

# Nord Country School

## BP5105 – Sexual Harassment Policy



### 1.0 Purpose

1.1 The Nord Country School Governing Board considers sexual harassment a major offense, which may result in disciplinary action, including expulsion, of the offending student. Sexual harassment of or by any student or member of the School staff shall not be tolerated.

### 2.0 Sexual Harassment Defined

2.1 Unwelcome sexual advances, requests for sexual favors, and other visual, verbal, or physical conduct of a sexual nature constitute sexual harassment when:

- 2.1.1 Submission to such conduct is made implicitly or explicitly a term or condition of employment or educational development;
- 2.1.2 Submission or rejection of such conduct is used as a basis for employment or education decisions affecting individuals; or
- 2.1.3 Such conduct has a purpose or effect of unreasonably interfering an individual's work or educational performance, or creating an intimidating, hostile or offensive working or educational environment.

2.2 Sexual harassment in California also includes:

- 2.2.1 Verbal harassment, such as epithets, derogatory comments or slurs;
- 2.2.2 Physical harassment such as assault or physical interference with movement or work; and
- 2.2.3 Visual harassment, such as derogatory cartoons, drawings or posters.

2.3 Unwelcome sexual advances of an employer toward an employee or student of the same sex and harassment on the basis of pregnancy disability are unlawful sexual harassment. Employees and students in California are protected from discrimination based on their actual or perceived sexual orientation. Sexual orientation is defined as "heterosexuality, homosexuality, and bisexuality."

2.4 Specifically, sexual harassment may occur as a pattern of degrading sexual speech or actions and may include, but is not limited to the following examples:

- 2.4.1 Vulgar remarks;
- 2.4.2 Sexually derogatory comments regarding a person's appearance;
- 2.4.3 Physical touching, pinching, patting, or blocking free movement;
- 2.4.4 Sexual propositions or advances (with or without threats to a person's job or promotion if that person does not submit);
- 2.4.5 Sexually suggestive or degrading posters, cartoons, pictures or drawings;
- 2.4.6 Offensive sexual jokes, slurs, insults, innuendos or comments; or
- 2.4.7 Physical assault.

### **3.0 Notification**

- 3.1 Students may receive age-appropriate training and/or instruction on the prohibition of sexual harassment at the School.
- 3.2 Copies of this policy, associated rules and procedures, and complaint procedures for reporting sexual harassment shall be available at the School's office.
- 3.3 Employees of the School will annually receive information regarding the School's policy on sexual harassment and complaint procedures.

### **4.0 Complaint Procedures**

#### **4.1 Complaint Filing Procedure**

- 4.1.1 **Informal Resolution** - The Board encourages communication among its employees and students. If you feel that you are being harassed by another student, if reasonably possible, we suggest informing the party directly that his or her conduct is unwelcome or offensive and it must stop. If this is not possible, or if the alleged harasser is an employee of the School, or if the behavior continues, follow the complaint filing procedure.
- 4.1.2 **Written Complaint** – Complaints should be submitted within one (1) year of the alleged incident to ensure a prompt, thorough investigation.
- 4.1.3 Any student who believes he or she has been harassed, or believes he or she has witnessed harassment by a peer, or agent of the School should promptly report in writing, using the attached form, incident(s) to the his or her supervisor and / or the Administrator.
- 4.1.4 A complaint form is attached to this Policy. It is important to fill in as much information as accurately as possible. A copy of this form can be obtained from the Administrator.
- 4.1.5 The Administrator, or designee, will investigate all reported incidents within 10 days of receiving a written complaint form, unless the Administrator, or designee, is the subject of the investigation, in which case the Governing Board shall appoint an investigator. The individual responsible for the investigation will hereinafter be referred to as the "Investigator." If the Investigator deems it necessary, he or she will convene a Team of trained investigators to proceed in the investigation.

#### **4.2 Investigation Policy**

- 4.2.1 Complaints will be treated seriously and investigated immediately.
- 4.2.2 Complaints will be handled confidentially.
- 4.2.3 Complainants will be promptly and fully informed of their rights pursuant to this policy.
- 4.2.4 All witnesses and the accused will be properly and fully informed of their rights and remedies pursuant to this policy.
- 4.2.5 All interviews of the accused, witnesses and the complainant shall be conducted in a private area.

- 4.2.6 The Investigator will be properly trained to listen to the allegations, make complete notes, attempt to identify all persons involved, as well as all possible witnesses, and interview the accused.
- 4.2.7 No complainant, witness, or party who assists in the investigation will be retaliated against.
- 4.2.8 The School will take steps to prevent the recurrence of any harassment and will correct any discriminatory effects on the complainant and others.

#### 4.3 Investigation Procedures

- 4.3.1 The Investigator will initiate an investigation to determine whether there is reasonable cause to believe that a violation of the Board's sexual harassment policy has occurred. "Reasonable cause" is shown if a person of ordinary caution or prudence would be led to believe and conscientiously entertain a strong suspicion of a violation of the sexual harassment policy.
- 4.3.2 All individuals involved in the investigation including the complainant, witnesses and the accused shall be fully informed of their rights under this policy.
- 4.3.3 The accused shall be provided with a copy of the complaint form and an opportunity to respond to the allegations within seven (7) days of receipt of the request for a formal inquiry. The investigation will include interviews with the complainant and other witnesses as determined by the circumstances.
- 4.3.4 The Investigator shall fully and effectively conduct an investigation that includes interviewing:
  - 4.3.4.1 The complainant;
  - 4.3.4.2 The accused;
  - 4.3.4.3 Any witnesses to the conduct; and
  - 4.3.4.4 Any other person who may be mentioned during the course of the investigation as possibly having relevant information.
- 4.3.5 When appropriate, interim protections or remedies for the complainant, such as limitations on contact, alternative course schedules, and the like, may be recommended to the appropriate School administrator at any time during the process. The complainant will be kept informed of the status of the complaint, consistent with the Board's policy and regulation and applicable law.
- 4.3.6 The formal investigation shall typically be completed within sixty (60) days of the date of the filing of the request.
- 4.3.7 The final determination of the Investigator's investigation shall result in a report which shall contain, at the minimum:
  - 4.3.7.1 a statement of the allegations and issues;
  - 4.3.7.2 the positions of the parties;
  - 4.3.7.3 a summary of the evidence received from the parties and the witnesses;
  - 4.3.7.4 any response the accused wishes to add to the report; and
  - 4.3.7.5 all findings of fact.
- 4.3.8 The final determination report shall state a conclusion that the Investigation Team:

- 4.3.8.1 Found reasonable cause that the accused violated the sexual harassment policy; or
- 4.3.8.2 Did not find sufficient evidence to find reasonable cause that the accused violated the sexual harassment policy. Where the Investigator did not find reasonable cause but believes the behavior complained of may constitute misconduct, the Investigator may state such a conclusion and refer the matter to the appropriate School administrator.
- 4.3.9 The report shall be submitted to the appropriate School administrator(s) for action, within thirty (30) days of the completion of the investigation or as soon thereafter as is feasible. The Investigator will inform the complainant and the accused that the report has been forwarded and to whom. The appropriate administrator(s) will ensure that the complainant and the accused are timely notified in writing of the disciplinary action taken.
- 4.3.10 Within fifteen (15) days of disciplinary action being taken against the accused, or as required by applicable Board procedures, the appropriate administrator(s) shall provide written notification to the complainant indicating:
  - 4.3.10.1 individual remedies available to the complainant; and
  - 4.3.10.2 all sanctions against the accused of which the complainant needs to be aware in order for the sanctions to be fully effective
- 4.3.11 Within fifteen (15) days of taking disciplinary action against the accused, the appropriate administrator(s) shall provide written notification to the Investigator indicating
  - 4.3.11.1 the results of any disciplinary actions and the initiation of any appeals; and
  - 4.3.11.2 all further individual remedies available to the complainant.
- 4.3.12 If the final determination is that sexual harassment has occurred, a prompt, relevant and effective remedy shall be provided to the complainant and appropriate disciplinary action taken against the harasser.

#### 4.4 Appeal

- 4.4.1 Appeal of Sexual Harassment Investigation Finding of No Reasonable Cause - There are different ways to appeal a finding of no reasonable cause depending on whether the complainant is a student, faculty, or staff. In most cases, existing School complaint procedures provide a mechanism for such an appeal, and where available, such procedures must be utilized.
- 4.4.2 Notice to the Complainant
  - 4.4.2.1 Where the Investigator concludes that there is no reasonable cause to believe that a violation of the Board's sexual harassment policy has occurred and the complaint is to be dismissed, a copy of the report will be sent to the complainant and the accused in accordance with the Board policies/regulations applying to the disclosure of information from School records.
- 4.4.3 Written Appeal
  - 4.4.3.1 A written appeal must be directed to the Administrator within thirty (30) days of notification to the complainant of the dismissal of the complaint.

#### 4.4.4 Basis for Appeal

4.4.4.1 The appeal may be based only on one of the following grounds:

4.4.4.1.1 There is newly discovered important evidence not known at the time of the report;

4.4.4.1.2 Bias on the part of an Investigator member; or

4.4.4.1.3 The Investigator failed to follow appropriate procedures.

#### 4.4.5 Decision

4.4.5.1 The Administrator or his or her designee will consider the appeal and will provide a written decision to the complainant and the Investigator within thirty (30) days of receipt of the appeal.

#### 4.4.6 Extension of Deadlines

4.4.6.1 Extensions of all deadlines contained in these procedures may be granted at the discretion of the Investigator for good cause. The Administrator shall be consulted before a decision is made on requests for extensions involving faculty and staff.

### **5.0 Adoption and Review**

5.1 Originally Adopted: 3/15/2007

5.2 Most Recent Review: 3/30/2022