

**UNIFORM COMPLAINT PROCEDURES**

It is the policy of the Spark Charter School (the “School”) to maintain a positive and productive working and educational environment. The School is primarily responsible to ensure that it is compliant with all applicable federal and state laws and regulations. There are some circumstances, however, when employees or students may take issue with other employees or students or someone may believe that a violation of federal or state law is occurring in certain educational programs. The School encourages complainants to first address the issue with the other person directly using conflict resolution skills when possible.

**Types of Complaints to be Filed Using the UCP:** If, however, the complainant does not feel comfortable with this approach or the complaint involves harassment, discrimination, intimidation, or bullying in federal or state laws, or regulations governing educational programs, improper student fees, or a complaint that the School has not complied with the requirements of Education Code sections 47606.5 (annual update to goals and annual actions) or 47607.3 (outcomes for pupil subgroups), as applicable, or other violation of state or federal law under the following programs Consolidated Categorical Aid Programs, Child Care and Development Programs, Child Nutrition Programs, Special Education Programs, and Safety Planning Requirements, the complainant must use the below identified complaint procedure. The School will investigate complaints and seek to resolve them in compliance with this policy.

**Internal Procedures:**

Each teacher and the Charter School Principal has the responsibility to maintain a work place and educational environment free from any form of sexual or other unlawful harassment, discrimination or conduct. Unlawful discrimination or harassment may be based upon actual or perceived sex, sexual orientation, gender, gender identity, gender expression, ethnic group identification, race, ancestry, national origin, religion, color, mental or physical disability, age or on the basis of a person’s association with a person or group with one or more of these actual or perceived characteristics, or any other category protected by law. Consequently, should a Spark Charter School teacher or its Principal become aware of any conduct that may constitute discrimination, harassment or other prohibited behavior, immediate action will be taken to address and remediate such conduct.

**Making a Complaint:** Any person who has experienced or is aware of a situation that is believed to be sexually and/or otherwise unlawfully harassing or represents a violation of law as identified above, has a responsibility to report the situation immediately to Spark’s principal at 739 Morse Street, Sunnyvale, 408/752-2631. Employees who believe they have been the victim of any employment discrimination should follow the complaint procedures identified in the employee handbook. If the complainant is unable to put the complaint in writing, due to a disability or illiteracy, the School will assist the complainant in filing the complaint.

If the employee or student is not comfortable contacting Spark's Principal or if that individual is not available, the employee or student should contact Spark's business manager. A Harassment/Retaliation/Unlawful Conduct Complaint Form may be obtained from the School Secretary.

**Anonymous Complaints:** Any employee or student who believes that there has been a violation of state or federal law as articulated above, or an improper imposition of student fees, should make a written complaint to the Principal. Students making a complaint of improper fees or complaints that the School has failed to comply with Education Code sections 47606.5 or 47607.3, may make the complaint anonymously if the complaint provides evidence or information leading to evidence to support an allegation of noncompliance with the applicable Education Codes.

**6 Month Limit on Certain Complaints:** Complaints relating to discrimination (other than employment discrimination) must be filed within six months of the alleged discrimination or when the complainant first obtained knowledge of the alleged discrimination, unless an extension has been obtained from the President of Spark's Board of Directors or his/her designee. Such extension by the President of Spark's Board of Directors or his/her designee shall be made in writing. The period for filing may be extended by the Board President or his/her designee for good cause for a period not to exceed 90 days following the expiration of the six month time period. The Board President shall respond immediately upon a receipt for extension.

**Informal Resolution:** If the parties mutually agree, the complainant and the School may resolve the matter through mediation or otherwise informally. If mediation fails to resolve the matter, or the parties do not agree to mediate the matter, the formal complaint procedure identified below shall be followed.

**Investigation of Complaints:** If the complaint alleges wrongdoing involving discrimination (other than employment discrimination) or claims of failure to comply with applicable state or federal laws or regulations, the School will complete an investigation and submit to the complainant a written decision regarding the complaint within 60 days of receipt of the complaint. During the investigation, the complainant, his/her representative or both, will have the opportunity to present the complaint and evidence or information leading to evidence to support the allegations of the complaint. The 60 day timeframe may be extended by the written consent of the complainant.

Refusal by the complainant to provide the investigator, at any level of the investigation, with documents or other evidence related to the allegations in the complaint, or to otherwise fail or refuse to cooperate in the investigation or engage in any other obstruction of the investigation, may result in the dismissal of the complaint because of lack of evidence to support the allegations.

Complaints will be handled as discreetly as possible, consistent with the need to investigate effectively and promptly resolve the matter.

The Principal will be knowledgeable of the laws/programs that he/she is assigned to investigate. If the complaint alleges employment discrimination, the Board of Directors will send it to the Department of Fair Employment and Housing (the “DFEH”) for investigation as required by law.

**Written Decision:** The Principal shall prepare a written decision, which decision shall contain the following: 1) findings of fact based on the evidence gathered; 2) conclusions of law; 3) disposition of the complaint; 4) the rationale for such disposition; 5) the corrective actions, if any are warranted; 6) notice of the complainant’s right to appeal the School’s decision to the California Department of Education; and 7) the procedures to be followed for initiating an appeal to the Department of Education. Within 60 days of receipt of the complaint, the Principal will send a copy of the written decision to the complainant.

### **Appeal of School’s Decision**

**Appeal to CDE:** Except for complaints regarding instructional materials and teacher vacancies or misassignments, a complainant may appeal a decision to the California Department of Education (“CDE”) by filing a written appeal within 15 days of receiving the decision. The complainant shall specify the basis for the appeal and whether the facts are incorrect and/or the law is misapplied. The appeal should be accompanied by a copy of the locally filed complaint and a copy of the School’s decision. If the CDE determines the appeal raises issues not contained in the local complaint, the CDE will refer those new issues back to the School for resolution. If the CDE determines that the decision failed to address an issue raised by the complaint, the CDE will refer the matter to the School to make the necessary findings and conclusions on any issue not addressed. The School will have 20 days to make those findings.

Any employee found to have participated in improper harassment or discrimination will be subject to disciplinary action, up to and including possible dismissal. Any student found to have participated in improper harassment or discrimination will be subject to disciplinary action, up to and including possible suspension or expulsion.

### **External Procedures: Filing a Complaint with the DFEH.**

Employees or job applicants who believe that they have experienced unlawful employment discrimination or harassment may file a complaint directly with the DFEH. The DFEH serves as a neutral fact-finder and attempts to help the parties voluntarily resolve disputes. If the DFEH finds sufficient evidence to establish discrimination occurred and settlement efforts fail, the DFEH may file a formal accusation.

Employees may also pursue the matter through a private lawsuit in civil court after a complaint has been filed with the DFEH and a Right to Sue Notice has been issued. For more information, contact the DFEH toll free at (800) 884-1684, or email the DFEH at [contact.center@dfeh.ca.gov](mailto:contact.center@dfeh.ca.gov)

or visit its website at [www.dfeh.ca.gov](http://www.dfeh.ca.gov). To contact the nearest field office of the Equal Employment Opportunity Commission (“EEOC”), call 1-800-669-4000. You should be aware that state and federal law provide time limits within which complaints must be filed. Contact the relevant agency to determine the applicable time limit.

### **Retaliation Policy**

It is in violation of the School’s policy for the School or any employee to demote, suspend, reduce, fail to hire or consider for hire, fail to give equal consideration in making employment decisions, fail to treat impartially in the context of any recommendations for subsequent employment that the School may make, adversely affect working conditions or otherwise deny any employment benefit to an individual because that individual has opposed practices prohibited by law or has filed a complaint, testified, assisted or participated in any manner in an investigation, conducted by the DFEH or their staff. Any employee retaliating against another employee, applicant or student will be disciplined, up to and including termination.

Examples of protected activities under the School’s retaliation policy include seeking advice from the DFEH or Commission; filing a complaint with the DFEH, irrespective of whether the complaint is actually sustained; opposing employment practices the employee reasonably believes to exist and believes to be a violation of the law; participating in an activity that is perceived by the School as opposition to discrimination, whether or not so intended by the employee expressing the opposition; participating in the proceeding of a local human rights or civil rights agency on a legal basis.

Nothing in this policy shall be construed to prevent the School from enforcing reasonable disciplinary policies and practices, nor from demonstrating that the actions of an applicant or employee were either disruptive or otherwise detrimental to legitimate business interests so as to justify the denial of an employment benefit.

### **Dissemination**

The School will send to students, employees, parents or guardians of its students, school advisory committees, and other interested parties a notice of rights under this policy on an annual basis. Upon request, a copy of this policy will be made available free of charge and is also available on the School’s website.

Adopted: 10/13/2015

Amended: