

HARASSMENT PREVENTION POLICY OF VANGUARD CULTURE, A 501(C)(3) NONPROFIT ORGANIZATION

1. Policy and Guidelines

Vanguard Culture, a 501(c) (3) nonprofit organization (Vanguard Culture) is committed to providing a workplace free from unlawful harassment and discrimination of any kind, including unlawful sexual harassment and harassment based on any characteristic protected by local, state or federal employment discrimination laws.

These protected characteristics include, but may not be limited to, religion or religious creed, race, color, ethnic group identification, age (40 or over), national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, military and veteran status, and sex, gender, gender identity, gender expression, or sexual orientation.

Retaliation is also against the law and this policy prohibits retaliation of any kind against individuals who resist or reject unlawful behavior, report any incidents of harassment or perceived harassment, or participate in an investigation.

Unlawful sexual harassment can include unwelcome sexual or gender-based conduct that unreasonably interferes with an individual's job performance or creates an intimidating, hostile, or offensive working environment. Common examples include:

- Verbal or written conduct such as derogatory comments, slurs, epithets, notes, messages, invitations, email or jokes
- Visual conduct such as leering, gesturing, sexually suggestive pictures, posters, or calendars; Internet or email materials that contain sexually explicit or suggestive pictures, cartoons or pornography
- Physical conduct such as unwelcome touching, hugging, or blocking someone's path in an inappropriate or sexual way
- Unwanted romantic conduct such as sexual advances, invitations, or attention

Unlawful sexual harassment also includes unwelcome sexual advances or requests for sexual favors where submission to such conduct is made an explicit or implicit term or condition of employment, or where submission to or rejection of such conduct is made the basis of employment decisions affecting an individual (quid pro quo harassment). Sexual harassment includes gender harassment, and harassment based on pregnancy, childbirth, or related medical conditions. Sexually harassing conduct need not be motivated by sexual desire.

This policy applies to all employees, interns, volunteers, third parties and agents of Vanguard Culture, including supervisory and non-supervisory employees, interns and volunteers, and it applies to all phases of employment. It also applies to protect employees, interns and volunteers from unwelcome conduct by third parties, and all reasonable actions will be taken to

protect employees, interns and volunteers from the actions of contractors, suppliers, clients, and others.

While it is not the intent of this policy to regulate the social interaction or relationships freely entered into by employees, interns and volunteers, there will be no tolerance for unwelcome conduct that violates this policy.

Behavior that is inappropriate in our workplace includes abusive conduct, bullying and other forms of disruptive behavior as described in Appendix 1 (Abusive Conduct Defined)

Prevention is the best way to eliminate harassment in the workplace. All new employees, interns and volunteers will receive information on harassment prevention, as well as a copy of this policy when they are hired or undertake any work on behalf of Vanguard Culture. Any employee, intern or volunteer who believes he or she has been illegally harassed by a coworker, supervisor, agent of the employer, or by anyone else in the workplace, should promptly report the misconduct as more specifically set forth below in Paragraph 2A. It is the responsibility of every employee, intern and volunteer to immediately report any violation or suspected violation of this policy to the appropriate organizational representative to attempt internal resolution

All complaints will be taken seriously and will be investigated in a fair, timely and thorough manner. The investigation will be conducted by qualified personnel, documented and tracked for reasonable progress and timely closure. Confidentiality will be maintained to the extent possible. Everyone concerned will be provided with due process and a reasonable conclusion will be reached based on the evidence. Any retaliation against those involved will not be tolerated. If a violation of this policy has occurred, remedial actions will be taken to resolve the problem, and when warranted, disciplinary action (up to and including termination) will also be taken.

As used herein:

- Vanguard Culture Community refers to employees, interns, volunteers and agents of Volunteers. The term Vanguard Culture Community may also, but not always, mean donors to Vanguard Culture as well as those persons who are attending or participating in a Vanguard Culture event.

- Complainant means a person alleged, in a report to the Investigator, to have experienced Prohibited Conduct.

- Respondent means a person alleged, in a report to the Investigator, to have engaged in Prohibited Conduct.

- Investigator means the person conducting the investigation. The Investigator will generally be the Executive Director. However, there may be times when another individual or entity will be appointed by the Board to act as the Investigator if the Executive Director feels she is unable to act as the Investigator or if the Executive Director is the subject of a Complaint. In those cases, the Board of Directors will convene and appoint an Investigator.

- Preponderance of Evidence is a standard of proof that requires that a fact be found when its occurrence, based on evidence, is more likely than not.

2. Procedures for Reporting and Responding to Complaints of Prohibited Conduct

This section provides an overview of the procedures Vanguard Culture uses to respond to reports of Prohibited Conduct. The Complainant and the Respondent are sometimes referred to together in this section as “the parties.”

A. Reporting

Any person can report Prohibited Conduct (described in **Appendix 2**) including anonymously. The report must be made to the Executive Director. If the person to whom a report normally would be made is the Respondent, reports shall be made to a designated Board Member. The Board Member currently designated to receive reports against the Executive Director is the Secretary of the Board. Upon receipt of a report of Prohibited Conduct the Investigator will attempt to contact the Complainant, if known, to inform them of their rights, options, and resources.

B. Timelines for Making Reports

There is no time limit for reporting and people should report incidents even if significant time has passed. However, the sooner Vanguard Culture receives a report, the better able it is to respond, investigate, remedy, and impose discipline if appropriate.

C. Initial Assessment of a Report / Immediate Health and Safety

As soon as practicable after receiving a report, the Investigator will make an initial assessment, including a limited factual inquiry when appropriate, to determine:

- whether the report on its face alleges an act of Prohibited Conduct; and
- if so, whether the Prohibited Conduct is covered by this Policy, as described herein.

The Investigator may consult with Board Members as necessary. The Investigator in consultation with the Complainant, when possible, will:

- make an immediate assessment of the Complainant’s health and safety and the health and safety of the Vanguard Culture community,
- determine and oversee interim measures that are immediately necessary, and
- provide to the Complainant a written explanation of rights and reporting options (including the right to report to the police), and other resources.

D. Closure After Initial Assessment

Not all reports received are reports of Prohibited Conduct that can be resolved through a Resolution Process described below. This includes reports for which the Investigator determines that:

- even if true, the alleged conduct is not Prohibited Conduct;
- the conduct is not covered by this Policy;
- there is not enough information to carry out a Resolution Process (for example, insufficient information as to the identities of the people involved);
- a Complainant's request that no Formal Investigation occur can be honored; or
- there is not enough nexus between the conduct and Vanguard Culture to carry out a Resolution Process (for example, the conduct did not occur in the context of a Vanguard Culture program, activity, or service and involved only third parties.)

The Investigator will close such matters. The Investigator will still, when appropriate, take steps to stop the reported conduct, prevent its escalation or recurrence, and address its effects. Such steps may include, for example, offering resources and supportive measures to the Complainant and providing targeted preventive education (including to the Respondent) and training programs.

To determine whether there is enough nexus between the conduct and Vanguard Culture to carry out a Resolution Process, the Investigator will consider factors such as:

- where and in what context the Prohibited Conduct allegedly occurred (meaning whether there is a connection between the conduct and Vanguard Culture property or a Vanguard Culture activity or service);
- whether the Complainant or Respondent were Vanguard Culture community members when the Prohibited Conduct allegedly occurred;
- whether the Complainant or Respondent were Vanguard Culture community members at the time of the report; and
- whether there is information indicating an ongoing threat to the Vanguard Culture community.

E. Formal Investigation

The Investigator will begin a Formal Investigation when he or she decides not to close a report after his or her assessment.

If the Complainant does not want a Formal Investigation, the Investigator will seriously consider this preference. However, the Investigator may determine an investigation is necessary to mitigate a risk to the health of Vanguard Culture and its community. If the Investigator begins a Formal Investigation despite the Complainant's request, the Investigator will provide the

Complainant with all information required by this Policy unless the Complainant states in writing he or she does not want it.

If the Investigator does not begin a Formal Investigation, he or she will inform the Complainant that this limits possible remedies. The Investigator will nonetheless provide measures as appropriate and consistent with Complainant's privacy and the absence of a Formal Investigation.

When the Investigator begins a Formal Investigation, he or she will give the parties a written summary of the allegations, the procedures that will be followed, available resources, and this Policy.

i. Timeframe.

The Investigator will complete the investigation promptly, typically within 60 to 90 business days of notifying the parties in writing of the charges. However, the Investigator may extend the timeframe past 90 days for good cause. The Investigator will notify the parties in writing of the reason for any extension and the projected new timeline. The actual time required depends on the specific circumstances, including the complexity of the matter and the severity and extent of the alleged conduct.

If the police are also investigating the alleged conduct, the Investigator will coordinate with the police but must nonetheless act promptly without delaying the investigation until the end of the criminal investigation.

ii. Disclosure of Information.

The investigation generally includes interviews with the parties and any witnesses, and a review of evidence. The Investigator will share information with witnesses only as reasonably necessary to conduct a fair and thorough investigation. The Investigator will also counsel witnesses about keeping information learned through the investigation private to protect both the people involved and the integrity of the investigation. The Investigator will inform witnesses that relevant information they provide, and their identities will likely be disclosed to the Complainant and Respondent.

iii. Confidentiality

Participants may be asked but not required to maintain confidentiality when necessary to protect the integrity of the investigation. Vanguard Culture cannot promise confidentiality; only that the information will be limited to those who "need to know." Moreover, it may be necessary to disclose information obtained during the investigation in order to complete the investigation and take appropriate action.

3. The Investigation Report and Outcome

If a Formal Investigation is conducted, the Investigator will prepare a written report that includes:

- the factual allegations and alleged policy violations;
- statements of the parties;
- a summary of the evidence;
- an explanation of why any proffered evidence was not considered;
- credibility determinations when appropriate;
- findings of fact; and
- an analysis of whether this Policy was violated.

The report will also include the Investigator's determination of whether the Respondent violated this Policy. In determining whether this Policy was violated, the Investigator will apply the preponderance of evidence standard. At the end of the investigation, the Investigator will simultaneously provide the parties the Investigation Report. The report may be redacted to protect privacy. The Investigator will also inform the parties in writing of the outcome of the investigation and its rationale, and of any available appeal rights.

4. Remedy

If Vanguard Culture finds Prohibited Conduct, Vanguard Culture will take prompt and effective steps reasonably calculated to stop the violation, prevent its recurrence, and, as appropriate, remedy its effects. When determining interim, remedial, and supportive measures, the Executive Director will assess how much Vanguard Culture can protect the parties' privacy while also ensuring the measures are effective. The Executive Director will explain to the parties any limits on protecting their privacy.

In determining interim measures specifically, the Executive Director will tailor the measures to the circumstances of each case, reevaluate the effectiveness and need for the measures as circumstances change, minimize burdens on the parties, and avoid depriving the parties of educational and employment opportunities as much as practicable. In addition to interim, remedial and supportive measures, the Executive Director may take other actions to stop reported conduct, prevent its escalation or recurrence, and address its effects.

5. Discipline

A. The Investigator will forward the Investigation Report (with attachments) to the Board of Directors for possible further action, including discipline.

B. Any employee, intern or volunteer who is found to have engaged in prohibited conduct may be subject to disciplinary action up to and including the termination of that individual's services to Vanguard Culture.

C. At the end of any disciplinary proceeding the Complainant and the Respondent will be contemporaneously informed in writing of:

- the outcome, including the final determination regarding the alleged offense, any discipline, and the rationale for the results;
- any available appeal rights and procedures; and
- any subsequent change to the results and when results become final.

Vanguard Culture tries to finalize and notify parties of disciplinary decisions reasonably promptly per applicable procedures, depending upon the severity and extent of the Prohibited Conduct and the complexity of the matter.

6. Additional Enforcement Information

The U.S. Equal Employment Opportunity Commission (EEOC) and the California Department of Fair Employment and Housing (DFEH) investigate reports of unlawful harassment, including sexual violence, in employment. The U.S. Department of Education Office for Civil Rights (OCR) investigates complaints of sexual harassment, including sexual violence, of students and employees in educational programs or activities. These agencies may serve as fact finders and attempt to facilitate the voluntary resolution of disputes. For more information, contact the nearest office of the EEOC, DFEH or OCR.

APPENDIX 1

ABUSIVE CONDUCT DEFINED

Pursuant to Section 12950.1 of the California Code: “abusive conduct” means conduct of an employer or employee in the workplace, with malice, that a reasonable person would find hostile, offensive, and unrelated to an employer’s legitimate business interests. Abusive conduct may include repeated infliction of verbal abuse, such as the use of derogatory remarks, insults, and epithets, verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating, or the gratuitous sabotage or undermining of a person’s work performance. A single act shall not constitute abusive conduct, unless especially severe and egregious.

APPENDIX 2

1. CONSENT - DEFINED

Consent is *affirmative, conscious, voluntary, and revocable*. Consent to sexual activity requires of each person an affirmative, conscious, and voluntary agreement to engage in sexual activity.

It is the responsibility of each person to ensure they have the affirmative consent of the other to engage in the sexual activity. Lack of protest, lack of resistance, or silence do not, alone, constitute consent. Affirmative consent must be ongoing and can be revoked at any time during sexual activity.

The existence of a dating relationship or past sexual relations between the Complainant and Respondent will never by itself be assumed to be an indicator of consent (nor will subsequent sexual relations or dating relationship alone suffice as evidence of consent to prior conduct).

The Respondent's belief that the Complainant consented will not provide a valid defense unless the belief was actual and reasonable. In making this determination, the factfinder will consider all of the facts and circumstances the Respondent knew, or reasonably should have known, at the time. In particular, the Respondent's belief is not a valid defense where:

- A. The Respondent's belief arose from the Respondent's own intoxication or recklessness;
- B. The Respondent did not take reasonable steps, in the circumstances known to the Respondent at the time, to ascertain whether the Complainant affirmatively consented; or
- C. The Respondent knew or a reasonable person should have known that the Complainant was unable to consent because the Complainant was incapacitated, in that the Complainant was:
 - i. asleep or unconscious;
 - ii. unable to understand the fact, nature, or extent of the sexual activity due to the influence of drugs, alcohol, or medication; or
 - iii. unable to communicate due to a mental or physical condition.

Note: Incapacitation is a state beyond drunkenness or intoxication. A person is not necessarily incapacitated merely as a result of drinking, using drugs, or taking medication.

2. Prohibited Conduct

A. Sexual Violence

i. Sexual Assault - Penetration: Without the consent of the Complainant, penetration, no matter how slight, of:

- the Complainant's mouth by a penis or other genitalia; or
- the Complainant's vagina or anus by any body part or object.

ii. Sexual Assault - Contact: Without the consent of the Complainant, intentionally:

- touching Complainant's intimate body part (genitals, anus, groin, breast, or buttocks);
- making the Complainant touch another or themselves on any intimate body part; or
- touching the Complainant with one's intimate body part, whether the intimate body part is clothed or unclothed.

Note: This definition encompasses a broad spectrum of conduct, not all of which is sexual violence. So, the Investigator must sometimes determine whether an allegation should be charged as sexual violence or sexual harassment.

Note: *Sexual Assault—Penetration* and *Sexual Assault—Contact* are aggravated when they include any of the following:

- Overcoming the will of Complainant by:
 - *force* (the use of physical force or inducing reasonable fear of immediate or future bodily injury);
 - *violence* (the use of physical force to cause harm or injury);
 - *menace* (a threat, statement, or act showing intent to injure);
 - *duress* (a direct or implied threat of force, violence, danger, hardship, or retribution that is enough to cause a reasonable person of ordinary sensitivity, taking into account all circumstances including age and relationship (including a power imbalance), to do or submit to something that they would not otherwise do); or
- deliberately causing the Complainant to be incapacitated (for example, through drugs or alcohol);
- Deliberately taking advantage of the Complainant's incapacitation (including incapacitation that results from voluntary use of drugs or alcohol); or
- Recording, photographing, transmitting, or distributing intimate or sexual images of Complainant without Complainant's prior knowledge and consent.

iii. Relationship Violence:

a. Relationship Violence is:

- physical violence toward the Complainant or a person who has a close relationship with the Complainant (such as a current or former spouse or intimate partner, a child or other relative), or

- intentional or reckless physical or non-physical conduct toward the Complainant or someone who has a close relationship with the Complainant (such as a current or former spouse or intimate partner, a child or other relative) that would make a reasonable person in the Complainant's position fear physical violence toward themselves or toward the person with whom they have the close relationship, that is by a person who is or has been in a spousal, romantic, or intimate relationship with the Complainant, or who shares a child with the Complainant, *and* that is part of a pattern of abusive behavior by the person toward the Complainant.

b. Physical violence is physical conduct that intentionally or recklessly threatens the health and safety of the recipient of the behavior, including assault.

c. Patterns of abusive behavior may consist of or include non-physical tactics (such as threats, isolation, property destruction, abuse of pets, economic control, displaying weapons, degradation, or exploitation of a power imbalance).

d. The nature of the relationship between the Complainant and Respondent is determined by the length and type of relationship, and the frequency of interaction between them. Relationship violence includes both "dating violence" and "domestic violence."

e. Conduct by a party in defense of self or another is not Relationship Violence under this Policy. If either party asserts that they acted in defense of self or another, the Investigator will use all available, relevant evidence to evaluate the assertion, including reasonableness of the defensive actions and which party is the predominant aggressor.

iv. Stalking: Repeated conduct directed at a Complainant (for example, following, monitoring, observing, surveilling, threatening, communicating or interfering with property), of a sexual or romantic nature or motivation, that would cause a reasonable person to fear for their safety, or the safety of others, or to suffer substantial emotional distress.

B. Sexual Harassment:

i. Sexual Harassment is unwelcome sexual advances, unwelcome requests for sexual favors, and other unwelcome verbal, nonverbal, or physical conduct of a sexual nature when:

a. *Quid Pro Quo*: a person's submission to such conduct is implicitly or explicitly made the basis for employment decisions, advancement, or other decisions affecting participation in a Vanguard Culture program, activity, or service; or

b. *Hostile Environment*: such conduct is sufficiently severe, persistent or pervasive that it unreasonably denies, adversely limits, or interferes with a person's participation in or benefit from Vanguard Culture's employment or other programs and creates an environment that a reasonable person would find to be intimidating or offensive.

ii. Consideration is given to the totality of the circumstances in which the conduct occurred.

3. Other Prohibited Behavior:

a. Invasions of Sexual Privacy.

i. Without a person's consent, watching or enabling others to watch that person's nudity or sexual acts in a place where that person has a reasonable expectation of privacy;

ii. Without a person's consent, making or attempting to make photographs (including videos) or audio recordings, or posting, transmitting or distributing such recorded material, depicting that person's nudity or sexual acts in a place where that person has a reasonable expectation of privacy; or

iii. Using depictions of nudity or sexual activity to extort something of value from a person.

b. Sexual intercourse with a person under the age of 18.

c. Exposing one's genitals in a public place for the purpose of sexual gratification.

d. Failing to comply with the terms of a no-contact order, a suspension of any length, or any order of exclusion issued under this Policy.

e. Engaging in Retaliation. Retaliation is an adverse action against a person based on their report or other disclosure of alleged Prohibited Conduct or their participation in the investigation, reporting, remedial, or disciplinary processes provided for in this Policy.

An adverse action is conduct that would discourage a reasonable person from reporting Prohibited Conduct or participating in a process provided for in this Policy, such as threats, intimidation, harassment and coercion. Retaliation does not include good faith actions lawfully pursued in response to a report of Prohibited Conduct.