AB 500 — School Policies that Relate to Employee Interactions with Students

Assembly Bill 500 (AB500), which went into effect in 2018, requires schools to provide sections related to employee interactions with students in its code of conduct to parents and guardians of enrolled students on the school’s website. Listed below are portions of School policies that include language relating to interactions between students and employees.

POLICIES FROM SCHOOL’S EMPLOYEE HANDBOOK

Prohibition Against Harassment, Discrimination and Retaliation

Harassment, discrimination, or retaliation against an applicant, employee, officer, student, contractor, unpaid intern, or volunteer, by an employee, officer, 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 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 Director of Human Resources, the Chief Financial Officer or Head of School.

Definitions

Protected Classifications: This Policy prohibits harassment or discrimination because of an individual’s protected classification(s). A “protected classification” includes race, color, religion (including religious beliefs, observance or practice, including religious dress or grooming practices), sex (including gender, gender identity, gender expression, transgender, pregnancy, childbirth, or related medical conditions), sexual orientation (including heterosexuality, homosexuality, and bisexuality), national origin, ancestry, citizenship status, military and veteran status, marital status, age, medical condition, genetic characteristics or information, and physical or mental disability.

Policy Coverage: This Policy prohibits employees, 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, 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.

Discrimination: Discrimination means treating individuals differently from other similarly situated individuals 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.

**Harassment:** Harassment means words or conduct undertaken because of an individual’s actual or perceived protected classification, or association with an individual who has an actual or perceived protected classification which are both objectively and subjectively offensive to another person.

Harassment is not limited to conduct by Sage Hill 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 their 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 e-mails 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. A recipient may not protest for many legitimate reasons, including not wishing to be or appear insubordinate or to avoid being ostracized.
• Simply because no one has complained about a joke, gesture, picture, physical contact, or comment does not mean the conduct is welcome. Harassment can evolve over time. The fact 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, depending on the circumstances, constitute harassment of another employee or individual who observes the conduct or learns about the conduct later, even if it is not explicitly or specifically directed at that 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, excessive attention, endearing nicknames).

The determination of what constitutes harassment will depend on specific facts and the context in which the conduct occurs.

Retaliation

Retaliation means an adverse action taken because an applicant, employee, student, contractor, unpaid intern, or volunteer has reported harassment or discrimination, or has participated in the complaint and investigation process described herein.

Process for Reporting Harassment, Discrimination, or Retaliation

An applicant, employee, student, contractor, unpaid intern, or volunteer who experiences or witnesses conduct that is prohibited under this policy should be reported immediately as outlined below, so the complaint can be addressed in a timely manner:

1. Oral Report – If a person who believes this Policy has been violated does not want to confront the offending person, the person should report the conduct to the Director of Human Resources, the Chief Financial Officer or the Head of School. Any supervisor, director or other management employee who receives such a report must in turn direct it to the Head of School. In the event that the complaint is against the Head of School or the President, the report must be directed to the Chair of the Board of Trustees.

2. Written Process – An individual who believes this policy has been violated may provide a written complaint to the Director of Human Resources, the Chief Financial Officer or Head of School. Any supervisor, director or other management employee who receives such a report must in turn direct it to the Head of School. In the event that the complaint is against the Head of School or the President, the report must be directed to the Chair of the Board of Trustees.
3. Option to Report to Outside Administrative Agencies – applicants, employees, contractors, unpaid interns, or volunteers 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 1-800-669-4000 or at www.eeoc.gov. The DFEH can be reached at 1-800-884-1684 or at www.dfeh.ca.gov.

**School’s Response to Complaint of Harassment, Discrimination or Retaliation**

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 their 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 or the President, the Chair of the Board of Trustees or their designee may request the clarification and/or conduct an initial inquiry. To request clarification and/or conduct an initial inquiry, the Head of School, Chair of the Board of Trustees, 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.

**Investigation Procedure**

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, Director, other appropriate administrator, or Chair of the Board of Trustees, 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 working conditions of the individual(s) who made the oral report or written complaint and/or that was reportedly subjected to conduct that violates this Policy, unless that individual voluntarily consents to the temporary change.

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 individual(s) who made the oral report or written complaint and/or that was reportedly subjected to conduct that violates this Policy, 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, discrimination, or retaliation, or who participate in the investigation is prohibited. The Respondent will be notified that a complaint has been made alleging that they have 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 them, and be provided with an opportunity to respond to the allegations. Once the information gathering process is completed, the investigator will 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 and other school administrators who have a need to know the outcome.

**Remedial and Disciplinary Action**

Once the investigation is complete, the School will determine if the conduct violates Sage Hill School Policy and if so, the appropriate 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 supervisor, director or other management employee who condones or ignores potential violations of this Policy, or who otherwise fails to take appropriate action to enforce this Policy. Because individuals with whom the School has business, contractual, or professional relationship, such as parents, legal guardians, unpaid interns, volunteers, independent contractors, or vendors 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 School employees or students. However, the School will make appropriate efforts to take corrective action for violations of this Policy, or if appropriate, to cause others to take corrective action.

An employee who engages in unlawful harassment 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 at School. 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.

**Closure**

The investigation will be closed in a timely manner. At the conclusion of the investigation, the Head of School or their designee, will notify the individual who was reportedly subjected to conduct prohibited by this Policy in general terms of the outcome of the investigation.

**Confidentiality**

The School cannot keep reports or 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. However, the School will keep reports or 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.
Responsibilities of Employees, and Supervisory Employees

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, they should tell the individual being harassed that the School has a policy prohibiting such behavior, and that they can demand that the harasser cease the behavior. If an employee who witnesses harassment is comfortable doing so, they should tell the harasser to cease the behavior.

- Fully cooperate with the School’s investigation of complaints made or other alleged violations under this Policy.

Supervisory Employees

In addition to the responsibilities listed above, supervisors, directors, or any other supervisory or management employees, 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 Director of Human Resources, the Chief Financial Officer or the Head of School.

- Taking positive steps to eliminate any form of harassment, discrimination or retaliation observed or brought to their attention.

- Taking positive steps to protect against retaliation through any action of intimidation, restraint, coercion or discrimination, by any supervisor, director, or any other supervisory, management, or other employee.

- Monitoring the work environment and taking appropriate action to stop potential Policy violations.

- Following up with those who have complained or were reportedly subjected to conduct that violates this Policy, to confirm the conduct complained of has stopped.
• Reporting potential violations of this Policy of which they become aware of, regardless of whether a report has been made or a complaint has been formally submitted.

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

Dissemination of Policy
All employees will 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.

Corporal Punishment
Corporal punishment is strictly prohibited, will not be tolerated at Sage Hill School, and will result in immediate termination of employment.

Professional Conduct and Appearance
School employees are expected to:

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• Be sure that all relationships with students and adults are above reproach;

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• The existence of an intimate, romantic or sexual relationship, inappropriate conduct including but not limited to flirting, suggestive or sexual communications (whether in writing, electronically or verbally), inappropriate touching, or any form of sexual contact, between any School employee and any student, even if the student is legally of adult age, will result in automatic dismissal of the employee.

Student/Employee Boundaries Policy
Sage Hill School employees are expected and required to maintain professional relationships with students whether on campus or away from campus. This policy is also equally applicable to volunteers and interns that work with students at the School.
Some activities may seem innocent from an employee’s perspective, but may be perceived as flirtatious, sexually suggestive, or otherwise inappropriate, from a student’s or parent’s perspective. In maintaining professional relationships, employees must be diligent to avoid any conduct that is not a professional or appropriate employee/student interaction or could be perceived as such. Employees are expected to set clear and professional boundaries with students.

This policy is not intended to restrict positive and supportive relationships between employees and students, which are appropriate in an educational environment. This policy is intended to restrict and prevent employee/student interactions that could lead to, or may be perceived as flirtatious, sexually suggestive, or otherwise inappropriate.

The below are protocols and requirements employees must follow. These protocols and requirements are not an exhaustive list of prohibited employee conduct, but rather a general framework for describing inappropriate employee conduct that is prohibited.

- Employees must avoid creating excessive emotional attachments beyond the healthy employee/student relationship. Employees must use sound judgment as to how much information they share with students about their own personal life, not share information for their own personal emotional gratification, and must avoid sharing any information about romantic, sexual, or other types of private or sensitive information or other information that is inappropriate to share.
- Employees must avoid any sexual or romantic interactions or relationships with students. Dating and any other type of one-on-one social interaction between an Employee and student are prohibited.
- Employee communications with students (e.g., notes, email, or other electronic exchanges, or phone calls) must be for school related reasons only and must be professional in all respects. Please note: Employees should not communicate via text with students.
- Employees are prohibited from making jokes, using slang, or suggestive comments or innuendo of a sexual or discriminatory nature in communicating with students (or at any other time at work).
- If a student shares confidential information that could pose a threat to the student or others, employees have an obligation to and must notify their supervisor, Head of School, Dean of School Life or a School counselor, or make a report of suspected child abuse or neglect in keeping with the School’s child abuse reporting policy and mandated reporting laws.
- Employees may not be under the influence of alcohol or drugs or consume alcohol or drugs at any school-sponsored activities where students are present. Employees are also prohibited from discussing any personal alcohol or drug use, whether past or current, with students.
- When meeting with a student one-on-one, employees must balance potential privacy concerns with appropriate professionalism. Interactions between students and adults should be readily interruptible and observable. This means that students interacting with an adult are within
hearing or visual range of another adult and/or student. Open doors or windows can help facilitate this policy. If observability isn’t practical in off campus situations, then a second adult should accompany the student whenever possible.

- Every school activity involving minors should have appropriate levels of supervision for participation in the activity.

- Non-school activities (tutoring, coaching, counseling) should only happen on campus. If the activity must occur after school hours, it should occur within line of sight of another adult to meet the goal of interruptible and observable.

- Employees must act with transparency; any interaction with a student should be something an employee would feel comfortable saying or doing in front of that student’s parents and the employee’s supervisor.

- Employees are prohibited from buying or giving personal gifts to individual students.

- Employees should consult their supervisor if a student is or seems to be pushing the employee’s personal boundaries, attempting to establish an inappropriate relationship, or it appears another type of problem is beginning to emerge.

- Employees are prohibited from meeting with students off campus unless it is a pre-approved school activity with other individuals present. If employees are meeting with students to plan school events or gatherings, the employee must first obtain the permission of the School administration and the student’s parent or guardian.

Employees must understand their own responsibility for ensuring they do not cross the protocols and requirements established in this policy. Disagreeing with the wording or intent of the established protocols and requirements does not alleviate employees from strictly complying with this policy and will be considered irrelevant for disciplinary purposes. If an employee finds themselves in a difficult situation related to boundaries or has questions related to these protocols and requirements, they should consult the Head of School or their supervisor. If any employee becomes aware of another employee failing to adhere to this policy, the employee must immediately report the matter to the Head of School.

**Gifts from Parents, Students and Vendors**

An employee may not solicit gifts for themselves, or their family or friends, from parents and/or students (including prospective families) or current or prospective vendors of the School. Gifts include, among other things, use of personal or real property, tangible or intangible items, tickets to sporting and other cultural events, and similar items.

Subject to certain exceptions discussed below, an employee may accept gifts if they are of a nominal value (not in excess of $100 per child, cumulative for the school year) and do not give the appearance of impropriety.

An employee should never accept a gift, regardless of how minimal or great the value, if they feel that it would create the appearance of a conflict of interest with the School, it would hinder the employee’s
ability to be an impartial educator or if they believe that the gift is being given with the intent to gain special or preferential treatment for a particular student or students. No employee may accept gifts from prospective parents or students. No employee may accept gifts from current or prospective School vendors with the exception of logo items for the vendor’s marketing purposes, non-extravagant meals, and gift baskets for the entire office or group. Any gifts that an employee accepts or rejects should be disclosed to the employee’s supervisor.

Communication with Students

Employees are expected to communicate with students only about school matters and the School prohibits employees from texting students or emailing students using personal email unless for authorized purposes. Employees are only permitted to communicate with students via texting or personal email in emergency situations, or for other authorized purposes, such as during field trips when both the parents and the School are aware that such private communications are taking place for legitimate reasons. The School expects direct communications with students to be conducted through the School’s various communication systems such as Canvas, yours and the student’s School provided email account or Naviance. If there are situations where this may not be practicable, employees are expected to consult with their supervisor to determine whether or not it would be appropriate to communicate through other mediums.

Social Networks

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To the extent employees’ internet, social media, and electronic communications use affects School employees, students, or school families, or their participation in the School community through work, education, or otherwise, employees are required to follow the School’s policies and regulations, including but not limited to those that protect individual privacy rights, the harassment, discrimination, and retaliation prevention policy, workplace bullying policy, and the workplace violence policy. If an employee’s use of the internet, social media, and electronic communications adversely affects their job performance, the performance of co-workers, or members of the public served by the School, such as students and school families, the School may take disciplinary action up to and including termination.

Employees cannot post statements, photographs, video or audio that reasonably could be viewed as harassment, discrimination or retaliation in violation of the School’s policy or in violation of the law. Examples of such conduct might include offensive posts that could contribute to a hostile work environment on the basis of race, religious creed, color, national origin, ancestry, physical or mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation or any other status protected by law. Examples of threatening conduct include posting material that would make a reasonable person afraid for their safety or the safety of their family.
Employees should never post any information or rumors that are false about co-workers, students, or school families. Employees must strive for accuracy in any communication, be it a blog entry, post, or comment. Employees can include a link to sources of information. If a mistake is made, an employee should correct the information, or retract it promptly.

Social networking sites should never be used for communication with students and parents regarding confidential, school-related or professional information unless approved by the Director of Communications and Marketing. Employees should not “friend” and/or accept “friend” requests from current students of any age or alumni under the age of 18. Employees should not “like” or post anything on a social site of a current student or alumni under the age of 18.

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Employees should immediately “unfriend” any student and former students under 18, currently on their social networking lists. Feel free to use the School’s policy as reason for such action.

**Tutoring Policy**

All employees, including temporary employees may not use the Sage Hill campus for tutoring students for remuneration.

Also, employees may not tutor their current students. Such an arrangement constitutes a direct conflict with our obligation to provide our educational services to our own current students at no additional cost beyond our tuition. In addition, such arrangements can lead to the appearance of a conflict of interest in grading that is unacceptable to the School. The integrity of the grading process at the School is critical to our ability to effectively serve our students and parents. Even the appearance of a conflict of interest can result in significant, lasting harm to the purpose of the School.