



**Fenton Charter Public Schools**  
**11828 Gain Street Lake View Terrace, CA 91342**  
**(818) 896-7482**

## **STUDENT SEXUAL HARASSMENT POLICY**

### **Sexual Harassment**

Fenton Charter Public Schools (“FCPS”) is committed to maintaining a safe school environment that is free from harassment and discrimination. FCPS prohibits discrimination, harassment, intimidation, and bullying based on actual or perceived ancestry, age, color, disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sex, sexual orientation, or association with a person or a group with one or more of these actual or perceived characteristics at school or at school-sponsored or school-related activities. This applies to all acts related to school activity or school attendance within a school under the jurisdiction of the Executive Director of the Charter School. FCPS requires that school personnel take immediate steps to intervene when safe to do so when he or she witnesses an act of discrimination, harassment, intimidation, or bullying. FCPS also prohibits retaliatory behavior or action against any person who files a complaint, testifies, or otherwise participates in district complaint processes.

The Charter School adopted and implemented a complaint process to receive, investigate, and resolve allegations of discrimination, harassment, intimidation, and bullying based on actual or perceived ancestry, age, color, disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, age, sex, sexual orientation, or association with a person or a group with one or more of these actual or perceived characteristics, and shall include, but not limited, to the following:

- a. A timeline for the investigation and resolution of complaints of discrimination, harassment, intimidation, or bullying that all schools under the jurisdiction of the district will follow.
- b. An appeal process to the complainant should he or she disagree with the resolution of the complaint.

*(cf. 0410 - Nondiscrimination in District Programs and Activities)*  
*(cf. 1312.1 - Complaints Concerning District Employees)*  
*(cf. 5131 - Conduct)*  
*(cf. 5131.2 - Bullying)*  
*(cf. 5137 - Positive School Climate)*  
*(cf. 5141.4 - Child Abuse Prevention and Reporting)*  
*(cf. 5145.3 - Nondiscrimination/Harassment)*

*(cf. 6142.1 - Sexual Health and HIV/AIDS Prevention Instruction)*

### **Instruction/Information**

The Executive Director or designee shall ensure that all FCPS students receive age-appropriate instruction and information on sexual harassment. Such instruction shall include:

1. What acts and behavior constitute sexual harassment, including the fact that sexual harassment could occur between people of the same sex and could involve sexual violence.
2. A clear message that students do not have to endure sexual harassment.
3. Encouragement to report observed instances of sexual harassment, even where the victim of the harassment has not complained.
4. Information about the school's procedure for investigating complaints and the person(s) to whom a report of sexual harassment should be made.
5. Information about the rights of students and parents/guardians to file a criminal complaint, as applicable.

### **Complaint Process**

The Charter School adopted and implemented a complaint process to receive, investigate, and resolve allegations of discrimination, harassment, intimidation, and bullying based on actual or perceived ancestry, age, color, disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, age, sex, sexual orientation, or association with a person or a group with one or more of these actual or perceived characteristics, and shall include, but not limited, to the following:

- a. A timeline for the investigation and resolution of complaints of discrimination, harassment, intimidation, or bullying that all schools under the jurisdiction of the district will follow.
- b. An appeal process to the complainant should he or she disagree with the resolution of the complaint.

Any student who feels that he/she is being or has been sexually harassed on school grounds or at a school-sponsored or school-related activity shall immediately contact his/her teacher or any other employee. An employee who receives such a complaint shall report in accordance with administrative regulation.

The Executive Director or designee shall ensure that any complaints regarding sexual harassment are immediately investigated in accordance with administrative regulation. When the Executive Director or designee has determined that harassment has occurred, he/she shall take prompt, appropriate action to end the harassment and to address its effects on the victim.

The Title IX Officer responsible for equity and compliance with Title IX is as follows:

School Counselor  
11828 Gain Street  
Lake View Terrace, CA 91342  
818-896-7482

*(cf. 1312.3 - Uniform Complaint Procedures)*

### **Disciplinary Actions**

Any student who engages in sexual harassment or sexual violence at school or at a school-sponsored or school-related activity is in violation of this policy and shall be subject to disciplinary action. For students in grades 4-12, disciplinary action may include suspension and/or expulsion, provided that, in imposing such discipline, the entire circumstances of the incident(s) shall be taken into account.

*cf. 5144 - Discipline)*

*(cf. 5144.1 - Suspension and Expulsion/Due Process)*

*(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))*

### **Confidentiality and Record-Keeping**

All complaints and allegations of sexual harassment shall be kept confidential except as necessary to carry out the investigation or take other subsequent necessary action. Complainants are protected from retaliation and the identity of a complainant remains confidential.

The Executive Director or designee shall maintain a record of all reported cases of sexual harassment to enable the district to monitor, address, and prevent repetitive harassing behavior in the schools.

*(cf. 3580 - District Records)*

### **EDUCATION CODE**

*200-262.4 Prohibition of discrimination on the basis of sex*

*48900 Grounds for suspension or expulsion*

*48900.2 Additional grounds for suspension or expulsion; sexual harassment*

*48904 Liability of parent/guardian for willful student misconduct*

*48980 Notice at beginning of term*

## **Students**

### **Sexual Harassment**

Prohibited sexual harassment includes, but is not limited to, unwelcome sexual advances, unwanted requests for sexual favors, or other unwanted verbal, visual, or physical conduct of a sexual nature made against another person of the same or opposite sex in the educational setting, when made on the basis of sex and under any of the following conditions: (Education Code 212.5; 5 CCR 4916)

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

*(cf. 5131 - Conduct)*

*(cf. 5131.2 - Bullying)*

*(cf. 5137 - Positive School Climate)*

*(cf. 5145.3 - Nondiscrimination/Harassment)*

*(cf. 6142.1 - Sexual Health and HIV/AIDS Prevention Instruction)*

Examples of types of conduct which are prohibited in the district and which may constitute sexual harassment include, but are not limited to:

1. Unwelcome leering, sexual flirtations, or propositions
2. Unwelcome sexual slurs, epithets, threats, verbal abuse, derogatory comments, or sexually degrading descriptions
3. Graphic verbal comments about an individual's body or overly personal conversation
4. Sexual jokes, derogatory posters, notes, stories, cartoons, drawings, pictures, obscene gestures, or computer-generated images of a sexual nature
5. Spreading sexual rumors

6. Teasing or sexual remarks about students enrolled in a predominantly single-sex class
7. Massaging, grabbing, fondling, stroking, or brushing the body
8. Touching an individual's body or clothes in a sexual way
9. Impeding or blocking movements or any physical interference with school activities when directed at an individual on the basis of sex
10. Displaying sexually suggestive objects
11. Sexual assault, sexual battery, or sexual coercion

### **School-Level Complaint Process/Grievance Procedure**

Complaints of sexual harassment, or any behavior prohibited by the FCPS's Nondiscrimination/Harassment policy, shall be handled in accordance with the following procedure:

1. **Notice and Receipt of Complaint:** Any student who believes he/she has been subjected to sexual harassment or who has witnessed sexual harassment may file a complaint with any school employee. Within 24 hours of receiving a complaint, the school employee shall report it to the Director. In addition, any school employee who observes any incident of sexual harassment involving a student shall, within 24 hours, report this observation to the Director, whether or not the victim files a complaint.

In any case of sexual harassment involving the Director to whom the complaint would ordinarily be made, the employee who receives the student's report or who observes the incident shall instead report to the Executive Director or designee.

2. **Initiation of Investigation:** The Director shall initiate an impartial investigation of an allegation of sexual harassment within five school days of receiving notice of the harassing behavior, regardless of whether a formal complaint has been filed. The school shall be considered to have "notice" of the need for an investigation upon receipt of information from a student who believes he/she has been subjected to harassment, the student's parent/guardian, and an employee who received a complaint from a student, or any employee or student who witnessed the behavior.

If the Director receives an anonymous complaint or media report about alleged sexual harassment, he/she shall determine whether it is reasonable to pursue an investigation considering the specificity and reliability of the information, the seriousness of the alleged incident, and whether any individuals can be identified who were subjected to the alleged harassment.

3. Initial Interview with Student: When a student or parent/guardian has complained or provided information about sexual harassment, the Director shall describe FCPS's grievance procedure and discuss what actions are being sought by the student in response to the complaint. The student who is complaining shall have an opportunity to describe the incident, identify witnesses who may have relevant information, provide other evidence of the harassment, and put his/her complaint in writing. If the student requests confidentiality, he/she shall be informed that such a request may limit FCPS's ability to investigate.
4. Investigation Process: The Director shall keep the complaint and allegation confidential, except as necessary to carry out the investigation or take other subsequent necessary action. (5 CCR 4964)

The Director shall interview individuals who are relevant to the investigation, including, but not limited to, the student who is complaining, the person accused of harassment, anyone who witnessed the reported harassment, and anyone mentioned as having relevant information. The Director may take other steps such as reviewing any records, notes, or statements related to the harassment or visiting the location where the harassment is alleged to have taken place.

When necessary to carry out his/her investigation or to protect student safety, the Director also may discuss the complaint with the Executive Director or designee, the parent/guardian of the student who complained, the parent/guardian of the alleged harasser if the alleged harasser is a student, a teacher or staff member whose knowledge of the students involved may help in determining who is telling the truth, law enforcement and/or child protective services, and district legal counsel or the district's risk manager.

*(cf. 5141.4 - Child Abuse Prevention and Reporting)*

5. Interim Measures: The Director shall determine whether interim measures are necessary during and pending the results of the investigation, such as placing students in separate classes or transferring a student to a class taught by a different teacher.
6. Optional Mediation: In cases of student-on-student harassment, when the student who complained and the alleged harasser so agree, the Director may arrange for them to resolve the complaint informally with the help of a counselor, teacher, administrator, or trained mediator. The student who complained shall never be asked to work out the problem directly with the accused person unless such help is provided and both parties agree, and he/she shall be advised of the right to end the informal process at any time.

*(cf. 5138 - Conflict Resolution)*

7. Factors in Reaching a Determination: In reaching a decision about the complaint, the Director may take into account:
  - a. Statements made by the persons identified above
  - b. The details and consistency of each person's account
  - c. Evidence of how the complaining student reacted to the incident

- d. Evidence of any past instances of harassment by the alleged harasser
- e. Evidence of any past harassment complaints that were found to be untrue

To judge the severity of the harassment, the Director may take into consideration:

- a. How the misconduct affected one or more students' education
  - b. The type, frequency, and duration of the misconduct
  - c. The identity, age, and sex of the harasser and the student who complained, and the relationship between them
  - d. The number of persons engaged in the harassing conduct and at whom the harassment was directed
  - e. The size of the school, location of the incidents, and context in which they occurred
  - f. Other incidents at the school involving different students
8. Written Report on Findings and Follow-Up: No more than 30 days after receiving the complaint, the Director shall conclude the investigation and prepare a written report of his/her findings. This timeline may be extended for good cause. If an extension is needed, the Director shall notify the student who complained and explain the reasons for the extension.

The report shall include the decision and the reasons for the decision and shall summarize the steps taken during the investigation. If it is determined that harassment occurred, the report shall also include any corrective actions that have or will be taken to address the harassment and prevent any retaliation or further harassment. This report shall be presented to the student who complained, the person accused, the parents/guardians of the student who complained and the student who was accused, and the Executive Director or designee.

In addition, the Director shall ensure that the harassed student and his/her parent/guardian are informed of the procedures for reporting any subsequent problems. The Director shall make follow-up inquiries to see if there have been any new incidents or retaliation and shall keep a record of this information.

### **Enforcement of Charter School Policy**

The Executive Director or designee shall take appropriate actions to reinforce FCPS's sexual harassment policy. As needed, these actions may include any of the following:

- 1. Removing vulgar or offending graffiti
- 2. Providing training to students, staff, and parents/guardians about how to recognize harassment and how to respond

*(cf. 4131 - Staff Development)*

*(cf. 4231 - Staff Development)*

*(cf. 4331 - Staff Development)*

3. Disseminating and/or summarizing FCPS's policy and regulation regarding sexual harassment
4. Consistent with the laws regarding the confidentiality of student and personnel records, communicating the school's response to parents/guardians and the community

*(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)*

*(cf. 5125 - Student Records)*

5. Taking appropriate disciplinary action

In addition, disciplinary measures may be taken against any person who is found to have made a complaint of sexual harassment which he/she knew was not true.

*(cf. 4118 - Suspension/Disciplinary Action)*

*(cf. 4218 - Dismissal/Suspension/Disciplinary Action)*

*(cf. 5144.1 - Suspension and Expulsion/Due Process)*

*(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))*

## **Notifications**

A copy of FCPS's sexual harassment policy and regulation shall:

1. Be included in the notifications that are sent to parents/guardians at the beginning of each school year (Education Code 48980; 5 CCR 4917)

*(cf. 5145.6 - Parental Notifications)*

2. Be displayed in a prominent location in the main administrative building or other area where notices of district rules, regulations, procedures, and standards of conduct are posted, including school web sites (Education Code 231.5)
3. Be provided as part of any orientation program conducted for new students at the beginning of each quarter, semester, or summer session (Education Code 231.5)



4. Appear in any school publication that sets forth the school's or FCPS's comprehensive rules, regulations, procedures, and standards of conduct (Education Code 231.5)
5. Be included in the student handbook
6. Be provided to employees and employee organizations

**Complainant Appeal Process:**

The parent and student may contest a decision through a meeting with the Director, and then the Board of Directors within five (5) school days of the incident.

The Board of Directors will review the circumstances of all decisions contested by the parent, except for cases that are proceeding through the expulsion process, by following the steps below which will also be used to mediate any parent conflicts:

1. Parent(s) or guardian meets with an Administrator.
2. If not resolved, parent(s) or guardian may submit concern in writing to the Board of Directors.
3. The Board of Directors will meet in closed session (the administrators will recuse themselves) and render a final decision on the matter.

*Date of FCPS Board approval and adoption: December 4, 2014*

*Date of FCPS Board approval and adoption: December 4, 2014*