



## **Pharr Literacy Project, Inc.**

### **Sexual Harassment and Sexual Misconduct Policy**

- A. Purpose** - The purpose of this policy is to set forth Pharr Literacy Project, Inc. (PLP) policy concerning sexual harassment and sexual misconduct and commitment to create an environment free from sexual harassment and sexual misconduct.
- B. Persons Affected** - This policy applies to students, staff, and volunteers. This policy applies not only to unwelcome conduct that violates state and federal laws concerning sexual harassment, but also to inappropriate conduct of a sexual nature regardless of the gender of the complainant or the alleged harasser. An employee may be subject to disciplinary action for sexual misconduct even if that conduct does not constitute a violation of Title VII, Title IX of the Civil Rights Act of 1964 or the Texas Commission on Human Rights Act, *Texas Labor Code, Chapter 21*.
- C. Policy** - The policy of PLP is:
1. PLP condemns sexual harassment of or by its staff, students or volunteers. PLP is committed to the principle that the learning and working environment of its employees, students and volunteers should be free from sexual harassment and inappropriate conduct of a sexual nature. Sexual harassment is a form of sex discrimination and is illegal. Sexual misconduct and sexual harassment are unprofessional behaviors. Such conduct is prohibited as a matter of institutional policy and will be subject to disciplinary action. A public servant acting under color of his or her office or employment who intentionally subjects another to sexual harassment is guilty of official oppression. *Texas Penal Code Section 39.03(a) (3)*. Official oppression is a Class A misdemeanor. *Texas Penal Code Section 39.03(d)*.
  2. Supervisors shall not enter into any type of romantic or sexual relationship with staff under their supervision or with students enrolled in their courses. Such relationships will be looked upon as potentially detrimental to the working and learning environment, may be deemed inappropriate and unacceptable, and may constitute grounds for disciplinary action including termination of all appropriate parties involved. Complaints concerning consensual relationships impacting the work or educational environment by non-participating individuals will be treated as third-party sexual harassment complaints. Third party complaints will be handled according to procedures set forth in Subsection F below.
  3. PLP provides informal and formal complaint procedures that may be used to address complaints. The informal process described in Subsection F.1.b of this policy may be used as a prelude to filing a formal complaint, or as an alternative. The informal process is not a prerequisite to a formal complaint. Anyone who believes that he or she has been subject to sexual harassment or sexual misconduct may immediately file a formal complaint. The procedures for both informal and formal complaints are outlined in Subsection F of this policy.
  4. The policy will be made available to employees, students and volunteers. PLP will periodically educate and train employees and supervisors regarding the policy and conduct that could constitute a violation of the policy. Pursuant to



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*Texas Labor Code, Section 21.010*, new employees shall receive this training within 30 days of hire. All employees shall participate in a refresher training every two years. Such training shall be documented in each employee's personnel file via an employee statement of training.

**D. Definitions**

1. *Sexual misconduct.* Includes inappropriate sexual advances, requests for sexual favors, or verbal or physical conduct of a sexual nature.
2. *Sexual harassment.* As prohibited by state and federal laws, is defined as: Unwelcome sexual advances, requests for sexual favors, verbal or physical conduct of a sexual nature when
  - a. submission to which such conduct is made either explicitly or implicitly a term or condition of employment or education; or
  - b. submission to or rejection of such conduct is used as the basis for academic or employment decisions affecting that individual; or
  - c. such conduct has the purpose or effect of substantially interfering with an individual's academic or professional performance or creating an intimidating, hostile or offensive employment, educational, or living environment.
  - d. Examples of behavior that could be considered sexual misconduct or sexual harassment include, but are not limited to:
    1. Physical contact of a sexual nature including touching, patting, hugging, or brushing against a person's body;
    2. Explicit or implicit propositions or offers to engage in sexual activity;
    3. Comments of a sexual nature including sexually explicit statements, questions, jokes or anecdotes; remarks of sexual nature about a person's clothing or body, remarks about sexual activity; speculation about sexual experience;
    4. Exposure to sexually oriented graffiti, pictures, posters, or materials; and/or
    5. Physical interference with or restriction of an individual's movements.

**E. Procedures - Complaint Procedures**

1. Reporting—Employees, Students and Volunteers of PLP. PLP encourages any staff, students or volunteers of PLP who believes he or she has been subjected to sexual harassment or sexual misconduct to immediately report the incident to the appropriate supervisor of the accused individual, the administrator at the next higher level, the Equal Opportunity/ Affirmative Action Officer (EO/AA officer), or the Sites Coordinator.
  - a. In order to initiate the formal investigation process, the complainant must submit a written statement setting out the details of the misconduct that is the subject of the complaint. A supervisor and/or administrator



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- who receives a complaint with a written statement shall immediately notify an executive board member of PLP or the Sites Coordinator.
- b. Informal complaints are generally handled by the Sites Coordinator along with an executive board member.
  2. In no case will a complainant be required to report such behavior to the person accused of the misconduct.
  3. Formal Complaint Investigation – The investigator(s) assigned by the Executive Board of Directors will attempt to interview any persons thought to have information relevant to the complaint and such interviews shall be appropriately documented. Investigations will be concluded as soon as possible.
    - a. Prior to interviewing persons thought to have information relevant to the complaint, the accused employee will be provided a copy of the complaint, and allowed to respond in writing by a specific date as determined by the investigating officer.
    - b. Any persons thought to have information relevant to the complaint may be interviewed and such interviews shall be appropriately documented. Other acceptable methods for gathering information include, but are not limited to, visual inspection of offensive materials and follow-up interviews as necessary.
    - c. Upon completion of the investigation, the investigating officer will prepare a written report of the investigation, which shall include the findings of the investigation. The Investigating Officer will forward a copy to the executive board.
  4. Disposition – The executive board will review and act on the report pursuant to the PLP’s disciplinary policies. The chair of the executive board shall inform the complainant when the complaint has been resolved.
  5. Appeals – Complainants may appeal to the entire board of directors following the Grievance Policy guidelines.
  6. Retaliation Prohibited – A PLP employee, student or volunteer who retaliates against a person for filing a complaint of sexual harassment or sexual misconduct pursuant to this policy in good faith or an individual who has participated in good faith in an investigation of such a complaint is subject to disciplinary action, including dismissal.
  7. Confidentiality – PLP will maintain confidential to the extent permitted by law. Where the complainant’s desire to maintain anonymity may constrain attempts to establish facts and eliminate the potential harassment, PLP will attempt to find the right balance between the complainant’s desire for confidentiality with the responsibility of the component institution to provide an environment free of sexual harassment.



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8. False Complaints - Any person who knowingly and intentionally files a false complaint under this policy is subject to disciplinary action up to and including dismissal from PLP.
- F. Review** - This policy shall be reviewed every five years by the Board of Directors.