



America's Finest Charter School

730 45th St, San Diego, CA 92102

Phone: 619-694-4809

Fax: 619-794-2762

2019 - 2020

STUDENT SEXUAL HARASSMENT POLICY

America's Finest Charter School is committed to making our school free from sexual harassment and discrimination, intimidation, and bullying. Sexual harassment is a form of sex discrimination under Title IX of the Education Amendments of the Civil Rights Act of 1972 and is prohibited by both federal and state laws. The school prohibits sexual harassment of students by other students, employees or other persons, at school or at school-sponsored or school-related activities. Sexual harassment is defined in Education Code to mean unwelcome sexual advances; requests for sexual favors; or verbal, visual, or physical conduct of a sexual nature, made by someone from or in the educational setting. The executive director or his/her designee shall ensure that school students receive age-appropriate instruction about their rights to be free from sexual harassment, the school procedure for reporting and investigating complaints of sexual harassment including with whom a complaint should be filed.

The school prohibits conduct that has the purpose or effect of having a negative impact on the individual's work or academic performance, or that is sufficiently severe, persistent, or pervasive to create an intimidating, hostile, or offensive educational environment.

Any student who feels that he/she is being, or has been, sexually harassed by a school employee, another student, or a non-school employee at school or at a school-related event, shall immediately contact his/her teacher or any other school employee. An employee who receives such a complaint shall report it in accordance with administrative procedures/regulations.

Students who violate this policy may be subject to discipline, up to and including expulsion, in accordance with school policy, administrative procedures and state law.

Employees who violate this policy shall be subject to discipline up to and including dismissal. Any disciplinary action shall be in accordance with applicable federal and state laws.

Assembly Bill 1619 was passed unanimously by the California State Assembly on Sep. 29, 2018. This bill effectively extends the statute of limitations for sexual assault from two years to 10 years, allowing more survivors of sexual violence to come forward and file a civil action against their abusers.

DEFINITIONS

Sexual Harassment: Any form of discrimination which includes, but is not limited to, unwelcome sexual advances, requests, or other verbal visual or physical conduct of a sexual nature made by someone from or in the educational setting under any of the following conditions:

Submission to the conduct is explicitly or implicitly made a term or condition of an individual's academic status or progress; or

Submission, or rejection of, the conduct by the individual is used as a basis of academic decisions affecting the individual; or

The conduct has the purpose or effect of having a negative impact upon the individual's academic performance or of creating an intimidating, hostile or offensive educational environment; or



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Submission to, or rejection of, the conduct by the individual is used as a basis for any decision affecting the individual regarding benefits and services, honors, programs or activities available at or through the educational institution.

Unwelcome Conduct: Some examples of sexual harassment may include, but are not limited to:

Deliberate written or oral comments, gestures, or physical contacts of a sexual nature or demeaning to one's gender, which are unwelcome or interfere with school productivity;

Implicit or explicit sexual behavior by a fellow student, school employee, or other person within the school environment that has the effect of controlling, influencing or otherwise affecting the school environment;

Unwelcome suggestive, vulgar, or obscene letters, notes, posters, calendars, or other visual products, or derogatory comments slurs, and/or jokes of a sexual nature.

Hostile Educational Environment: A hostile educational environment is created when sexual harassment is sufficiently severe, or objectively offensive AND persistent or pervasive.

Sufficiently Severe: Physical incidents (including but not limited to touching) are more likely to be severe without need for repetition. Touching another's genitals, buttocks, or breasts can be considered severe depending on the age of the student(s). If an incident is severe, it does not have to be persistent or pervasive to be sexual harassment.

Objectively Offensive: The behavior is such that a reasonable person would consider the behavior offensive. The behavior sometimes may involve physical threats, humiliation, intimidation, or ridicule.

Persistent or Pervasive: Persistent such that the behavior may be repeated, continuing beyond the usual, not stopping, or continuing even though others want the behavior to stop; OR pervasive such that the behavior is widespread, openly practiced, well-known among students or employees, occurring in public, occurring with regularity, or know but nobody talks about it.

Sexual Violence: Physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent (e.g., due to the student's age or use of drugs or alcohol, or because an intellectual or other disability prevents the student from having the capacity to give consent). A number of different acts fall into the category of sexual violence including rape, sexual assault, sexual battery, sexual abuse, and sexual coercion. All such acts are forms of sex discrimination prohibited by Title IX.



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Responsible Reporter: All school employees are considered "Responsible Reporters" of sexual harassment. Any employee who witnesses, suspects, or receives notification involving a student or students, is required to report the sexual harassment to an administrator or designee.

GENERAL INFORMATION REGARDING INFORMAL REPORTS/COMPLAINTS OF SEXUAL HARASSMENT

Confidentiality: To the extent possible, the privacy of the persons involved will be protected. The principals, site administrator, or designee will evaluate the request for confidentiality and make the determination as to whether confidentiality may be possible. Disclosures may be required by law or to those who need to know within the context of the investigation, analysis, appeal, prevention of recurrence, or correction of misconduct. Therefore, a guarantee of confidentiality is not provided. Should an accuser or reporter request confidentiality and that no action be taken, the school must still discharge its duties and obligations to prevent and correct the sexual harassment.

Disciplinary Action: State law requires a recommendation for expulsion for students who are found to have committed sexual assault or sexual battery, however, state law also prohibits suspension and expulsion of students in Kindergarten through third grades for this conduct. Depending upon the nature of the confirmed conduct, the individual facts, and the age of the children involved, there could be a range of sanctions applied. Appropriate discipline will be determined on an individual basis by the school site for conduct involving students in grades three and below.

Retaliation: The school prohibits retaliation against any participant in the reporting and complaint process including witnesses. A separate Uniform Complaint may be filed if retaliation occurs against any individual involved in the processing of discrimination, harassment, or bullying complaint. Each complaint shall be investigated promptly and in a manner which respects the privacy of all parties concerned. Follow up with the student will occur to ensure the harassment has stopped and that there is no retaliation.

Criminal Complaints: Students, parents or guardians have a right to file a criminal report or complaint and a Title IX report or complaint simultaneously.

FILING AN INFORMAL REPORT/COMPLAINT OF DISCRIMINATION, HARASSMENT, INTIMIDATION, AND BULLYING BASED ON SEX

The school believes discrimination, harassment, intimidation and bullying issues may be resolved at the school site. As such, students, parents, or guardians may report any act of discrimination, harassment, intimidation or bullying based on sex (in any area covered by Title IX, including sexual harassment) by a student, staff member or third party directly to the school site's principal or school site administrator for immediate resolution at the school site.

Investigation of Reports or Informal Complaints: The responsible school official will conduct a prompt, thorough and impartial investigation into the complaint, which will include, but is not limited to, interviewing the accuser and the accused, asking each to provide names of witnesses, interviewing potential witnesses, and gathering relevant evidence. When sex-based discrimination, harassment,



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intimidation, and bullying is reported, interim steps will be taken to stop harassment and protect the accuser from further harassment pending outcome of the investigation and/or complaint. A thorough investigation is required to protect the accuser, afford due process to the accused, and to ensure resolution of the issue(s). A student, or parent or guardian, is not required to attempt resolution through the school site before contacting the school Title IX Coordinator.

At any time during the process students, parents, or guardians, may contact the Title IX Coordinator to report or file an informal complaint directly with the school at:

Jan Perry, Title IX Coordinator

America's Finest Charter School

730 45th Street, San Diego, CA 92102

jan@americasfinestcharterschool.org, Phone: 619-694-4809

FILING A FORMAL OR UNIFORM COMPLAINT FOR SEX-BASED DISCRIMINATION, HARASSMENT, INTIMIDATION, AND BULLYING

Pursuant to Board Policy and Administrative Policy, at any time during the site- resolution process students, parents, or guardians may file a Uniform Complaint. The Uniform Complaint Form can also be obtained from the school or online.

Filing a complaint: A complaint may be filed by a student or parent/guardian by obtaining a copy of the Uniform Complaint Form from the school or school website.

Investigation: The school will undertake an effective, thorough, and objective investigation of the allegations and provide a written report within 60 days of the date receipt of the Uniform Complaint. The report will include a summary of the facts, a decision on the complaint, reason for the decision and corrective actions (if applicable) that have or will be taken, including remedies for the victim. The complainant has the right to present witnesses and evidence. The Executive Director or his/her designee shall ensure that any complaint received is investigated in accordance with school administrative procedures and that school personnel take immediate steps to intervene, when safe to do so, when they witness any act of harassment.

Action: When an allegation of sexual harassment is validated by the investigation and disciplinary action is necessary, the Executive Director and/or designee will determine the appropriate course of action to prevent reoccurrence and follow up with the harassed student, depending upon whether the harasser is a student, staff member or agent of the school. If the complaint of sexual harassment is validated the executive director and/or designee shall take prompt, appropriate action to end the harassment and to address the effects on the victim.

If the school determines that its policies prohibiting discrimination, harassment, intimidation or bullying based on sex have been violated, disciplinary action, up to and including expulsion (for students) or dismissal (for employees) may occur. Remedial actions, which are designed to end the harassment, prevent its recurrence and address its effects on the harassed student, will be provided to the victim. Remedial action(s) will also be required of the school site.



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Statute of Limitations: Uniform complaints alleging discrimination, harassment, intimidation and bullying based on sex (including sexual harassment and sexual violence) must be filed no later than six months from the date the complainant first obtained knowledge of the facts of the alleged sexual harassment. The six-month period may be extended for good cause, not to exceed an additional 90 days. A written request for an extension to the six-month period will be reviewed for consideration by America's Finest Charter School. The written request must include an enumeration of the allegation(s) if not previously submitted, and the reasons the complainant is requesting an extension of the six-month statute of limitations.

Retaliation: The school prohibits retaliation against any participant in the reporting and complaint process including witnesses. A separate Uniform Complaint may be filed if retaliation occurs against any individual involved in the processing of discrimination, harassment, or bullying complaint. Each complaint shall be investigated promptly and in a manner which respects the privacy of all parties concerned. Follow up with the student will occur to ensure the harassment has stopped and that there is no retaliation.

A student or parent/guardian is not required to attempt resolution through the school site before contacting the school Title IX Coordinator and/or filing a formal Uniform Complaint.

Jan Perry, Uniform Complaint Compliance Officer

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730 45th Street, San Diego, CA 92102

jan@americasfinestcharterschool.org, Phone: 619-694-4809

A student who has a report or complaint of sexual harassment or of discrimination, harassment, intimidation, and bullying based on sex shall immediately contact his/her teacher or any other school employee. For questions or additional information or if a complaint cannot be resolved at the site level, or at any time, the student may contact:

Jan Perry, Title IX Coordinator

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Office for Civil Rights

U.S. Department of Education

Office for Civil Rights

Lyndon Baines Johnson Department of Education Bldg

400 Maryland Avenue, SW

Washington, DC 20202-1100

Telephone: 800-421-3481

FAX: 202-453-6012; TDD: 800-877-8339

Email: OCR@ed.gov

Main Page-Office for Civil Rights (OCR)

Know Your Rights: Title IX Prohibits Sexual Harassment and Sexual Violence Where you Go to School

Know Your Rights: Title IX Requires Your School to Address Sexual Violence

How to File a Discrimination Complaint with the OCR

OCR-Discrimination Complaint Form

California Department of Education

Office of Equal Opportunity

First Reading: March 6, 2020

Second Reading: _____

Approval Date: March 6, 2020

Board President or Secretary Signature: *Debra A. Pearson*