MITCH Charter School

Code: GBEA
Adopted: 7/20/23

Workplace Harassment

Workplace harassment is prohibited and shall not be tolerated. This includes workplace harassment that occurs between public charter school employees or between a public charter school employee and the public charter school in the workplace or at a work-related event that is off public charter school premises and coordinated by or through the public charter school, or between a public charter school and a public charter school employee off public charter school premises. Board members, volunteers and interns are subject to this policy.

Any public charter school employee who believes they have been a victim of workplace harassment may file a report with the public charter school employee designated in the administrative regulation GBEA-AR - Workplace Harassment Reporting and Procedure, may file a report through the Bureau of Labor and Industries' (BOLI) complaint resolution process or under any other available law. The reporting of such information is voluntary. The public charter school employee making the report is advised to document any incidents of workplace harassment.

"Workplace harassment" means conduct that constitutes discrimination prohibited by Oregon Revised Statute (ORS) 659A.030 (discrimination in employment based on race, color, religion, sex, sexual orientation, gender identity, national origin, marital status, age, or expunged juvenile record), including conduct that constitutes sexual assault[1] or that constitutes conduct prohibited by ORS 659A.082 (discrimination against person in uniformed service) or 659A.112 (discrimination in employment based on disability).

The public charter school, upon receipt of a report from a public charter school employee who believes they are a victim of workplace harassment, shall provide information about legal resources and counseling and support services, including any available employee assistance services. The public charter school employee receiving the report, whether a supervisor of the employer or the public charter school employee designated to receive reports, is advised to document any incidents of workplace harassment, and shall provide a copy of this policy and accompanying administrative regulation to the victim upon their disclosure about alleged workplace harassment.

All incidents of behavior that may violate this policy shall be promptly investigated.

Any person who reports workplace harassment has the right to be protected from retaliation.

[1] "Sexual assault" means unwanted conduct of a sexual nature that is inflicted upon a person or compelled through the use of physical force, manipulation, threat or intimidation.

The public charter school may not require or coerce a public charter school employee to enter into a nondisclosure[2] or nondisparagement[3] agreement.

The public charter school may not enter into an agreement with an employee or prospective employee, as a condition of employment, continued employment, promotion, compensation, or the receipt of benefits, that contains a nondisclosure provision, a nondisparagement provision or any other provision that has the purpose or effect of preventing the employee from disclosing or discussing workplace harassment that occurred between public charter school employees or between a public charter school employee and the public charter school, in the workplace or at a work-related event that is off public charter school premises and coordinated by or through the public charter school, or between a public charter school employee and employer off public charter school premises.

The public charter school may enter into a settlement agreement, separation or severance agreement that includes one or more of the following provisions only when a public charter school employee claiming to be aggrieved by workplace harassment requests to enter into the agreement: 1) a nondisclosure or nondisparagement provision; 2) a provision that prevents disclosure of factual information relating to the claim of workplace harassment; or 3) a no-rehire provision that prohibits the employee from seeking reemployment with the public charter school as a term or condition of the agreement. The agreement must provide the public charter school employee at least seven days after signing the agreement to revoke it.

If the public charter school determines in good faith that an employee has engaged in workplace harassment, the public charter school may enter into a settlement, separation or severance agreement that includes one or more of the provisions described in the previous paragraph.

It is the intent of the Board that appropriate corrective action will be taken by the public charter school to stop workplace harassment, prevent its recurrence and address negative consequences. Staff members in violation of this policy shall be subject to discipline, up to and including dismissal and/or additional workplace harassment awareness training, as appropriate. Other individuals (e.g., board members and volunteers and interns) whose behavior is found to be in violation of this policy shall be subject to appropriate sanctions as determined and imposed by the executive director or the Board.

The public charter school shall make this policy available to all public charter school employees and shall be made a part of public charter school orientation materials provided and copied to new public charter school employees at the time of hire.

The executive director will establish a process of reporting incidents of workplace harassment and the prompt investigation.

END OF POLICY

---

[2] A "nondisclosure" agreement or provision prevents either party from disclosing the contents of or circumstances surrounding the agreement.

[3] A "nondisparagement" agreement or provision prevents either party from making disparaging statements about the other party.

Legal Reference(s):

ORS 174.100
ORS 243.317 - 243.323
ORS 338.115
ORS 659A.001
ORS 659A.003
ORS 659A.006
ORS 659A.029
ORS 659A.030
ORS 659A.082
ORS 659A.112
ORS 659A.370
ORS 659A.820
ORS 659A.875
ORS 659A.885
OAR 584-020-0040
OAR 584-020-0041

Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d (2018).
Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e (2018).
Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-1683 (2018); Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 34 C.F.R. Part 106 (2020).
Bartsch v. Elkton School District, FDA-13-011 (March 27, 2014).

Cross Reference(s):

AC - Nondiscrimination
ACA - Americans with Disabilities Act
ACB - Every Student Belongs
GBA - Equal Employment Opportunity