

# **Policy on Protection from Harassment and Discrimination**

**Adopted by the Board of Directors September 13, 2014**

**Amended January 18, 2018 and June 11, 2018, and November 11, 2018**

## **Purpose**

The purpose of this policy to provide guidance to the Arizona Academy of the Performing Arts (“AAPA”) regarding the organization’s responsibility to provide a learning environment free from harassment and discrimination.

## **Definitions**

**AAPA:** The Arizona Academy of the Performing Arts and its programs, including The Academy Drum and Bugle Corps, Phenom, Youth Guard, and any ensembles, clinics, events or activities carried out by the organization.

**Staff:** For purposes of this policy, “staff” refers to employees, contractors, volunteers, directors and officers, and consultants.

**Participants:** Members, students, trainees, and applicants.

**Direct Contact:** For purposes of this policy, “direct contact” means either:

- (1) be engaged in the care, supervision, guidance or control of Participants (specifically including, but not limited to, instruction; or
- (2) otherwise will have regular contact where the term “regular” shall mean any portion of two or more days.

## **Specific Policies**

**Harassment:** Harassment is unwelcome behavior of one person toward another that is sufficiently severe or pervasive to create an intimidating, hostile or offensive environment for employment or participation in Academy sponsored activities.

Harassment is expressly prohibited by AAPA under any and all circumstances between and among our Staff and Participants.

**Sexual Harassment:** Behaviors in question include: requests for sexual favors, other verbal or physical conduct of a sexual nature, and repeated unwelcome sexual advances. These behaviors will be considered sexual harassment when:

- Submission to such conduct is made either directly or indirectly as a term of condition of participation: or
- Submission to or rejection of such conduct is used as the basis for participation decisions that affect a member of the Staff or Participant: or
- Such conduct has the purpose or the effect of unreasonably interfering with the Staff’s or Participant’s routine performance or creates an intimidating, hostile, or offensive environment.

Examples of conduct that may constitute sexual harassment include, but are not limited to:

- Sexual advances, whether or not they include touching,
- Verbal acts or name calling, verbal or written sexual epithets, jokes, references to sexual conduct, comments on an individual's body or sexual activity,
- Displaying sexually suggestive objects, pictures or caricatures,
- Unwelcome leering, brushing against the body, whistling, suggestive or insulting comments,
- Obscene, crude, vulgar, or foul language or gestures,
- Inquiries into one's sexual experiences or preferences.

Sexual harassment does not refer to occasional socially acceptable compliments. It refers to behavior that is unwelcome, personally offensive, or sufficiently severe or repeated so that it alters the conditions of employment or participation, or creates an abusive or unproductive environment.

Sexual harassment is expressly prohibited by AAPA under any and all circumstances between and among our Staff and Participants. In addition, sexual assault and/or exploitation are expressly prohibited by AAPA.

**Discrimination:** Discrimination occurs when an individual, or group of individuals, is treated adversely because they belong to a classification of individuals that is protected by law or this policy. Protected classifications include race, color, religion, sex, national origin, age, disability, veteran status, sexual orientation and gender or gender identification.

Discrimination is expressly prohibited by AAPA under any and all circumstances between and among our Staff and Participants. AAPA also prohibits retaliation against individuals who oppose discriminatory or harassing behavior by others, or who report, or assist in the investigation of such behavior.

**Staff and Participant Relations:** The professional relationship between Staff and Participants is central to the mission AAPA. Nonprofessional relationships, such as a sexual or romantic relationship, between a Staff member and any Participant are expressly prohibited. Such relationships include, but are not limited to, inappropriate physical contact, non-professional messaging/texting, and inappropriate communications. The following rules have been implemented to ensure the safety and security of both Staff and Participants.

**1. Two-deep leadership**

Two (2) members of AAPA staff, one of whom must be at least 25 years of age or older, are required to be present for every AAPA sponsored activity including tours, rehearsals, performances, etc. Overnight stays have additional requirements described elsewhere in this document.

**2. No one-on-one contact:**

One-on-one private meetings between staff and participants are permitted in situations that require personal attention, such as private conferences, instruction, or the like. Such meetings are to be conducted in view of other adults and/or participants or to be an open door

meeting. In non-emergency/non-medical situations, one-staff-to-one-participant travel is not acceptable unless the staff person is the participant's legal parent or guardian. Should an exceptional situation require that a sole staff person transport a sole participant, such an arrangement may be permitted only with the signed approval of the participant's legal parent or guardian, or if the participant is over 18, they must provide AAPA with a written release of liability. The approval or release of liability may be submitted electronically to the AAPA Executive Director.

### **3. Social media**

Staff persons are prohibited from requesting and/or soliciting participants to include them in their social media networks with the exception of social media groups created or utilized by AAPA to communicate with members concerning AAPA business. It should be noted however, that email is the official method of communication for AAPA.

### **4. Overnight accommodations**

In general, staff persons are required to respect the individual privacy of all participants in all situations and at all times including overnight accommodations, restroom usage, changing clothes, and showering.

When AAPA activities require an overnight stay(s), staff persons are required to sleep in rooms separated from participants.

Participants will be provided with shower facilities separate from staff shower facilities whenever possible. If separate showers are not available, staff persons will not shower at the same time as participants.

Overnight stays require that two or more adults, one of whom must be at least 25 years of age or older, be designated by the Executive Director to be in a supervisory role to oversee the overnight stay. Overnight stays sanctioned by AAPA may not be supervised by volunteers.

### **5. Staff selection and training**

AAPA staff members who will have direct contact with participants (as defined above) must complete sexual abuse awareness training prior to having any direct contact with members and at least every two years thereafter in a manner approved by the AAPA Board of Directors. Any exceptions to this provision must be jointly approved by the Executive Director of AAPA and the Chair of the Compliance Committee. Exceptions will be documented in writing and kept on file.

Background screening of staff persons who will have direct contact with participants (as defined above) shall be performed in accordance with the AAPA Background Check policy.

**Hazing:** Hazing includes, but is not limited to:

1. Any action, whether direct or indirect, alone or with others, that intentionally or recklessly causes or poses a substantial risk of harm to the mental or physical health or safety of one or more persons; or

2. Subjecting any person to and/or encouraging any person to commit an act that violates human dignity or is committed for the purpose of causing shame, abuse, insult, humiliation, intimidation or disgrace; or
3. Subjecting any person to and/or encouraging any person to commit any act that falls within paragraph (1) or (2) for the purpose of initiating, promoting, fostering or confirming any form of affiliation with any group or section of AAPA; or
4. Willfully or recklessly destroying or removing public or private property for the purpose of harassment or initiating, promoting, fostering or confirming any form of affiliation with any group or section of AAPA.

Examples of hazing include, but are not limited to, forced consumption of alcohol or other substances or food, sleep deprivation, threats of harm, actual physical harm (e.g., paddling, beating, branding, striking), excessive and/or coerced physical exertion, performing any service or action under coercion or duress, forced exclusion from social contact, intentional placing of any person in a situation of actual or simulated peril or jeopardy, undignified stunts or methods (either private or public) and/or any ordeal that is in any way indecent or shocking to moral or religious scruples or sensibilities of the victim(s).

AAPA expressly prohibits any hazing activities under any and all circumstances.

**Bullying:** Bullying is unwanted, aggressive behavior that involves a real or perceived power imbalance. The behavior is repeated, or has the potential to be repeated, over time.

In order to be considered bullying, the behavior must be aggressive and include:

- An Imbalance of Power: People who bully use their power – such as physical strength, access to embarrassing information, or popularity – to control or harm others. Power imbalances can change over time and in different situations, even if they involve the same people.
- Repetition: Bullying behaviors happen more than once or have the potential to happen more than once.

Bullying includes actions such as making threats, spreading rumors, attacking someone physically or verbally and excluding someone from a group on purpose.

There are three types of bullying:

- Verbal bullying is saying or writing mean things. Verbal bullying includes:
  - Teasing
  - Name-Calling
  - Inappropriate sexual comments
  - Taunting
  - Threatening to cause harm
- Social bullying, sometimes referred to as relational bullying, involves hurting someone's reputation or relationships. Social bullying includes:
  - Leaving someone out on purpose
  - Telling others not to be friends with someone

Spreading rumors about someone  
Embarrassing someone in public

- Physical bullying involves hurting a person's body or possessions. Physical bullying includes:
  - Hitting/kicking/pinching
  - Spitting
  - Tripping/pushing
  - Taking or breaking someone's things
  - Making mean or rude hand gestures

AAPA expressly prohibits any bullying activities under any and all circumstances.

**Contraband:** Contraband is defined to include, but not be limited to: alcohol, illegal drugs, controlled substances without a prescription, knives over four inches in length, firearms, ammunition, fireworks, and incendiary devices or materials. Possession of contraband is prohibited at any activity of the AAPA or The Academy.

AAPA reserves the right to inspect Staff and Participant living quarters and belongings if contraband is suspected or reported: this right may include random searches. The owner of the belongings, the Executive Director or Tour Director, and an additional Staff member shall be in attendance during inspection.

#### **Participant responsibilities to each other**

Participants are expected to conduct themselves in accordance with the normal principals of socially responsible behavior. Physical violence, hazing, bullying, theft, verbal abuse, drugs, and alcohol have no place in AAPA and will not be tolerated.

#### **Staff responsibilities to participants**

Staff persons have many responsibilities to participants. Specifically, in regard to these policies, staff persons are responsible for monitoring the behavior of participants and are required to intercede if necessary, and bring that situation to the attention of the Executive Director, or the most senior staff member present until the Executive Director can be contacted or notified, in which case the Executive Director should still be contacted as soon as possible.

The Executive Director will observe, monitor and provide guidance regarding the leadership and instruction techniques used by staff members. It is the expectation that staff members provide guidance and instruction in a professional manner that demonstrates respect and confidence in the individual participant's abilities.

Professional behavior is critical at all times and serves as a role model to our participants.

## **Violations and complaints**

### **Required reporting**

AAPA requires its staff persons and its participants to immediately report in good faith all observed or reasonably suspected incidents of discrimination, harassment, abuse, retaliation, or violation of AAPA policies or the law. Individuals who believe they have experienced, observed, or reasonably suspect such conduct they believe is in violation of this policy, or who have any concerns about such matters, must bring these concerns to the attention of the Executive Director or Chair of the Compliance Committee or any other competent individual within the organization, such as a Drum Major, a nurse, a volunteer or caption head. Person's receiving such reports are required to promptly forward the report to the Executive Director, Chair of the Compliance Committee, President of the Board or other Board Member as appropriate.

If, for any reason, an individual believes that a complaint cannot or should not be raised through the options described above, that individual is required to bring it to the attention of the President of the Board of Directors or any Board of Directors member or make a report using the Incident Reporting link on the AAPA website at [www.arizonaacademy.org](http://www.arizonaacademy.org) or to the Ethics and Compliance Reporting link on the DCI website at [www.dci.org/static/ethics-and-compliance-reporting](http://www.dci.org/static/ethics-and-compliance-reporting). Reports made via either the AAPA or DCI websites can be made anonymously if so desired.

Further, depending on the nature of the observed, suspected, or alleged incident(s), regulations or laws of the relevant jurisdiction may require mandatory reporting of incidents to appropriate law enforcement or other agencies, regardless of whether the victim(s) wish(es) to make a report. Staff must comply with the applicable laws. Confidentiality and anonymity of the party/parties involved will be maintained as permitted by law.

Failure to report or supervisory inaction may be cause for disciplinary action up to and including dismissal from AAPA programs.

### **Required investigation and reporting**

Any reported allegation of harassment, discrimination, or retaliation will be investigated promptly. The investigation may include interviews with the parties involved and, if necessary, with individuals who may have observed the alleged conduct or have other pertinent knowledge. Credible allegations of a potential or actual criminal nature will be reported by the Executive Director or Board President to the appropriate law enforcement authority.

AAPA staff members and participants shall cooperate with any investigation of allegations of violations of this policy. Providing false or misleading information or failure to cooperate may result in disciplinary action up to and including dismissal from AAPA programs.

**Retaliation**

Retaliation against any individual for making a report or assisting in any way with the investigation of any report will not be tolerated. Retaliation or attempting to retaliate in any form will be subject to discipline including, but not limited to, immediate suspension or termination of contracts, restriction of activity within AAPA, dismissal from AAPA programs, and/or reporting the incident to appropriate law enforcement officials (as applicable). Any person dismissed for retaliation hereby waives his or her right to sue for any civil liability based on the dismissal. No refund of tuition, dues, or fees paid up to the point of dismissal will be made.

**Confidentiality**

AAPA staff persons who receive reports of discrimination, harassment or retaliation must maintain the confidentiality of the information that they receive except where disclosure or reporting is required by law, or is necessary to facilitate legitimate AAPA processes, including reporting, investigation, and resolution of allegations.

**Constructive discipline**

Violations of this policy may result in disciplinary action, up to and including dismissal from AAPA programs. Violations of this policy may be subject to appropriate legal action. An individual's filing of a complaint or charge with any outside agency or entity will not preclude AAPA from its duties or actions concerning the same or similar events.

Discipline used in AAPA shall be constructive and reflect high values inherent within the organization. Any decision regarding disciplinary actions are at the sole discretion of the Executive Director.

Misconduct constituting harassment, discrimination or retaliation will be dealt with appropriately. This may include, for example, training, referral to counseling, warning or reprimand, reassignment and/or temporary or permanent termination of the individual's relationship with The Academy or any other AAPA program.

**Cost and Indemnity of Civil Actions**

Staff and Participants agree to indemnify (the payment of expenses and other costs) and hold harmless AAPA, its board members, Executive Director, employees, other staff, other members, and volunteers (they will not be held liable) of and from any and all claims, demands, losses, causes of action, damage, lawsuits, judgments, including attorneys' fees and costs, as well as any other costs associated with defending such an action arising out of or relating to the breach or violation of this Policy on Protection from Harassment and Discrimination by any person.