



## **Employee Handbook - Policy Against Harassment, Discrimination, and Retaliation**

Presidio Hill School prohibits conduct that violates this Policy. Harassment, discrimination, or retaliation against an applicant, employee, student, contractor, unpaid intern, or volunteer, by an employee, student, or an individual with whom the School has a business, contractual, or professional relationship, such as parents, legal guardians, unpaid interns, volunteers, independent contractors, or vendors, on the basis of any protected classification, as defined in this Policy, is strictly prohibited and will not be tolerated. A single act can violate this Policy and provide grounds for discipline or other appropriate sanctions. Conduct need not be or rise to the level of a violation of law in order to violate this Policy. Similarly, a violation of this Policy does not necessarily qualify as a violation of law and there are many circumstances in which a violation of this Policy would not also constitute a violation of law. If you are in doubt as to whether or not any particular conduct may violate this Policy, do not engage in the conduct, and seek guidance from the Head of School.

### **a) Definitions**

- i. Protected Classifications:** This Policy prohibits harassment or discrimination because of an individual's classification(s). "Protected Classification" includes race, color, religion (including all aspects of religious beliefs, observance or practice, including religious dress or grooming practices), sex (including gender, gender identity, gender expression, transgender, pregnancy and breastfeeding), sexual orientation (including heterosexuality, homosexuality, homosexuality, and bisexuality), national origin, ancestry, citizenship status, uniformed service member status, marital status, domestic partnership status, age, medical condition, genetic characteristics or information, and physical or mental disability.
- ii. Policy Coverage:** This Policy prohibits employees, students, or individuals with whom Presidio Hill School has a business, contractual, or professional relationship, such as parents, legal guardians, unpaid interns, volunteers, independent contractors, or vendors, from harassing or discriminating against applicants, employees, students, contractors, unpaid interns, or volunteers, because of (1) an individual's protected classification; (2) the perception of an individual's protected classification, or (3) the protected classification or perceived protected classification of a person with whom the individual associates. This Policy also prohibits retaliation as defined below.
- iii. Discrimination:** Discrimination means treating individuals differently from other similarly situated individual's at the School, by taking an adverse action against or denying a benefit to that individual, because of the individual's actual or perceived protected classification, or the protected classification or perceived protected classification of a person with whom the individual associates.
- iv. Harassment:** Harassment means words or conduct undertaken because of an



individual's protected classification, and which subjectively and objectively offend another person. Harassment based on sex or any other protected category, is unlawful and will not be tolerated.

Note that harassment is not limited to conduct undertaken by School employees.

Under certain circumstances, harassment can also include conduct by students, or individuals with whom the School has a business, contractual, or professional relationship, such as parents, legal guardians, unpaid interns, volunteers, independent contractors, or vendors. Harassment may include, but is not limited to, the following types of behavior engaged in because of a person's protected classification:

- A. Speech:** This includes epithets (nicknames and slang terms), derogatory or suggestive comments, propositioning, jokes or slurs, including graphic verbal commentaries about an individual's body, or that identify a person on the basis of his/her protected classification. This might include comments on appearance including dress or physical features, or dress consistent with gender identification, or race-oriented stories and jokes.
- B. Visual Acts:** This includes derogatory posters, notices, bulletins, cartoons, drawings, sexually suggestive objects, or emails on the basis of a protected classification.
- C. Physical Acts:** This includes assault, offensive touching, impeding or blocking movement, grabbing, patting, leering, making express or implied job related threats or promises in return for submission to physical acts.
- D. Sexual Harassment:** This is defined as unwelcome sexual advances, requests for sexual favors, and other conduct of a sexual nature where submission is made a term or condition of employment, where submission to or rejection of the conduct is used as the basis for employment decisions, or where the conduct is intended to or actually does unreasonably interfere with an individual's work performance or create an intimidating, hostile, or offensive working environment. This may include conduct between members of the opposite or same gender, and may also include conduct not motivated by sexual desire.

#### Guidelines for Identifying Harassment

To help clarify what constitutes harassment in violation of this Policy, use the following guidelines:

- Harassment includes any conduct which would be "unwelcome" to an individual of the recipient's same protected classification and which is taken because of the recipient's protected classification.
- It is no defense that the recipient appears to have voluntarily "consented" to the conduct at issue. A recipient may not protest for many legitimate reasons, including the need to avoid being insubordinate or to avoid being ostracized.



- Simply because no one has complained about a joke, gesture, picture, physical contact, or comment does not mean that the conduct is welcome. Harassment can evolve over time. The fact that no one is complaining now does not preclude anyone from complaining if the conduct is repeated in the future.
- Even visual, verbal, or physical conduct between two employees who appear to welcome the conduct can constitute harassment of a third party who observes the conduct or learns about the conduct later. Conduct can constitute harassment even if it is not explicitly or specifically directed at an individual.
- Conduct can constitute harassment in violation of this Policy even if the individual engaging in the conduct has no intention to harass. Even well intentioned conduct can violate this Policy if the conduct is directed at, or implicates a protected classification, and if an individual of the recipient's same protected classification would find it offensive (e.g., gifts, over attention, endearing nicknames).
- The determination of what constitutes harassment will depend on specific facts and the context in which the conduct occurs.

## **b) Retaliation**

Any adverse conduct taken because an applicant, employee, or contractor has reported harassment or discrimination, or has participated in the complaint and investigation process described herein, is prohibited. "Adverse conduct" includes but is not limited to: taking sides because an individual has reported harassment or discrimination, spreading rumors about a complaint, shunning and avoiding an individual who reports harassment or discrimination, or real or implied threats of intimidation to prevent an individual from reporting harassment or discrimination. The following individuals are protected from retaliation: those who make good faith reports of harassment or discrimination, and those who associate with an individual who is involved in reporting harassment or discrimination or who participates in the complaint or investigation process.

## **c) Process for Reporting Harassment, Discrimination, or Retaliation**

An applicant, employee, volunteer, administrator or contractor who feels he/she has been harassed, discriminated against or retaliated against in violation of this Policy should report the conduct immediately as outlined below so that the complaint can be resolved quickly and fairly.

- i. Oral Report:** If a person who believes that this policy has been violated does not want to confront the offending person, he/she should report the conduct to his/her direct supervisor, or any School management employee. Any supervisory or management employee who receives such a report must in turn direct it to the Head of School. The Head of School will determine what level of investigation and response is necessary. In the event that the complaint is against the Head of School, the report must be directed to the Board Chair, in which case the Board



Chair will determine what level of investigation and response is necessary.

- ii. **Written Process:** An individual who believes this policy has been violated may provide a written complaint to a direct supervisor, department head, dean, or any management employee, who in turn must direct the complaint to the Head of School, or in the event that the complaint is against the Head of School, to the Board Chair.
- iii. **Option to Report to Outside Administrative Agencies.** Applicants, employees, administrators and contractors have the option to report harassment, discrimination, or retaliation to the U.S. Equal Employment Opportunity Commission (EEOC) or the California Department of Fair Employment and Housing (DFEH). The EEOC can be reached at 18006694000 or at [www.eeoc.gov](http://www.eeoc.gov). The DFEH can be reached at 18008841684 or at [www.dfeh.ca.gov](http://www.dfeh.ca.gov).

#### **d) The School's Response to Complaint of Harassment, Discrimination or Retaliation Investigation Procedure**

After receiving an oral report or written complaint, or the School otherwise learns of an alleged potential violation of this Policy, the Head of School or his/her designee may request clarification and/or conduct an initial inquiry, to determine whether the oral report or written complaint alleges a potential violation of this Policy. In the event, the oral report or written complaint or other information the School otherwise learns of is against the Head of School, the Board Chair or his/her designee may request the clarification and/or conduct an initial inquiry. To request clarification and/or conduct an initial inquiry, the Head of School, Board Chair, or their respective designees may meet with the individual(s) who made the oral report or written complaint and/or that was reportedly subjected to conduct that violates this Policy.

If an oral report or written complaint alleges a potential violation of this Policy, or the School otherwise learns of an alleged potential violation of this Policy, the School will initiate an investigation. The investigation will be conducted by qualified personnel or a qualified outside investigator as determined in the sole discretion of the School.

During the pendency of the investigation, the Head of School, supervisor and or appropriate administrator may take interim action as appropriate, such as placing the person alleged to have violated this Policy (the "Respondent") on paid administrative leave or temporarily transferring the Respondent. Generally, no interim action should be taken to change the complaining individual's ("Complainant's") working conditions unless the Complainant voluntarily consents to the temporary change.

The investigation will be conducted by qualified personnel or a qualified outside investigator as determined in the sole discretion of the School.

The investigation will be conducted in a fair, timely, and thorough manner. The School will document and track the investigation for reasonable progress and timely closures. The investigation will normally include interviews with the reporting individual or Complainant, the Respondent, and other



persons believed to have relevant knowledge concerning the allegations. Witnesses will be advised that retaliation against those who report alleged harassment or who participate in the investigation is prohibited. The Respondent will be notified that a complaint has been made alleging that he/she has violated this Policy. Whenever possible, the investigation will commence with an interview of the complaining party. Before the investigation is concluded, the Respondent will be informed of the allegations made against him/her, and be provided with an opportunity to respond to the allegations.

Once the information gathering process is completed, the investigator may prepare an investigative report containing the investigator's findings of fact, which will be reasonable conclusions based on the evidence collected. The investigator will make findings based on a "preponderance of the evidence" standard. The report will be shared with the Head of School, or the Board Chair if the complaint is against the Head of School, and other school representatives who have a need to know the outcome.

#### **e) Remedial and Disciplinary Action**

Once the investigation is complete, the School will determine if the conduct violates school policy and if so, the corrective action. Any employee or student determined to have violated this policy will be subject to disciplinary action, up to and including termination or expulsion. Disciplinary action may also be taken against any administrator, supervisor or manager who condones or ignores potential violations of this policy, or who otherwise fails to take appropriate action to enforce this policy. Because contractors and business associates are not employees of the School, the School may not be able to take corrective action in the same way or to the same extent that it can with respect to its own employees or students. However, the School will make its best efforts to take corrective action for violations of this policy, or if appropriate, to cause others to take corrective action.

Please be advised that an employee who engages in unlawful harassment of a coemployee is personally liable for the harassment, regardless of whether the School knew or should have known of the conduct and/or failed to take appropriate corrective action. The School does not consider conduct in violation of this Policy to be within the course and scope of employment or the direct consequence of the discharge of one's duties. Accordingly, to the extent permitted by law, the School reserves the right to refuse to provide a defense or pay legal fees and costs or to pay damages assessed against any employee based on conduct in violation of this policy.

#### **f) Closure**

The investigation will be closed in a timely manner. At the conclusion of the investigation, the Head of School [or another designee] or if applicable, the Board Chair, will notify the Complainant in general terms of the outcome of the investigation.

#### **g) Confidentiality**

The School cannot keep oral reports or written complaints made under this Policy completely confidential due to the need to investigate potential violations of this Policy and take effective remedial



action, or to comply with other legal requirements. The School will, however, keep oral reports or written complaints made under this Policy, confidential to the extent possible. The School will not disclose a completed investigation report except as it deems necessary to support a disciplinary action, report internally on an as needed basis, take remedial action, defend the School in administrative or legal proceedings, or to comply with the law or a court order.

## **h) Responsibilities of Employees, and Supervisory Employees**

**i. Employees:** In order to establish and maintain a professional working environment, while at the same time preventing harassment, discrimination, and retaliation, employees are expected to:

- Set an example of acceptable conduct by not participating in or provoking behavior that violates this Policy. Try not to be angry or insulted if an individual tells you that your behavior is offensive. People have different ethical values and standards and may be offended by behavior you think is proper. Tell the individual you did not realize your behavior was offensive, and immediately cease the conduct.
- Report harassment, discrimination or retaliation as quickly as possible, whether the employee is the target of the conduct or a witness.
- If an employee witnesses harassment, he/she should tell the individual being harassed that the School has a policy prohibiting such behavior, and that he/she can demand that the harasser cease the behavior.
- Fully cooperate with the School's investigation of complaints made under this Policy.

**ii. Supervisory Employees:** In addition to the responsibilities listed above, administrators and supervisors are responsible for the following:

- Implementing this Policy by taking all complaints seriously and modeling behavior that is consistent with this Policy. Direct all complaints to the Head of School, or if the complaint is against the Head of School, the Board Chair.
- Taking positive steps to eliminate any form of harassment, discrimination or retaliation observed or brought to his/her attention.
- Monitoring the work environment and taking appropriate action to stop potential Policy violations.
- Following up with those who have complained to ensure the behavior complained of has ceased.
- Reporting potential violations of this policy of which he/she becomes aware, regardless of whether a complaint has been formally submitted.



### **i) Mandatory Training**

The School requires that all of its employees receive at least one (1) hour of training on this Policy, and that all of its supervisory employees receive at least two hours of training on this Policy. Employees will receive training on this Policy within six (6) months of being hired, and then at least once every two (2) years. Commencing on January 1, 2020, temporary and seasonal employees hired to work for less than six (6) months will receive training on this Policy within 30 calendar days after the hire date or within 100 hours worked, whichever occurs first. The School will schedule training sessions and attendance at the training will be documented.

### **j) Dissemination of Policy**

All employees shall receive a copy of this Policy when they are hired. The Policy may be updated from time to time and redistributed with a form for the employee to sign and return acknowledging that the employee has received, read, and understands this Policy.