



# SPIRIT OF SUNNYVALE POLICIES HANDBOOK

Last updated June 2018



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## 1. BACKGROUND CHECK POLICY

The Spirit of Sunnyvale organization (“Spirit”, “the organization”) relies on volunteers, employees and independent contractors to support its programs. With our need to protect our members, Spirit will complete criminal background checks. Therefore, we establish the following policy and process for the screening of our volunteers, employees and independent contractors.

1. Each volunteer, employee and independent contractor who will have regular, direct contact with the organization membership shall be subject to a background investigation.
2. Spirit shall use an independent entity to process the investigation.
3. To protect the confidentiality of the volunteer, employees or independent contractor, the information gathered shall be sent to the Director, or online at the independent entity.
4. The Director shall have all rights to reject, allow or limit a volunteer, employee or independent contractor’s participation with Spirit based on the information obtained from the background investigation.
5. A volunteer, employee or independent contractor who has had their participation rejected by the Director may appeal the decision to the Board of Directors. As part of the appeal, both parties will be allowed to present their case at the next regularly scheduled meeting of the Board.
6. Spirit recognizes that, at times, the screening process cannot be completed before the volunteer, employee or independent contractor is needed. In such cases the screening will still occur and the volunteer, employee or independent contractor will be subject to item 4 above.
7. Spirit will encourage all individuals who might be willing to volunteer or contract for more than the consecutive 24-hour periods to complete the background check form in advance of their volunteerism or work.
8. Individuals who volunteer or work on an annual basis shall be subject to a background investigation every 2 years.
9. Spirit will keep the background information on file for at least 2 years.

### **Adverse Action Criteria**

Subject to extenuating or mitigating circumstances and a majority vote of the Board of Directors:

- A felony conviction of any violent crime, or a misdemeanor conviction for a violent crime within the past 10 years, will disqualify an applicant.
- Felony or misdemeanor convictions of any sex-based crime will disqualify an applicant.
- Felony conviction of any non-violent crime within the past 10 years will generally disqualify an applicant.
- Misdemeanor conviction of a non-violent crime within the past 5 years will generally disqualify an applicant.
- The Director on a case-by-case basis shall evaluate any reported convictions that fall outside the scope of the categories identified above.

## 2. CONTRABAND POLICY

### **No Weapons in the Workplace**

Possession, use or sale of weapons, firearms or explosives on work premises, while operating organization machinery, equipment or vehicles for work-related purposes or while engaged in organization business off premises is forbidden except where expressly authorized by the organization and permitted by state and local laws. This policy applies to all staff members, including but not limited to, those who have a valid permit to carry a firearm.

If you are aware of violations or threats of violations of this policy, you are required to report such violations or threats of violations to the Director immediately.

Violations of this policy will result in disciplinary action, up to and including discharge.

### **Substance Abuse**

The organization has vital interests in ensuring a safe, healthy and efficient working environment for our staff members, their co-workers and the clients we serve. The unlawful or improper presence or use of controlled substances or alcohol in the workplace presents a danger to everyone. For these reasons, we have established as a condition of employment and continued employment with the organization the following substance abuse policy.

Staff members are prohibited from reporting to work or working while using illegal or unauthorized substances. Staff members are prohibited from reporting to work or working when the staff member uses any controlled substance, except when the use is pursuant to a doctor's orders and the doctor advised the staff member that the substance does not adversely affect the staff member's ability to safely perform his or her job duties.

In addition, staff members are prohibited from engaging in the unlawful or unauthorized manufacture, distribution, sale or possession of illegal or unauthorized substances and alcohol in the workplace including: on organization paid time, on organization premises, in organization vehicles, or while engaged in organization activities. Our staff members are also prohibited from reporting for

duty or remaining on duty with any alcohol in their systems. Staff members are further prohibited from consuming alcohol during working hours, including meal and break periods.

Your employment or continued employment with the organization is conditioned upon your full compliance with the foregoing substance abuse policy. Any violation of this policy may result in disciplinary action, up to and including discharge. Furthermore, any staff member who violates this policy who is subject to discharge, may be permitted in lieu of discharge, at the organization's sole discretion, to participate in and successfully complete an appropriate treatment, counseling or rehabilitation program as recommended by a substance abuse professional as a condition of continued employment and in accordance with applicable federal, state, and local laws.

Consistent with its fair employment policy, the organization maintains a policy of non-discrimination and reasonable accommodation with respect to recovering addicts and alcoholics, and those having a medical history reflecting treatment for substance abuse conditions. We encourage staff members to seek assistance before their substance or alcohol use renders them unable to perform their essential job functions or jeopardizes the health and safety of themselves or others. The organization will attempt to assist its staff members through referrals to rehabilitation, appropriate leaves of absence and other measures consistent with the organization's policies and applicable federal, state or local laws.

The organization further reserves the right to take any and all appropriate and lawful actions necessary to enforce this substance abuse policy including, but not limited to, Spirit owned property, as well as a staff member's personal property when the organization has reasonable suspicion to believe that the staff member has violated this substance abuse policy.

Although the state has legalized marijuana for medicinal purposes, the organization is not required to allow the medicinal use of marijuana in the workplace. Use is strictly prohibited on organization rented facilities and areas of performance, and may result in discipline, up to and including immediate discharge.

## **Contraband**

The possession of contraband by staff members and marching members is prohibited. As used here, “contraband” includes any item or material that poses a risk of harm to any individual – whether or not associated with the Spirit.

“Contraband” includes but is not limited to weapons, flammable or explosive substances, firearms or ammunition, fireworks, controlled substances, and toxic substances. Contraband will be immediately seized, and appropriate disciplinary action will be taken in the sole discretion of the Director.

## **Tobacco, Alcohol, and Drugs**

Smoking and other tobacco use is detrimental to the health of the user and those around them, and sets a dismal example of positive and healthy decision making and behavior. Despite this, it is a legal activity. Spirit therefore enforces the following policies regarding the use of tobacco.

- a. Tobacco use is prohibited on school grounds and housing sites at all times. There is to be no tobacco use in or around Spirit’s vehicles, rehearsal fields and camp locations.
- b. The possession, use, consumption, distribution and/or display of alcohol is absolutely prohibited in and around Spirit’s vehicles, rehearsal fields, school grounds, housing sites and camp locations. Being under the influence to any degree in the vicinity of the organization or its members at any time is expressly prohibited.
- c. The possession, use, consumption, or distribution of any controlled substances, including but not limited to marijuana, cocaine, amphetamines, tranquilizers, crack, barbiturates or “diet pills,” is strictly prohibited.
- d. The misuse of otherwise legally prescribed medications, or the distribution of them without a prescription, is strictly prohibited.

These policies on tobacco, alcohol, and controlled substances are in place from your arrival at each camp through your departure from each camp. They are also in place continuously from each Spirit performance.



### 3. FRATERNIZATION POLICY

#### **Staff and Member Relations**

It is the policy of **Spirit to prohibit any inappropriate interaction between staff or volunteers and members at all times and under all circumstances, as well as the *appearance* of inappropriate interactions.**

**One-on-one contact between adults, staff, and volunteers of Spirit and the members of the organization is expressly prohibited.** In situations requiring an individual or personal conference, such as a meeting to discuss disciplinary or medical issues, the meeting is to be conducted with the prior knowledge of and in clear view of other adult staff or volunteers.

**The prohibition on one-on-one contact between adults, staff, and volunteers and the marching members applies as well to written, digital, and electronic communications.** No one-on-one private online communications or engagement in one-on-one digital activities (games, social media, etc.) with youth members will be permitted.

Should direct written, digital and electronic communications occasionally become absolutely necessary and required, and no other readily acceptable method can be used, a parent and another staff member or volunteer shall be included on such necessary written, digital and electronic communications. This safeguard ensures that no private, one-on-one contact takes place in text, social media, or other forms of written, digital and electronic communications.

**Romantic and sexual relationships between staff and marching members, or between volunteers and marching members, regardless of their respective ages, are also expressly prohibited.**

Further, staff, volunteers, and members should be aware of unintentionally or inadvertently invading the privacy of other individuals with video, picture and audio recording devices. The use of any device capable of recording or transmitting visual images in or near showers, locker rooms, restrooms, or other areas where privacy is expected is not allowed.

All persons involved in Spirit must immediately report to local authorities any good-faith suspicion or belief that any member is or has been physically or sexually abused, physically or emotionally neglected, exposed to any form of violence or threat, exposed to any form of sexual exploitation including the possession, manufacture, or distribution of child pornography, online solicitation, enticement, or showing of obscene material. This duty cannot be delegated or passed along to any other person.

Immediate reporting of any such good-faith suspicion or belief, or of any other violation of any policy of Spirit shall also be immediately reported to the Director or member of the Board of Directors. This duty cannot be delegated or passed along to any other person. Immediate and appropriate action shall be taken for the safety of our members, staff and volunteers, as well as for appropriate notifications and follow-up with appropriate investigating agencies. Any and all actions taken will be in the sole and absolute discretion of Spirit.

Any violation of this policy will be grounds for immediate and summary disciplinary action by Spirit in its sole and absolute discretion. Such action may include immediate and summary dismissal from Spirit.

### **Duty To Report Violations**

It is the affirmative obligation of all management, staff, volunteers and members to immediately report in good faith any violation of the law or of the policies of Spirit to either the Director or any member of the Board of Directors. Should circumstances prevent such immediate reporting, any violation shall be reported as soon as possible.

Upon receiving any such report, appropriate action shall be taken to protect the health, welfare and rights of the reporting parties, supervisors, witnesses, and any other individuals involved. The nature of the complaint, the identity of the reporting party, and any other individuals involved shall be kept confidential until the matter is reviewed by the Director or the Board of Directors.

Confidentiality shall apply and remain to the maximum degree possible. Spirit shall take any and all measures they feel appropriate to investigate any violation of law or the policies of Spirit, including interviews with the individuals involved and witnesses to any conduct, and review of written and electronic

communications. Should a complaint be substantiated, disciplinary action in the sole and absolute discretion of the Director or the Board of Directors shall be taken, up to and including termination of the individual's relationship with Spirit and reporting the incident to appropriate civil or law enforcement officials.

Similarly, false reporting will also not be tolerated. Should it be determined after appropriate investigation that an allegation was brought based upon revenge, anger, dislike or any other improper motive, the individual or individuals making the false report are subject to immediate disciplinary action as set forth above, in the absolute and sole discretion of the Director or the Board of Directors.

## 4. HAZING & BULLYING POLICY

Hazing is defined as any action taken or situation created intentionally: that causes embarrassment, harassment or ridicule, risks emotional and/or physical harm, to members of a group or team, whether new or not, regardless of the person's willingness to participate. Hazing is a felony; it is a crime. Spirit espouses and values strong character, dignity and integrity – all traits which are the antithesis to the aspects of where hazing begins. We should always treat fellow members, staff and volunteers with the utmost of respect.

Bullying is defined as unwanted, aggressive behavior that involves a real or perceived power imbalance. Verbal bullying is saying or writing mean things. Social bullying, sometimes referred to as relational bullying, involves hurting someone's reputation or relationships. Physical bullying involves hurting a person's body or possessions. All forms of bullying are not tolerated within the Spirit organization and are grounds for dismissal.

### **Hazing**

Hazing includes, but is not limited to:

- Any direct or indirect action or inaction that causes or poses a risk of harm to the mental or physical health or safety of one or more people;
- Subjecting or encouraging any person to commit an act or omission for the purpose of causing shame, abuse, insult, humiliation, intimidation or disgrace; or
- Any physical assault or battery, or threat thereof.
- Hazing is expressly prohibited by Spirit under any and all circumstances and between and among our members, staff and volunteers.

### **Bullying**

Bullying will not be tolerated. In this context, "bullying" includes actions, whether threatened or real, towards or against any individual or group, whether by actions, words, gestures, symbols, or verbal or physical intimidation of any kind. It is designed to intimidate, embarrass, coerce, or shame an individual or group.

Bullying is utterly inconsistent with who we are and what we strive to be.

## 5. NON-DISCRIMINATION POLICY

### **Equal Employment Opportunity**

Our organization is committed to equal employment opportunity. We will not discriminate against staff members or applicants for employment on any legally recognized basis [“protected class”] including, but not limited to: race; color; religion; genetic information; national origin; sex; pregnancy, childbirth, or related medical conditions; age; disability; citizenship status; uniform service member status; or any other protected class under federal, state, or local law.

In California, the following also are a protected class: race; religious creed; color; national origin; ancestry; physical disability; mental disability; medical condition, including genetic characteristics; genetic information; marital status; sex; pregnancy, childbirth or related medical conditions; perceived pregnancy; actual or perceived gender; gender identity or expression; sexual orientation; civil air patrol membership; service in the military forces of the State of California or of the United States; military and veteran status; lawful conduct occurring during nonworking hours away from organization premises; and age [40 or over]. Included in the definition of each protected category is the perception of membership in a protected category and an individual’s association with an actual or perceived member of a protected category.

### **Non-Discrimination and Equal Employment Opportunity**

Spirit provides equal employment opportunities to all employees and applicants without regard to race, color, religion, sex, national origin, age, gender identity, sexual orientation, disability, or veteran status, in accordance with applicable federal, state and local laws. This policy applies with respect to all terms and conditions of employment, including hiring, compensation, benefits, layoffs, and termination.

Spirit seeks to create an atmosphere free of discrimination and harassment in any and all forms. To this end, Spirit expressly prohibit any form of unlawful employee harassment based on race, color, religion, sex, national origin, age, gender identity, sexual orientation, disability, or veteran status. All employees are responsible for assuring that this workplace is free from harassment or discrimination of any kind. Improper interference with the ability of the Spirit’s

employees to perform their expected job duties in a healthy and safe environment will not be tolerated.

## 6. SEXUAL HARASSMENT POLICY

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors and other visual, verbal or physical conduct of a sexual nature. Spirit strives to provide an environment free of sexual harassment, intimidation or exploitation. It is expected that volunteers, members and staff will treat one another with respect.

All volunteers, members and staff are subject to this policy. Individuals who violate this policy are subject to immediate suspension and possible dismissal of their obligations and responsibilities to the Spirit organization.

Reports of sexual harassment are taken seriously and will be dealt with promptly. The special action taken in any particular case depends on the nature and gravity of the conduct reported, and may include intervention, investigation and the initiation of disciplinary processes. Where sexual harassment is found to have occurred, Spirit will act to stop the harassment, prevent its recurrence and discipline those responsible.

### **Policy Statement on Harassment**

Spirit is committed to creating and maintaining a positive and healthy atmosphere for its members, staff and volunteers. Essential to this is an environment that is free from any form or threat of harassment. Harassment is a form of discrimination, and includes any conduct that adversely affects a positive learning environment, including but not limited to actions or comments that are sexual in nature, violent or threatening violence, hazing, or demeaning, that the perpetrator knew, or reasonably should have known, would be unwelcome. Harassment leads to adverse impacts to the person(s) experiencing harassment as well as those around them, and negatively impacts the camaraderie we value.

Harassment can take many forms, but generally involves conduct, comments, or display that is insulting, intimidating, humiliating, hurtful, demeaning, belittling, malicious, degrading or otherwise causes offense, injury or potential injury, discomfort, personal humiliation or embarrassment to a person or group of persons.

Spirit expressly prohibits harassment of any kind under any and all circumstances.

## **Sexual Harassment**

Spirit has adopted the definitions and policies of the Equal Employment Opportunity Commission as to sexual harassment. Sexual harassment includes unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when:

- Submission to such is made either directly or indirectly a term or condition of employment or participation;
- Submission to or rejection of such conduct is used as the basis for employment or participation decisions which affects an employee, volunteer or member;
- Such conduct has the purpose or the effect of unreasonably interfering with an employee's, volunteer's or member's routine performance, or that creates an intimidating, hostile or offensive working or learning environment.

The following are some examples of conduct that may be considered sexual harassment and, therefore, are prohibited by this policy:

- Repeated unwelcome and offensive sexual flirtations, advances or propositions;
- Verbal or written abuse of sexual nature;
- Graphic verbal or written commentaries about a person's body or behaviors;
- Display of sexually suggestive objects or pictures;
- Continued or repeated suggestive sexual comments or remarks;
- Insults, humor or jokes about a person's sex, gender, sexual orientation or traits relating to sex;
- Continued or repeated touching, pinching or brushing a person's body.

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 learning, or creates an abusive or unproductive environment.



## 7. SEXUAL ABUSE POLICY

The organization prohibits and does not tolerate sexual abuse in the workplace or in any organization related activity. The organization provides procedures for employees, volunteers, family members, board members, patients, victims of sexual abuse, or others to report sexual abuse and disciplinary penalties for those who commit such acts. No employee, volunteer, patient or third party, no matter his or her title or position has the authority to commit or allow sexual abuse.

The organization has a Zero-Tolerance policy for any sexual abuse committed by an employee, volunteer, board member or third party. Upon completion of the investigation, disciplinary action up to and including termination of employment and criminal prosecution may ensue.

Sexual abuse is inappropriate sexual contact of criminal nature or interaction for gratification of the adult who is a caregiver and responsible for the member's care. Sexual abuse includes sexual molestation, sexual assault, sexual exploitation, or sexual injury, but does not include sexual harassment. Any incidents of sexual abuse reasonably believed to have occurred will be reportable to appropriate law enforcement agencies and regulatory agencies.

Physical and behavioral evidence or signs that someone is being sexually abused are listed below. Physical evidence of abuse:

- Difficulty in walking
- Torn, stained or bloody underwear
- Pain or itching in genital area
- Bruises or bleeding of the external genitalia
- Sexually transmitted diseases

Behavior signs of sexual abuse:

- Reluctance to be left alone with a particular person
- Wearing lots of clothing especially in bed
- Fear of touch
- Nightmares or fear of night
- Apprehension when sex is brought up

## **Reporting Procedure**

If you are aware of or suspect sexual abuse taking place, you must immediately report it to the Director or any member of the Board of Directors. If the suspected abuse is to an adult, you should report the abuse to your local or state Adult Protective Services (APS) Agency. If it is a child who is the victim then you should report the suspected abuse to your local or state Child Abuse Agency. If you do not know your state child abuse agency you can call the Child Help's National Child Abuse Hotline, 1-800-422-4453, TDD 1-800-222-4453. Appropriate family members should be notified of alleged instances of sexual abuse.

The organization should report the alleged sexual abuse incident to their insurance agent.

## **Anti-retaliation**

The organization prohibits retaliation made against any employee, volunteer, board member or patient who reports a good faith complaint of sexual abuse or who participates in any related investigation. Making false accusations of sexual abuse in bad faith can have serious consequences for those who are wrongly accused. The organization prohibits making false and/or malicious sexual abuse allegations, as well as deliberately providing false information during an investigation. Anyone who violates this rule is subject to disciplinary action, up to and including termination.

## **Investigation and Follow-up**

The organization will take all allegations of sexual abuse seriously and will promptly and thoroughly investigate whether sexual abuse has taken place. The organization will use an outside third party to conduct an investigation. The organization will cooperate fully with any investigation conducted by law enforcement or other regulatory agencies. It is the organization's objective to conduct a fair and impartial investigation. The organization provides notice that they have the option of placing the accused on a leave of absence or on a reassignment to non-patient contact.

The organization will make every reasonable effort to keep the matters involved in the allegation as confidential as possible while still allowing for a prompt and thorough investigation.

## 8. NO RETALIATION – WHISTLEBLOWER POLICY

Retaliation against any Director, employee, student, parent, volunteer, agent, contractor or supporter of Spirit who raises concerns regarding potential violation of the law or of Spirit’s standards of conduct is prohibited. Retaliation against any individual for the good-faith reporting of real or potential compliance and policy violations is cause for immediate and appropriate actions, up to and including summary dismissal from Spirit in its sole discretion.

No Director, employee, contractor, subcontractor, or agent of Spirit shall discharge, demote, suspend, threaten, harass, or in any other manner knowingly and intentionally discriminate against any individual in the terms and conditions of their relationship with Spirit because of any act done by the individual:

- To provide information, cause information to be provided, or otherwise assist in an investigation regarding any conduct which the reporter reasonably believes constitutes a violation of state or federal law applicable to Spirit or Spirit’s policies and procedures, when the information or assistance is provided to, or the investigation is conducted by:
  - (a) any state or federal regulatory or law enforcement agency;
  - (b) any lawfully constituted investigative body; or
  - (c) a person with supervisory authority over the individual or such other person working for Spirit who has the authority to investigate, discover, or discipline misconduct;

or

- To file, cause to be filed, testify, participate in, or otherwise assist in a proceeding filed or about to be filed relating to an alleged violation of state or federal law applicable to Spirit.

Reports of real or potential violations of law or violations of the policies and procedures of Spirit shall be reported to the Director or the Board of Directors, who shall take immediate action as deemed necessary and appropriate in their sole discretion to protect the health and welfare of the members and all

individuals associated with Spirit, up to and including reporting of the incident to appropriate law enforcement authorities.