement, gestures, display of sexually suggestive objects or pictures, or cartoons in the educational or work environment.
3. Graphic verbal comments about an individual's body, or overly personal conversation.
4. Spreading sexual rumors.
5. Touching an individual's body or clothes in a sexual way.
6. Among peers, continuing to express sexual interest after being informed that the interest is unwelcome. (Reciprocal attraction, among peers, is not considered sexual harassment).
7. Within the educational environment, implying or actually withholding grades earned or deserved; suggesting a poor performance evaluation will be prepared; or suggesting a scholarship recommendation or college application will be denied as a condition of receiving sexual favors.
8. Within the educational environment, engaging in sexual behavior to control, influence, or affect the educational opportunities, grades and/or learning environment of a student.
9. Within the employment environment, implying or actually withholding satisfactory evaluations or suggesting that promotion or favorable evaluations will be denied as a condition of receiving sexual favors.
10. Offering favors or education or employment benefits, such as grades or promotions, favorable performance evaluations, favorable assignments, favorable duties or shifts, recommendations, reclassifications, etc., in exchange for sexual favors.

Any expression of sexual interest between adults and students, regardless of reciprocity, is considered inappropriate and shall be subject to discipline under Education Code section 44932.

## **Procedure:**

### ***Reporting***

Any student who believes he or she has been sexually harassed by an employee, agent or student of the school, should promptly report the facts of the alleged incident(s) and the name of the individual involved to any adult staff member with whom they feel comfortable, and that person shall report the incident to the school site coordinator. The employee who has knowledge of an allegation of sexual harassment is required to report to the Executive Director and/or the Director of Human Resources immediately.

Any employee who believes they have been sexually harassed by another employee, agent, or student of the school should promptly report the facts of the alleged incident(s) and the names of individuals involved to their supervisor, manager, or the Director of Human Resources.

Upon receipt of a report of alleged sexual harassment, the Compliance Officer will conduct an investigation into the facts surrounding the allegation. Students or employees may, at any time during the process, bring an advocate to support them in meeting with the Compliance Officer or other staff. The Compliance Officer will gather the information from the student

or employee to complete the Sexual Harassment Incident Report. A copy of the report will be forwarded to the Executive Director, Governing Board President, and the parent (if the person is a minor student), who will also receive a copy of the School policy on Sexual Harassment.

Any employee of the school, upon personal knowledge of an incident of sexual harassment, is required to report this knowledge to the Compliance Officer. Failure to do so is a violation of this policy.

Students or employees who feel aggrieved because of unwelcome conduct that may constitute sexual harassment are not required to inform the person engaging in such conduct that the conduct is unwanted, offensive and must stop, but are encouraged to do so. An aggrieved individual is not required to complain to his or her instructor or supervisor if that instructor or supervisor is the individual who is harassing the student or employee. Any individuals making a report may bring an advocate to assist them.

### ***Confidentiality***

The Compliance Officer will inform the student or employee making the report that all allegation of sexual harassment and the results of the investigation shall be kept confidential to the extent reasonably possible under the investigation process. In addition, witnesses and those interviewed shall be informed of the confidential nature of the issues and the investigation, and shall be informed that it will be a violation of this policy to disclose the allegation or the nature of the investigation to others and shall be subject to disciplinary action as defined in this policy.

### ***Retaliation is Prohibited***

The initiation of an allegation of sexual harassment will not cause any reflection on the individual reporting the incident or witnesses nor will it affect such persons' future business dealings with the School, his or her employment, compensation or work assignments, or, in the case of students, grades, class section or other matters pertaining to his or her status as a student of any School programs. It shall be a violation of this policy to engage in such retaliation. An allegation of retaliation shall be considered as a separate incident, shall be investigated, and shall be subject to disciplinary action as defined in this policy.

### ***Time Limits***

Allegations of sexual harassment shall be reported as soon as reasonably possible after the conduct in question has taken place.

### ***Investigation Guidelines***

All investigations of allegations of sexual harassment shall be handled promptly, in a serious, sensitive, and confidential manner. A student or employee who believe they have been sexually harassed is not required to confront the person who is engaging in the unwelcome and

unsolicited sexual conduct, the Compliance Officer should determine if the student or employee has informed the person engaging in the behavior is offensive and must stop.

1. The Compliance Officer shall, as soon as reasonably possible after the incident has been reported, inform the student, employee, or other person accused of sexual harassment of the allegation, and they will be given an opportunity to respond.
2. All parties, specifically including complainants, and witnesses, will be promptly and fully informed of their rights pursuant to this policy, including the fact that the complainant and witnesses will not be retaliated against and the confidential nature of the allegation and investigation.
3. The Compliance Officer shall conduct an investigation to determine if the allegation of sexual harassment is supported. The investigation finding shall be filed within 20 school days from the date the student or employee made the allegation with the proper authority. A copy of the findings shall be mailed to the student or employee who reported the harassment, their parents (if it is a minor student) and the person accused.
4. A written report of the investigation findings shall be filed by the Compliance Officer with the Executive Director and Governing Board President within ten (10) school days of the date the student or employee filed the incident report. A copy of the findings shall be mailed to the student who reported the harassment, their parent(s), if the student is a minor, and the person accused.
5. Any student report of assault and/or physical battery that is gender-based or sexual in nature shall be reported to the police for investigation.

### ***Disciplinary Action***

When an allegation of sexual harassment is supported by the investigation and disciplinary action of an employee is necessary, the Director of Human Resources will advise and consult the Executive Director on courses of action which may be appropriate. The Executive Director shall determine appropriate disciplinary steps to be taken with an employee, seeking advice and consent of the Governing Board when necessary.

When an allegation of sexual harassment is supported by the investigation and disciplinary action of a student is necessary, the Executive Director shall determine the appropriate disciplinary steps to be taken with the student, seeking advice and consent of the Governing Board when necessary.

Employees who violate this policy will be subject to discipline up to and including dismissal.

Students who violate this policy may be subject to discipline up to and including expulsion. Such disciplinary action shall be in accordance with school policy and state law. Suspension and recommendations for expulsion must follow existing practice and procedures.

Agents of the School who violate this policy will be subject to penalties and sanctions as may be available to the School, including termination of business relationships and contracts.

In identifying appropriate disciplinary action, note that repeated incidents following intervention, intensity of the behavior, and multiple victims will yield more severe penalties.

### ***Appeal Procedures***

An individual may appeal the findings of an investigation to the Executive Director (employees may also appeal to the Director of Human Resources), and, if they wish, the President of the Governing Board. Appeals should be made within 30 days from the date of a finding.

### ***Training***

To implement this policy, and to comply with state law, the school will direct and implement an appropriate training program and appropriate materials for staff and managers. Training will be provided for all Compliance Officers, on an annual basis to prepare them to investigate allegations of sexual harassment. Compliance Officers will be trained prior to being responsible for investigating complaints. Each school site will, in consultation with the Director of Human Resources, develop a training plan to familiarize students and staff with the Sexual Harassment Policy as well as reporting procedures. New hires will be provided with this training as part of their orientation. On a bi-annual basis, all management employees (as defined by AB1825 and the Department of Labor's current guidelines regarding AB1825 compliance) will be provided with updated training.

### ***Notification***

There will be adequate notification of the policy to include permanent posters in public areas, offices, and hallways. In addition, the policy will be published in site and employee handbooks.

### ***Administrative Regulations***

The School shall adopt, and from time to time may review, further procedures as may be necessary to implement this policy and provide for a means of enforcing this policy.

Original Policy 02/27/01

Revised Policy 06/05/09