



## **Summit Public Schools California Employee: Sexual Harassment Policy<sup>1</sup>**

Summit Public Schools (“Summit”) is committed to providing a work environment free of unlawful discrimination, including sexual harassment. This commitment extends to all employees and other persons involved in academic, educational, extracurricular, athletic, and other programs or activities of the school, whether that program or activity is in a school facility, on school transportation, or at a class training held elsewhere.

### **Definitions:**

For purposes of this policy, sexual harassment means unwelcome conduct or communication of a sexual nature. Sexual harassment can occur student to adult, adult to adult or can be carried out by a group of students or adults and will be investigated by Summit even if the alleged harasser is not a part of the school staff or student body. Summit prohibits sexual harassment of Summit employees by other students, employees or third parties involved in school activities.

Under federal and state law, the term "sexual harassment" includes:

- acts of sexual violence;
- unwelcome sexual or gender-directed conduct or communications that interferes with an individual's employment performance or creates an intimidation, hostile, or offensive environment;
- unwelcome sexual advances;
- unwelcome requests for sexual favors;
- sexual demands when submission is a stated or implied obtaining work opportunity or other benefits;
- sexual demands where submission or rejection is a factor in a work or other school-related decision affecting an individual.

A "hostile environment" for an employee is created where the unwanted conduct is sufficiently severe, persistent, or pervasive to create a work environment that a reasonable person would consider intimidation, hostile, or abusive.

### **Investigation and Response:**

If Summit knows, or reasonably should know, that sexual harassment has created a hostile environment, Summit will promptly investigate to determine what occurred and

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<sup>1</sup> Revised 10/24/19



will take appropriate steps to resolve the situation. If an investigation reveals that sexual harassment has created a hostile environment, Summit will take prompt and effective steps reasonably calculated to end sexual harassment, eliminate the hostile environment, prevent its occurrence and, as appropriate, remedy its effects. Summit will take prompt, equitable and remedial action within its authority every time a report, complaint and grievance alleging sexual harassment comes to the attention of Summit, either formally or informally.

Allegations of criminal misconduct will be reported to law enforcement and suspected child abuse will be reported to law enforcement or Child Protective Services. Regardless of whether the misconduct is reported to law enforcement, school staff will promptly investigate to determine what occurred and take appropriate steps to resolve the situation to the extent that such investigation does not interfere with an on-going criminal investigation. Please note that a criminal investigation does not relieve Summit of its independent obligation to investigate and resolve sexual harassment.

Engaging in sexual harassment will result in appropriate discipline or other appropriate sanctions against offending staff or third parties involved in school activities. Anyone else who engages in sexual harassment on school property or at school activities will have their access to school property and activities restricted, as appropriate.

#### **Retaliation and False Allegations:**

Retaliation against any person who makes or is a witness in a sexual harassment complaint is prohibited and will result in appropriate discipline. Summit will take appropriate actions to protect involved persons from retaliation.

It is a violation of this policy to knowingly report false allegations of sexual harassment. Persons found to knowingly report or corroborate false allegations will be subject to appropriate discipline

#### **Staff Responsibilities:**

Any school employee who witnesses sexual harassment or receives report, informal complaint, or written complaint about sexual harassment is responsible for informing the Summit's Title IX or Civil Rights Compliance Coordinator. All staff are also responsible for directing complainants to the formal complaint process.



Reports of discrimination and discriminatory harassment will be referred to Summit's Title IX/Civil Rights Compliance Coordinator. Reports of disability discrimination or harassment will be referred to Summit's Section 504 Coordinator.

Summit/school staff, including employees, contractors, and agents shall not provide a recommendation of employment for an employee, contractor, or agent that the Summit/school, or the individual acting on behalf of the Summit/school, knows or has probable cause to believe has engaged in sexual misconduct with a student or minor in violation of the law.

### **Summit Public Schools California Employee: Sexual Harassment Procedure**

The Governing Board recognizes that Summit Public Schools ("SPS") has primary responsibility for ensuring that it complies with the applicable state and federal laws and regulations governing educational programs.

SPS shall follow the Complaint Procedures when addressing:

- **Complaints alleging Sexual Harassment**

The procedure is intended to set forth the requirements of Summit's Employee Sexual Harassment Policy, including the process for a prompt, thorough, and equitable investigation of allegations of sexual harassment and the need to take appropriate steps to resolve such situations. If sexual harassment is found to have created a hostile environment, staff must take immediate action to eliminate the harassment, prevent its reoccurrence, and address its effects.

This procedure applies to sexual harassment (including sexual violence) targeted at Summit employees carried out by other students, employees or third parties involved in school activities. Summit has jurisdiction over these complaints pursuant to Title IX of the Education Amendments of 1972, Chapter 28A.640, state law, and California Education Code § 212.5.

#### **Notice:**

- Information about Summit's sexual harassment policy will be easily understandable and conspicuously posted throughout each school building, provided to each employee. In addition to the posting and reproduction of this



procedure and Employee Sexual Harassment Policy, Summit will provide notice to employees that complaints pursuant to this procedure may be filed at Summit's Home Office: 780 Broadway, Redwood City, CA 94063.

**Staff Responsibilities:**

In the event of an alleged sexual assault, the school Executive Director will immediately inform: 1) the Title IX/Civil Rights Compliance Coordinator so that Summit can appropriately respond to the incident consistent with its own grievance procedures; and 2) law enforcement.

The Executive Director will notify the targeted Summit staff person of their right to file a criminal complaint and a sexual harassment complaint simultaneously.

**Confidentiality:**

If a complainant requests that his or her name not be revealed to the alleged perpetrator or asks that Summit not investigate or seek action against the alleged perpetrator, the request will be forwarded to the Home Office Compliance Coordinator for evaluation. The Home Office Compliance Coordinator should inform the complainant that honoring the request may limit its ability to respond fully to the incident, including pursuing disciplinary action against the alleged perpetrator.

If the complainant still requests that his or her name not be disclosed to the alleged perpetrator or that Summit not investigate or seek action against the alleged perpetrator, Summit will need to determine whether or not it can honor such a request while still providing a safe environment for all students, staff and other third parties engaging in Summit activities, including the person who reported the sexual harassment. Although a complainant's request to have his or her name withheld may limit Summit's ability to respond fully to an individual allegation of sexual harassment, Summit will use other appropriate means available to address the sexual harassment.

**Retaliation:**

Title IX prohibits retaliation against any individual who files a complaint under these laws or participates in a complaint investigation. When an informal or formal complaint of sexual harassment is made, Summit will take steps to stop further harassment and prevent any retaliation against the person who made the complaint, was the subject of the harassment, or against those who provided information as a witness. Summit will



investigate all allegations of retaliation and take actions against those found to have retaliated.

### **Informal Complaint Process**

Anyone may use informal procedures to report and resolve complaints of sexual harassment. Informal reports may be made to any staff member. Staff will always notify complainants of their right to file a formal complaint and the process for same. Staff will also direct potential complainants to Summit's Home Office Compliance Coordinator. Additionally, staff will also inform an appropriate supervisor or professional staff member when they receive complaints of sexual harassment, especially when the complaint is beyond their training to resolve or alleges serious misconduct.

During the course of the informal complaint process, Summit will take prompt and effective steps reasonably calculated to end any harassment and to correct any discriminatory effects on the complainant. If an investigation is needed to determine what occurred, Summit will take interim measures to protect the complainant before the final outcome of Summit's investigation (e.g., allowing the complainant to change academic or extracurricular activities or break times to avoid contact with the alleged perpetrator).

#### **Informal remedies may include:**

- An opportunity for the complainant to explain to the alleged harasser that his or her conduct is unwelcome, offensive or inappropriate, either in writing or face-to-face;
- A statement from a staff member to the alleged harasser that the alleged conduct is not appropriate and could lead to discipline if proven or repeated;
- A general public statement from an administrator in a building reviewing the district sexual harassment policy without identifying the complainant.
- Developing a safety plan;
- Separating staff person; or
- Providing staff and/or student training.

Informal complaints may become formal complaints at the request of the complainant, parent or guardian, or because Summit believes the complaint needs to be more thoroughly investigated. Summit will inform the complainant how to report any subsequent problems. Additionally, Summit will conduct follow-up inquiries to see if there have been any new incidents or instances of retaliation, and to promptly respond



and appropriately address continuing or new problems. Follow-up inquiries will follow a timeline agreed to by Summit.

### **Formal Complaint Process**

#### **Filing of A Complaint:**

- A. Any individual, parent, public agency or organization may file a written complaint of sexual harassment, even if the informal complaint process is being utilized. At any level in the formal complaint process, Summit will take interim measures to protect the complainant before the final outcome of Summit's investigation. Written complaints shall be presented to the compliance officer who shall maintain a log of complaints received, providing each with a code number and date stamp. If a complainant is unable to put a complaint in writing due to conditions such as a disability or illiteracy, the Charter School staff shall assist him/her in the filing of the complaint.
  
- B. A complaint may be filed by a person who alleges that he/she personally suffered unlawful sexual harassment or by a person who believes that an individual or any specific class of individuals has been subjected to unlawful sexual harassment.

#### **Mediation:**

- A. Within 3 days of the receipt of the complaint, the compliance officer may informally discuss with the complainant the possibility of using mediation. If the complainant agrees to mediation, the compliance officer shall make arrangements for this process.
  
- B. Before initiating the mediation of an unlawful discrimination, harassment, intimidation or bullying complaint, the compliance officer shall ensure that all parties agree to make the mediator a party to related confidential information. If resolution is not reached at this level, the compliance officer will proceed with his/her investigation of the complaint.
  
- C. The use of mediation shall not extend SPS's timelines for investigating and resolving the complaint unless the complainant agrees in writing to such an extension of time.



### **INVESTIGATION:**

The compliance officer is encouraged to hold an investigative meeting within five (5) days of receiving the complaint or an unsuccessful attempt to mediate the complaint. This meeting shall provide an opportunity for the complainant and/or his/her representative to repeat the complaint orally.

- A. The complainant and/or his/her representative shall have an opportunity to present the complaint and evidence or information leading to evidence to support the allegations in the complaint.
- B. Refusal by the complainant to provide the investigator with documents or other evidence related to the allegations in the complaint, or to otherwise fail or refuse to cooperate in the investigation or his/her failure or refusal to cooperate in the investigation, or his/her engagement in any other obstruction of the investigation, may result in the dismissal of the complaint because of a lack of evidence to support the allegations.
- C. SPS will provide the investigator with access to records and/or other information related to the allegation in the complaint. SPS's refusal to provide the investigator with access to records and/or other information related to the allegation(s) in the complaint, or to otherwise fail to refuse or cooperate in the investigation or engage in any other obstruction of the investigation may result in a finding based on evidence collected that a violation has occurred and may result in the imposition of a remedy in favor of the complainant.

### **SPS'S WRITTEN RESPONSE:**

The compliance officer will prepare a written report of the finding and decision within 60 days of receiving the complaint unless the complainant agrees in writing to extend the timeline.

**SPS's decision will be reported in writing, sent to the complainant within 60 calendar days of receipt of the complaint. The decision shall be written in English and in the language of the complainant whenever feasible or as required by law. The report will contain the following elements:**



- a) The findings of fact based on the evidence gathered;
- b) Conclusion(s) of law;
- c) Disposition of the complaint;
- d) The rationale for such a disposition;
- e) Corrective actions, if any are warranted;
- f) Notice of the complainant's right to appeal the SPS's decision to CDE within 15 days
- g) Procedures to be followed for initiating an appeal to CDE;
- h) For unlawful discrimination, harassment, intimidation or bullying complaints arising under state law, notice that the complainant must wait until 60 days have elapsed from the filing of an appeal with the CDE before pursuing civil law remedies; and
- i) For unlawful discrimination, harassment, intimidation or bullying complaints arising under federal law, such complaint may be made at any time for the U.S. Department of Education, Office for Civil Rights.

If an employee is disciplined as a result of the complaint, the decision shall simply state that effective action was taken and that the employee was informed of SPS's expectations. The report shall not give any further information as to the nature of the disciplinary action.

### **APPEALS TO THE CALIFORNIA DEPARTMENT OF EDUCATION**

The complainant may appeal in writing to the California Department of Education (CDE) within 15 days of receiving SPS's response. When appealing to the CDE, the complainant must specify the basis for the appeal of the decision and whether the facts are incorrect and/or the law has been misapplied. The appeal shall be accompanied by a copy of the locally filed complaint and a copy of SPS's decision.

Upon notification by the CDE that the complainant has appealed SPS's decision, the Director or designee shall forward the following documents to the CDE:

1. A copy of the original complaint;
2. A copy of the decision;
3. A summary of the nature and extent of the investigation conducted by SPS, if not covered by the decision;





4. A copy of the investigation file, including but not limited to all notes, interviews, and documents submitted by all parties and gathered by the investigator;
5. A report of any action taken to resolve the complaint;
6. A copy of SPS's complaint procedures; and
7. Other relevant information requested by the CDE.

The CDE may directly intervene in the complaint without waiting for action by SPS when one of the conditions listed in Title 5, California Code of Regulations, Section 4650 exists, including cases in which SPS has not taken action within 60 days of the date the complaint was filed with SPS.

## **CIVIL LAW REMEDIES**

Nothing in this policy precludes a complainant from pursuing available civil law remedies outside of SPS's complaint procedures. Complainants may seek assistance from mediation centers or public/private interest attorneys. Civil law remedies that may be imposed by a court include, but are not limited to, injunctions and restraining orders. For unlawful discrimination, harassment, intimidation or bullying complaints arising under state law, however, a complainant must wait until 60 days has elapsed from the filing of an appeal with the California Department of Education before pursuing civil law remedies. The moratorium does not apply to injunctive relief and is applicable only if SPS has appropriately, and in a timely manner, apprised the complainant of his/her right to file a complaint in accordance with 5 CCR 4622.

### **Preservation of Records**

The files containing copies of all correspondence relative to each complaint communicated to SPS and the disposition, including any corrective measures instituted by SPS, will be retained in the office of the compliance officer for a period of six years.

### **SPS California Schools Compliance Officers**

The Governing Board designates the following compliance officer to receive and investigate complaints and ensure SPS's compliance with the law:

**Summit Public Schools - Denali Compliance Officer**



Kevin Bock Executive Director  
Summit Public Schools Denali  
6th - 8th Grade Campus:  
539 E Weddell Dr.  
Sunnyvale, CA 94089

9th - 12th Grade Campus:  
195 Leota Ave  
Sunnyvale, CA 94086

Phone: (669) 721-2646  
Email: [kbock@summitps.org](mailto:kbock@summitps.org)

**Summit Public Schools - Everest Compliance Officer**

Jimmy Zuniga Executive Director  
Summit Public Schools Everest  
455 5th Ave  
Redwood City, CA 94063

Phone: (650) 366-1050  
Email: [jzuniga@summitps.org](mailto:jzuniga@summitps.org)

**Summit Public Schools - K2 Compliance Officer**

Cynthia Jerez Executive Director  
Summit Public Schools K2  
1800 Elm Street  
El Cerrito, CA 94530

Phone: (510) 374-4093  
Email: [cjerez@summitps.org](mailto:cjerez@summitps.org)

**Summit Public Schools - Prep Compliance Officer**

Caitlin Reilly Executive Director  
Summit Public Schools Prep  
890 Broadway St.



Redwood City, CA 94063

Phone: (650) 556-1110

Email: [creilly@summitps.org](mailto:creilly@summitps.org)

**Summit Public Schools - Rainier Compliance Officer**

Edwin Avarca Executive Director

Summit Public Schools Rainier

1750 S White Rd

San Jose, CA 95127

Phone: (408) 831-3105

Email: [eavarca@summitps.org](mailto:eavarca@summitps.org)

**Summit Public Schools - Shasta Compliance Officer**

Wren Maletsky Executive Director

Summit Public Schools Shasta

905 Campus Dr.

Daly City, CA 94015

Phone: (415) 799-4719

Email: [wmaletsky@summitps.org](mailto:wmaletsky@summitps.org)

**Summit Public Schools - Tahoma Compliance Officer**

Jonathan Stewart Executive Director

Summit Public Schools Tahoma

285 Blossom Hill Road

San Jose, CA 95123

Phone: (408) 729 -1981

Email: [jstewart@summitps.org](mailto:jstewart@summitps.org)

**Summit Public Schools - Tamalpais Compliance Officer**

Abbie Ridenour Executive Director

Summit Public Schools Tamalpais



3020 Hilltop Mall Road  
Richmond, CA 94806

Phone: (510) 374-4185

Email: [aridenour@summitps.org](mailto:aridenour@summitps.org)

**Summit Public Schools Home Office Compliance Officer**

**Summit Public Schools Compliance Officer**

Keith Cantrelle (Conflict Resolution Advisor)

Summit Public Schools

780 Broadway

Redwood City, CA 94063

[kcantrelle@summitps.org](mailto:kcantrelle@summitps.org)

Phone: (650) 257-9878

Fax: (650) 517-8356

The Superintendent or his/her designee shall ensure that Summit employees designated to investigate complaints are knowledgeable about laws and programs for which they are responsible. Such employees may have access to legal counsel as determined by the Superintendent or designee.