

**FIVE STAR INTERLOCAL COOPERATIVE
BOARD OF DIRECTORS POLICY**

Section VII - Discrimination

Adopted: September 9, 2003
Revised: March 7, 2012

NONDISCRIMINATION

There will be no discrimination in FSILC because of race, color, sex, national origin, religion, disability, veteran status, sexual orientation, age, or genetic information in its programs, services, activities and employment.. FSILC also provides equal access to the Boy Scouts of America and other designated youth groups. The following people have been designated to handle inquiries regarding FSILC's non-discrimination policies:

Section 504/Title II of the Americans with Disabilities Act Coordinator (for questions or complaints based on disability)

Nancy Anderson, Executive Director
Five Star Interlocal Cooperative
1405 E. Moses
Cushing, OK 74023
(918) 225-5600

Title VI of the Civil Rights Act Coordinator (for questions or complaints based on race, color and national origin)

Nancy Anderson, Executive Director
Five Star Interlocal Cooperative
1405 E. Moses
Cushing, OK 74023
(918) 225-5600

Title IX Coordinator (for questions or complaints based on sex)

Nancy Anderson, Executive Director
Five Star Interlocal Cooperative
1405 E. Moses
Cushing, OK 74023
(918) 225-5600

Age Act Coordinator (for questions or complaints based on age)

Nancy Anderson, Executive Director
Five Star Interlocal Cooperative
1405 E. Moses
Cushing, OK 74023
(918) 225-5600

HARASSMENT

FSILC is committed to providing all students and employees with a safe environment in which all members of the community are treated with respect. Harassment is unlawful discrimination and will not be tolerated. Both state and federal law specifically prohibit harassment of employees and students in connection with their employment by or enrollment in schools.

It is the policy of FSILC to prohibit, without qualification, unlawful harassment based on real or perceived race, color, sex, national origin, religion, disability, veteran status, sexual orientation, age, or genetic information. Students, employees and board members of FSILC have a duty not to harass on the above listed grounds.

This policy sets forth the rules to be followed by all students, employees and board members with regard to the issue of sexual harassment. Harassment of students or employees of either sex by employees or other students of the same or opposite sex is strictly prohibited. All students, employees and board members are strictly prohibited from engaging in any form of sexual harassment of any student, employee and applicant for employment, vendor representative, or patron of FSILC.

Sexual harassment is prohibited regardless of whether or not the harassment occurs inside or outside the classroom. For example, sexual harassment is prohibited during school or working hours, extra-curricular activities, school-sponsored events, field trips, athletic competitions, and in the cafeteria, classroom, hallways, and school buses. Harassment is prohibited in both academic and non-academic settings.

Definitions

“Employee” means any person who is authorized to act on behalf of FSILC, whether that person is acting on a temporary or permanent basis, regardless of whether or not the person is compensated. Employee denotes all staff of FSILC, both full-time and part-time, and includes board members and volunteers.

“Student” means any person who is enrolled in any school participating in a program of FSILC.

“Sexual Harassment” is a form of unlawful harassment which means unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature. Sexual harassment also includes conduct that is criminal in nature such as rape, sexual assault and stalking.

A. Sexual Harassment of an Employee of FSILC

“Sexual harassment” is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature by one employee toward another employee which:

1. is made an explicit or implicit term or condition of an employee’s employment; or
2. is used as a basis for employment decisions affecting that employee; or
3. has the purpose or effect of unreasonably interfering with an employee’s work performance, or creating an intimidating, hostile, or offensive working environment.

B. Sexual Harassment of a Student of FSILC

“Sexual harassment” is defined as unwelcome sexual advances, requests for sexual favors and other unwelcome verbal or physical conduct of a sexual nature by any person toward a student which:

1. is made a term or condition, either implicitly or explicitly, of obtaining an education; or
2. is used as a basis for decisions affecting an individual’s education; or
3. has the purpose or effect of substantially interfering with a student’s educational performance or creating an intimidating, hostile, or offensive learning environment.

In order to constitute sexual harassment, the conduct at issue must be unwelcome. Sexual conduct between an elementary age student and an adult employee will not be considered welcome. In addition, conduct between a secondary age student and an adult is presumptively unwelcome.

Examples of Sexual and Other Harassment

Examples of sexual harassment include, but are not limited to: unwelcome touching, crude jokes or pictures, discussions of sexual experiences, teasing related to sexual characteristics, pressure for sexual activity whether written, verbal or through physical gestures, display or sending of pornographic pictures or objects, obscene graffiti, and spreading rumors related to a person’s alleged sexual activities. For example, demeaning comments about a student’s ability to excel in a class historically considered a “boy’s” or a “girl’s” subject may constitute sexual harassment.

Examples of harassment because of race, color, sex, national origin, religion, disability, veteran status, sexual orientation, age, or genetic information include, but are not limited to: slurs, epithets, insults, jokes or derogatory comments; verbal or physical abuse of a person; intimidation (physical, verbal or psychological); or impeding or blocking movement of a person.

This prohibition against sexual harassment does not preclude legitimate, nonsexual physical contact such as the use of necessary interventions to avoid physical harm to persons or property.

Penalties

Penalties shall be imposed based on the facts taken as a whole and the totality of the circumstances such as the nature, extent, context and gravity of such activities or incidents.

Any employee engaging in sexual or other harassment will be subject to disciplinary action, including but not limited to suspension, demotion, forfeiture of pay or benefits (as permitted by law) and termination.

Any student engaging in sexual or other harassment is subject to any and all disciplinary action which may be imposed under the school district's student discipline policy.

Reporting to FSILC

A. By Students

FSILC encourages students who have been sexually or otherwise harassed or who know of sexual or other harassment to report the claim. Students should report any incident of sexual or other harassment to any teacher, guidance counselor, school administrator, superintendent, or board member.

B. By Employees

Any employee of FSILC who witnesses, overhears, suspects or receives a report of harassment *shall* immediately report the incident to either the executive director or any board member of FSILC. If the report of the incident occurs after normal school or business hours, an employee should contact the executive director or any board member at home.

C. The Report

If possible, the report should be made in person or in writing, signed by the reporting party.

However, in order to encourage full, complete and immediate reporting of such prohibited activities, any person may report such incidents anonymously in writing by mailing the reports to the personal attention of either the executive director or a board member.

All reports should state:

1. the name of the alleged harassing student, employee, board member, or other person;
2. the person(s) being harassed;

3. the nature, context and extent of the prohibited activity;
4. the dates of the prohibited activity, and;
5. any other information necessary to a full report and investigation of the matter.

Reports to Outside Officials

Any employee who is subjected to job related sexual harassment is entitled to protection under Title VII of the Civil Rights Act of 1964 and the Oklahoma Anti-Discrimination Act. Likewise, a concerned employee may report an allegation to both school officials and to the United States Equal Employment Opportunity Commission, or the Oklahoma Human Rights Commission.

Good faith reporting of charges of sexual or other harassment will not result in reprisals or retaliation. Reprisals and retaliation, due to a sexual harassment allegation, are prohibited.

Administrative Responsibility and Action

FSILC is committed to promptly and thoroughly investigating all reports of harassing conduct. When a report is received, FSILC will conduct a thorough and impartial investigation. To ensure impartiality, no person who is the subject of a complaint shall conduct the investigation.

During and after the investigation, confidentiality shall be maintained, as far as reasonably possible; provided however, nothing in this policy shall preclude public disclosure of any information of a personal or confidential nature during the course of any suspension, dismissal, non-renewal hearing or resulting litigation.

After all facts and circumstances are reviewed, FSILC shall take any and all disciplinary actions to prevent further harassment. Possible disciplinary or remedial actions include, but are not limited to: education, training and counseling, transfer, and/or suspension of a student, and education, training, counseling, transfer, suspension and / or termination of an employee.

Upon receipt of a formal or informal report of sexual or other harassment, the executive director shall do the following as quickly as possible:

1. Obtain an oral or written statement from the individual who allegedly was sexually harassed. The statement should contain information necessary to conduct a full investigation of the matter. Relevant information includes, but is not limited to: the name of the alleged harassing student, employee or board member; the person(s) being harassed; the nature, context and extent of prohibited activity; the dates of the prohibited activity; and the names of any witnesses;

2. Take appropriate and reasonable steps to separate and protect the individual who is allegedly being sexually harassed from the alleged harasser, until the matter can be fully investigated and the appropriate remedial steps taken;
3. Keep the individual who is allegedly being sexual harassed reasonably appraised, to the extent allowed under federal and state privacy laws and regulations, of the investigation and the actions taken as a result of the investigation;
4. Conduct a full and complete investigation, to the extent reasonably possible, regarding the alleged sexual harassment. This investigation includes, but is not limited to: interviewing the allegedly harassed individual, interviewing any witnesses, interviewing the alleged harasser, and reviewing supporting documents;
5. Review the facts of the investigation and take into account the totality of the circumstances. Nature, extent, context and gravity of activities must be taken into account. Based on both the facts of the investigation and the surrounding circumstances, the executive director or board member shall take or recommend the taking of appropriate measures. Appropriate measures include but are not limited to: suspension, demotion, forfeiture of pay or benefits (as permitted by law), termination, or reassignment;
6. Report the allegations to appropriate authorities, including law enforcement and the Department of Human Services.

In instances where the report is received by a board member, the report shall be promptly relayed to the executive director for investigation except in instances where the report names the executive director as a person responsible for harassment. In any instance in which the executive director is deemed to have a conflict with regard to the investigation of a report of harassment, the report may be conveyed to FSILC's legal counsel for investigation or for designation of an appropriate investigator.

**GRIEVANCE FOR ALLEGED DISCRIMINATION COMPLAINTS:
DEFINITIONS, PRE-FILING, FILING PROCEDURES, AND
GENERAL PROVISIONS**

Definitions

- A. **Discrimination Complaint:** A written complaint alleging any policy, procedure or practice which discriminates on the basis of race, color, sex, national origin, religion, disability, veteran status, sexual orientation, age, or genetic information.
- B. **Grievant:** Any person enrolled in a school that is a member of FSILC or employed by FSILC who submits a complaint alleging discrimination based on race, color, sex (including sexual harassment), national origin, religion, disability, veteran status, sexual orientation, age, or genetic information. Sexual harassment is a prohibited type of sexual discrimination under Title IX for which a grievance under this policy can be filed with the Title IX Coordinator. For purposes of any complaint alleging a violation of Section 504, in addition to those identified as possible grievants in this paragraph, members of the public may also be potential grievants. For purposes of this policy, a parent's complaint or grievance shall be handled in the same manner as a student's complaint would be.
- C. **Title IX, ADA, Title VII and 504 Coordinator(s):** The person(s) designated to coordinate efforts to comply with and carry out responsibilities under Title IX of the Education Amendments of 1972, the Americans with Disabilities Act, Title VII of the Civil Rights Act of 1964, as amended, Section 504 of the Rehabilitation Act of 1973 and any other state and federal laws addressing equal educational opportunity. The Coordinator under Title IX, ADA, Title VII and 504 is responsible for processing complaints and serves as moderator and recorder during hearings. The Coordinator of each statutory scheme may be the same person or different persons. The Board of Directors designates FSILC executive director as the Title IX/504 Coordinator.
- D. **Respondent:** The person alleged to be responsible for the violation contained in a complaint. The term may be used to designate persons with responsibility for a particular action or those persons with supervisory responsibility for procedures and policies in those areas covered in the complaint.
- E. **Day:** Day means a working day when FSILC's main administrative offices are open. The calculation of days in complaint processing shall exclude Saturdays, Sundays and legal holidays.

Pre-Filing Procedures

- A. Prior to the filing of a written complaint, the student or employee is encouraged to visit with the applicable coordinator, and reasonable effort should be made to resolve the problem or complaint.

Filing and Processing Discrimination Complaints

- A. **Grievant:** Submits written complaint to the applicable coordinator, stating name, nature and date of alleged violation; names of persons responsible (where known) and requested action. If the applicable coordinator is the person alleged to have committed the discriminatory act(s), then the complaint should be submitted to the president of the board for assignment. Complaints must be submitted within 10 days of alleged violation. The complaint form is available from FSILC office or can be obtained from FSILC website homepage.
- B. **Applicable Coordinator or Board President:** Conducts an investigation, within 10 days, to the extent reasonably possible, which would include but not be limited to, interviewing the complainant, any witnesses, review of any supporting documents and interviewing the respondent; and asks respondent to:
 - i) Confirm or deny facts;
 - ii) Indicate acceptance or rejection of student or employee's requested action; or
 - iii) Outline alternatives.
- C. **Respondent:** Submits written answer within 10 days to the applicable coordinator.
- D. **Applicable Coordinator:** Within 5 days after receiving respondent's answer, applicable coordinator schedules a hearing.
- E. **Grievant, Respondent and Applicable Coordinator:** Hearing is conducted. In circumstances involving allegations of sexual harassment, the applicable Coordinator may determine that it is appropriate and reasonable to separate the individual who is allegedly being sexually harassed from the alleged harasser in the hearing.
- F. **Applicable Coordinator:** Issues within 5 days after the hearing a written decision to the grievant and respondent.
- G. **Grievant or Respondent:** If the grievant or respondent is not satisfied with the decision, they must notify the applicable coordinator within 5 days and request, in writing, a hearing with FSILC executive director. This step is applicable only to situations in which a coordinator other than FSILC executive director conducted the initial hearing.
- H. **Executive Director:** Schedules within 10 days of request a hearing with the grievant and respondent
- I. **Executive Director, Grievant and Respondent:** Hearing is conducted.
- J. **Executive Director:** Issues a written decision within 5 days following the hearing.

- K. Grievant or Respondent: If the grievant or respondent is not satisfied with the decision, they must notify FSILC executive director, in writing, within 5 days and request a hearing with the board of directors.
- L. Executive Director: Notifies board, in writing, within 5 days after receiving request. FSILC executive director schedules hearing with the board. Hearing is to be conducted within 30 days from the date of notification to the board.
- M. Board, Grievant, Respondent, Executive Director and Applicable Coordinator: Hearing is conducted. Board issues a final decision at the hearing regarding the validity of the grievance and any action to be taken.

General Provisions

- A. Extension of time: Any time limits set by these procedures may be extended by mutual consent of the parties involved. The total number of days from date that complaint is filed until complaint is resolved shall be no more than 120 days.
- B. Access to Regulations: Upon request, FSILC shall provide copies of any regulations prohibiting discrimination on the basis of race, color, sex, national origin, religion, disability, veteran status, sexual orientation, age or genetic information.
- C. Confidentiality of Records: Complaint records will remain confidential, to the extent allowed by law, unless permission is given by the parties involved to release such information. All complaint records will be kept separate from any other records of FSILC. No complaint record shall be entered in any personnel file unless adverse employment action is taken against an employee. Complaint records shall be maintained on file for three years after complaint resolution.
- D. Representation: The grievant and the respondent may have a representative assist them through the grievance process and accompany them to any hearing.
- E. Retaliation: No reprisals or retaliation will be allowed to occur as the result of the good faith reporting of a discrimination complaint.
- F. Basis of Decision: At each step in the grievance procedure, the decision maker will take or recommend the taking of appropriate measures based on the facts, as revealed by the investigation and hearing, taken as a whole, and the totality of the circumstances, such as the nature, extent, context and gravity of the activities or incidents.
- G. Section 504 Due Process Procedures: For information concerning due process procedures under Section 504, the grievant should contact the executive director.

DISCRIMINATORY HARASSMENT AND RETALIATION

FSILC is committed to providing a workplace and, where applicable, learning environment free from discriminatory harassment. FSILC prohibits harassment by students and employees, including volunteers, of any person based upon race, color, sex, national origin, religion, disability, veteran status, sexual orientation, age, or genetic information.

For purposes of this policy, discriminatory harassment of a student includes any verbal, written or graphic expression or physical conduct relating to the individual's race, color, sex, national origin, religion, disability, veteran status, sexual orientation age, or genetic information when:

1. the discriminatory harassment is sufficiently severe, persistent or pervasive that it affects a student's ability to participate in or benefit from an educational program or activity or creates an intimidating, threatening or abusive educational environment;
2. the discriminatory harassment has the purpose or effect of substantially or unreasonably interfering with an individual's academic performance; or
3. the discriminatory harassment otherwise adversely affects an individual's learning opportunities.

In determining whether alleged conduct constitutes a violation of this policy, FSILC will consider the surrounding circumstances, the nature of the behavior, the relationships between the parties involved and the context in which the alleged incidents occurred. Whether a particular action or incident constitutes a violation of this policy requires a determination based on all of the facts and surrounding circumstances.

Discriminatory harassment may include, but is not limited to:

1. intimidation and implied or overt threats of physical violence motivated by race, color, sex, national origin, religion, disability, veteran status, sexual orientation, age or genetic information;
2. physical acts of aggression or assault upon another or damage to the property of another that is motivated by race, color, sex, national origin, religion, disability, veteran status, sexual orientation, age or genetic information;
3. threatening or intimidating conduct directed at another because of race, color, sex, national origin, religion, disability, veteran status, sexual orientation, age or genetic information;

4. demeaning jokes, taunting, slurs, derogatory names, innuendos or other negative or derogatory remarks relating to race, sex, national origin, religion, disability, veteran status, sexual orientation, age or genetic information;
5. graffiti, slogans or visual displays, such as cartoons, posters or computer images, which depict slurs or derogatory sentiments or images relating to race, sex, national origin, religion, disability, veteran status, sexual orientation, age or genetic information;
6. criminal offenses directed at persons because of their race, color, sex, national origin, religion, disability, veteran status, sexual orientation, age or genetic information; and
7. unwelcome sexual advances, requests for sexual favors and other unwelcome verbal, written or graphic expression or physical conduct of a sexual nature by any person towards a student or conduct that denies or limits, on the basis of sex, a student's ability to participate in or to receive benefits, services or opportunities in FSILC's programs or activities.

FSILC also prohibits retaliation, intimidation, threats, or coercion of any person for opposing discrimination or for participating in any applicable discrimination complaint process or making a complaint, testifying, assisting, appealing, or participating in any other discrimination complaint proceeding or hearing. FSILC will take steps to prevent the alleged perpetrator or anyone else at FSILC from retaliating against the alleged victim or any person who acts to oppose discrimination or participates in the complaint process. These steps include notifying students and employees that they are protected from retaliation, making sure that victims know how to report future problems and making follow-up inquiries to see if there have been any new incidents. If retaliation occurs, FSILC will take strong responsive action.

All employees are expected to take appropriate measures to prevent discriminatory harassment and retaliation by others. Employees who believe they are being harassed or retaliated against or who witness or otherwise become aware of potential harassment or retaliation must promptly report the offending conduct so that it can be stopped.

All FSILC employees, including but not limited to staff, supervisors, senior officials and volunteers, are required to comply with this policy. Employees who violate this policy are subject to disciplinary action, up to and including termination. Students who violate their assigned school's policy are subject to disciplinary action in accordance with the school district's code of student conduct.

POLICY AND PRACTICE, GRIEVANCE

Definitions

- A. A "grievance" is a dispute, disagreement, or controversy involving a violation or a misinterpretation of written or well-recognized board or administration policies or practices. The term "grievance" shall not apply to any matter in which (1) the method of review is prescribed by law (2) the board is without authority to act and shall not apply to employee evaluations or discipline or termination of employees. The executive director shall have sole and exclusive authority to determine what a proper grievable item is under this definition of "grievance."
- B. An "aggrieved person" is any FSILC employee asserting a grievance.
- C. "Grounds," when used in this procedure, shall mean the basis upon which a grievance is being presented or appealed.
- D. The term "days," when used in this procedure, shall mean teacher work days during the regular school year. At a time other than during the regular school year, the term "days" shall mean those days during which the administrative offices of FSILC are normally open.
- E. A "party in interest" is the person or persons making the grievance and any party who might be required to take action or against whom action might be taken in order to resolve the grievance.

General Procedures

- A. The number of days for the processing of grievances indicated at each level should be considered as a maximum. The time limits specified may, however, be extended or limited by written mutual consent.
- B. Nothing herein contained will be construed as limiting the right of an aggrieved person to discuss the matter informally with any appropriate member of the administration of FSILC and have the grievance adjusted, provided the adjustment is consistent with the terms of written or well-recognized board or administrative policies or practices.
- C. An aggrieved person may be represented at any level of the grievance procedure by a representative of his/her choosing consistent with the terms and provisions of this Procedure. Beyond level one in the grievance procedure the aggrieved person/persons may present written statements of relevant material that would assist in the equitable resolution of the perceived disagreement, controversy, and/or

complaint involving a perceived violation of the terms of Board or administrative policies or practices.

- D. A grievance initiated by an aggrieved person at a time other than during the regular school year shall commence at level two.
- E. No grievance shall be considered or processed unless it shall have been presented at the appropriate level within ten (10) days after the aggrieved person knew or should have known of the act or condition on which the grievance is based; and, if not so presented, the grievance shall be considered forever waived.
- F. An aggrieved person may withdraw a grievance at any time by notifying, in writing, the executive director. Any such grievance that is withdrawn shall be considered forever waived.
- G. If a grievance affects more than one certified person at more than one school, the aggrieved persons may submit such grievance in writing to the executive director, or his/her designee, and the processing of such grievances shall be commenced at level two.
- H. When it is necessary at any level beyond level one for an aggrieved person and his/her designated representative to attend a meeting or a hearing called by the executive director, or his/her designee, during the school day, the executive director, or his/her designee, shall so notify the immediate supervisor of such persons and they shall be released without loss of pay for such time as their attendance is required at such meeting or hearing.
- I. Any aggrieved person or party in interest who is adversely affected by a disposition of a grievance may within the time limits provided for herein appeal to the next level.
- J. Failure at any step of this procedure to communicate the decision of a grievance within the specified time limits to the aggrieved person shall permit the aggrieved person to proceed to the next level.
- K. Failure by an aggrieved person or a party in interest at any level of this procedure to appeal the grievance to the next level within the specified time limits shall be deemed to be acceptance of the decision given at that level.
- L. All necessary forms and documents for the filing of grievances, making reports and appeals regarding the alleged grievances, shall be provided to the certified person upon request to the executive director.
- M. Prior to initiating a civil action in any court an aggrieved person or party in interest must exhaust all remedies provided by this procedure.
- N. All meetings and hearings conducted under the provisions of this grievance procedure (except as to level three before the board of directors) shall be in private and are limited to the parties in interest and their designated representatives.

- O. A grievance file shall be maintained by the administration to contain all records regarding the processing of grievances filed by the certified personnel of FSILC.

Level One – Supervisor/Project Director

- A. A grievance will first be discussed with the aggrieved person's supervisor or project director, with the objective of resolving the matter informally. This meeting shall be held within fifteen (15) school days of the filing of the grievance unless such time limits are extended by mutual agreement of the aggrieved person and the supervisor or project director.

Level Two – Executive Director

- A. If the aggrieved person or a party in interest is not satisfied with the disposition of his/her grievance at level one, he/she or his/her designated representative may file a written appeal with the executive director within five (5) days of the decision given at level one. The appeal shall include a copy of the decision at level one and a statement as to why the decision is unacceptable, and the recommended course of action.
- B. Appeals at this level shall be heard by the executive director within ten (10) days of his/her receipt of the appeal. Written notice of the time and place of the hearing shall be given by the executive director no later than three (3) days prior to the hearing to the aggrieved person and any party in interest. Within five (5) days of the hearing, the executive director shall communicate his/her decision in writing to the supervisor or project director and the aggrieved person and any party in interest.

Level Three - Board of Directors

- A. If the aggrieved person or any party in interest does not receive a satisfactory adjustment of the grievance at level two, the aggrieved person or any party in interest may then appeal the issue to the board. The appeal must be filed within five (5) days of receipt of the report from the executive director. This appeal shall include a copy of the decisions rendered at level one and level two, and the grounds for regarding the decision and the report unacceptable and the requested course of action.
- B. Appeals at this level shall be heard by the board within thirty (30) days of receipt of the appeal. This hearing may be during a regularly scheduled meeting or at a special meeting called by the board. Written notice of the time and place of the hearing shall be given by the board's designee no later than three (3) days prior to the hearing to the aggrieved person and any appealing party in interest.
- C. The board shall render its decision in writing within ten (10) days after the conclusion of the hearing to the aggrieved person and any party in interest with copies to the supervisor or project director, the executive director, the aggrieved person and any party in interest. The decision of the board will be final.