

## **1.7105 PHYSICAL, MENTAL, SEXUAL ABUSE, HARASSMENT, MOLESTATION PREVENTION**

Legal References: Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, U.S. Department of Education, Office of Civil Rights (2001)  
*Oncale v. Sundowner Offshore Services*, 523 U.S. 75 (1998)  
NC G.S. 115C-335.5,-407.9 through -401.12  
NC G.S. 126-16  
NC State Board of Education Policy HRS-A-007

Cross References: 1.7100 PROHIBITION AGAINST ILLEGAL DISCRIMINATION, HARASSMENT, AND BULLYING  
1.7200/4.3501/7.1512 Discrimination, Harassment, Bullying and Other Harassment Complaint Procedures  
1.7500 Grievance Procedures  
4.3600 Code of Student Conduct  
7.1600 Employee Student Relations

### **I. STATEMENT OF INTENT**

Falls Lake Academy does not condone, permit, or tolerate actual or threatened acts of physical or mental abuse, sexual abuse, sexual molestation, or sexual misconduct (collectively hereinafter referred to as "prohibited conduct") to occur in the workplace or at any activity sponsored by or related to FLA events or regular school activities at any time or under any circumstances. In order to make this "zero-tolerance" policy clear to all employees, volunteers, and staff members, the Board has adopted and put into place mandatory procedures that employees, volunteers, family members, Board members, individuals, and victims are instructed to and must follow when they reasonably suspect, learn of, or witness prohibited conduct.

### **II. DEFINITIONS**

For purposes of this policy, the following definitions will apply.

A. **Abuse, molestation**: Abuse or molestation means each every, and all actual, threatened, or alleged acts of physical or mental abuse, sexual abuse, sexual molestation, or sexual misconduct performed by one person or by two or more persons acting together.

B. **Harassment**: any single act, pattern of gestures, written or electronic communication or transmission, verbal communications, physical act, or threatening communication which:

- 1) places a student or employee in actual and reasonable fear of harm to his or her person;
- 2) creates or is certain to create a hostile environment for one or more students by substantially interfering with or impairing a student's educational performance, opportunities or benefits;  
or
- 3) constitutes or establishes an atmosphere of unease, fear, or discomfort for staff members with regard to the presence or proximity of a harassing individual.

Harassment may also include unwanted, unwelcome, and/or uninvited behavior which a reasonable person would consider demeaning, threatening, or offensive to the victim and which results in a hostile environment for the victim.

Harassment also may include, but is not limited to, behaviors described above which are reasonably perceived as being motivated by any actual or perceived differentiating characteristic or motivated by any individual's association with a person who has or is perceived to have a differentiating characteristic, such as race, color, religion, ancestry, national origin, gender, socioeconomic status, academic status, gender identity, physical appearance, sexual orientation, or mental physical, developmental or sensory disability.

Examples of behavior that may constitute harassment include, but are not limited to, verbal taunts, name-calling and put-downs, epithets, derogatory comments or slurs, lewd propositions, exclusion from peer groups, extortion of money or possessions, implied or stated threats, assault, impeding or blocking movement, offensive touching or any physical interference with normal work or movement, and visual insults, such as derogatory posters or cartoons. Legitimate age-appropriate pedagogical techniques are not considered harassment or bullying.

C. Hostile environment: created or established when the victim subjectively views the conduct in question (see above) as harassment or bullying and that the conduct is objectively severe or pervasive enough so that a reasonable person would agree that it is harassment or bullying. A hostile environment may be created through pervasive or persistent misbehavior or by a single incident, if sufficiently severe.

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

- 1) submission to the conduct is made, either explicitly or implicitly, a term or condition of an individual's employment, academic progress, or completion of a school-related activity; or
- 2) submission to or rejection of such conduct is used as the basis for employment decisions affecting such individual, or in the case of a student, submission to or rejection of such conduct is used in evaluating the individual's performance within a course of study or other school-related activity; or
- 3) such conduct is sufficiently severe, persistent or pervasive so that it has the purpose or effect of unreasonably interfering with an employee's work or performance or a student's educational performance, limiting a student's ability to participate in or benefit from an educational program or environment, or creating an abusive, intimidating, hostile, or offensive work or educational environment.

Sexually harassing conduct includes, but is not limited to:

- deliberate, unwelcome touching that has sexual connotations or is of a sexual nature;
- suggestions or demands for sexual involvement accompanied by implied or overt promises or preferential treatment or threats;
- pressure for sexual activity;
- continued or repeated offensive sexual flirtations, advances, and/or propositions;
- continued or repeated verbal remarks about an individual's body;
- sexually degrading words used toward an individual or to describe an individual; or
- the display of sexually suggestive drawings, objects, pictures, written materials or body parts.

Acts of verbal, nonverbal, electronic or physical aggression, intimidation, or hostility based on sex, but not involving sexual activity or language, may be combined with incidents of sexually harassing conduct to determine if the incidents of sexually harassing conduct are sufficiently serious to create a sexually hostile environment.

E. Gender-based harassment: may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping but not involving conduct of a sexual nature.

F. Electronic communication: includes, but is not limited to, communications or transmissions through employee and/or student emails, text messaging, instant messaging, chat rooms, blogging, websites and social networking websites.

G. Situational / relationship circumstances: It is possible for harassment, bullying, sexual harassment, and gender-based harassment to occur in various situations. For example, it may occur between fellow students or coworkers, between supervisors and subordinates, between employees and students, or imposed by non-employees, including visitors, employees, and/or students. Harassment or bullying may occur between members of the opposite sex or between members of the same sex.

### III. REPORTING PROCEDURE

All FLA staff members and Board-approved volunteers serving in the school who learn of or have a reasonable suspicion of prohibited conduct toward a student which is addressed by this policy must immediately report it to the ~~chief FLA administrator~~ *Executive Director* or, if that person is the alleged perpetrator, to the FLA Board chair or, if that person is the alleged perpetrator, to the FLA Board vice-chair. The person to whom such prohibited conduct is reported shall then follow NC State guidelines for reporting such prohibited conduct, including notification of same to the local law enforcement and/or social service agencies designated to receive such reports.

All FLA staff members and Board-approved volunteers serving in the school who are victims of, learn of, or have a reasonable suspicion of prohibited conduct toward a staff member or volunteer must immediately report it to the ~~chief FLA administrator~~ *Executive Director* or, if that person is the alleged perpetrator, to the FLA Board chair or, if that person is the alleged perpetrator, to the FLA Board vice-chair.

### IV. INVESTIGATION AND FOLLOW-UP

Falls Lake Academy takes allegations of prohibited conduct seriously. Once an allegation is reported, the person to whom such prohibited conduct is reported shall initiate an investigation of the allegation immediately, thoroughly, and impartially in accordance with Board policy 1.7200-4.3501-7.1512: Discrimination, Harassment, and Bullying Complaint Procedures. Such investigations may be undertaken by an internal team comprised of fellow employees or by an independent third party contracted for just such a situation. FLA will cooperate fully with any investigation conducted by law enforcement or regulatory agencies, and the complaint and results of the ensuing investigation may be referred to those agencies. The Board reserves the right to place the target(s) of any such investigation on an involuntary leave of absence or to reassign that person to responsibilities that do not involve personal contact with specified individuals and/or with students. To the fullest extent possible, but consistent with our legal obligation to report suspected prohibited conduct to appropriate authorities, the FLA Board will endeavor to keep the identity of the target(s) and the alleged victim(s) confidential.

If any investigation instituted by these procedures substantiates the allegation, this policy hereby establishes such substantiation as grounds for immediate disciplinary penalties – which shall be applied in addition to any action by law enforcement or regulatory agencies – including but not limited to the possible termination of the target’s relationship with Falls Lake Academy.

V. RETALIATION PROHIBITED

Falls Lake Academy prohibits retaliation against anyone, including employees, volunteers, Board members, students, or administrators, who in good faith reports alleged or suspected prohibited conduct. Retaliation against any and all participants in any investigation arising from such reporting is also prohibited. Any staff member, employee, or student who retaliates against anyone who has made a good faith allegation of prohibited conduct or intentionally provides false information to that effect will be subject to immediate discipline, up to and including possible termination or expulsion.

VI. ACKNOWLEDGEMENT

I, \_\_\_\_\_, acknowledge that I have received and read this physical or mental abuse and sexual abuse, sexual misconduct, and sexual molestation prohibition policy immediately preceding my signature below. I understand that I am bound to follow the policy and I understand the consequences in the event that I fail to do so.

Name (printed) \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

Dates and signatures of annual review (in employee's/volunteer's own handwriting):