

MITCH Charter School

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The following symbol is used on some policies:

\*\* As used in this policy, the term parent includes legal guardian or person in a parental relationship. The status and duties of a legal guardian are defined in ORS 125.005(4) and 125.300-125.325. The determination of whether an individual is acting in a parental relationship, for purposes of determining residency, depends on the evaluation of the factors listed in ORS 419B.373. The determination for other purposes depends on evaluation of those factors and a power of attorney executed pursuant to ORS 109.056. For special education students, parent also includes a surrogate parent, an adult student to whom rights have transferred and foster parent as defined in OAR 581-015-2000.

# MITCH Charter School

Code: GAB

Adopted:

## Job Descriptions

Job descriptions serve to:

1. Describe all essential functions that the individual who holds the position must be able to perform unaided or with the assistance of a reasonable accommodation;
2. Describe attendance standards;
3. Help applicants determine the qualifications needed to fill a position;
4. Help the public charter school executive director determine which candidates to recommend for appointment; and
5. Assist the executive director in the evaluation of the employee's performance of position responsibilities.

“Essential functions,” as used in this policy means, the fundamental job duties of the employment position. A job function may be considered essential for reasons, including, but not limited to, the following:

1. The function may be essential because the reason the position exists is to perform the function;
2. The function may be essential because of the limited number of employees available among whom the performance of the job function can be distributed; and/or
3. The function may be highly specialized so that the individual is hired for their expertise or ability to perform the particular function.

“Attendance standards,” as used in this policy means, the regular work hours of the position, including leave and vacation provisions available through policy and/or collective bargaining agreements and any special attendance needs of the position as determined by the public charter school.

Job descriptions will be developed under the supervision of the executive director for each position in the public charter school. Each job description shall be dated; as job descriptions are reviewed and/or revised new dates will be affixed.

Job descriptions will be written and retained by the school. The document will be available for inspection by any public charter school employee or patron. Each employee shall receive a copy of their job description.

Job descriptions will be reviewed as needed. Initial or revised job descriptions will be approved by the executive director.

END OF POLICY

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**Legal Reference(s):**

[ORS 338.115 \(2\)](#)

Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213; 29 C.F.R. Part 1630 (2016); 28 C.F.R. Part 35 (2016).  
The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. § 4212 (2012).  
Title II of the Genetic Information Nondiscrimination Act of 2008.  
Section 503 of the Rehabilitation Act of 1973.  
Americans with Disabilities Act Amendments Act of 2008.

Corrected 4/25/23

# MITCH Charter School

Code: GBA  
Adopted:

## Equal Employment Opportunity

Equal employment opportunity and treatment shall be practiced by the public charter school regardless of race<sup>1</sup>, color, religion, sex, sexual orientation, gender identity, national origin, marital status, pregnancy, childbirth or a related medical condition<sup>2</sup>, age, veterans' status<sup>3</sup>, service in uniformed service, familial status, genetic information, an individual's juvenile record that has been expunged, and disability<sup>4</sup> if the employee, with or without reasonable accommodation, is able to perform the essential functions of the position.

The executive director will appoint an employee to serve as the officer in charge of compliance with the Americans with Disabilities Act and Section 504 of the Rehabilitation Act. The executive director will also designate a Title IX coordinator to comply with the requirements of Title IX of the Education Amendments. The Title IX coordinator will investigate complaints communicated to the public charter school alleging noncompliance with Title IX. The name, address and telephone number of the Title IX coordinator will be provided to all students and employees.

The executive director will develop other specific recruiting, interviewing and evaluation procedures as are necessary to implement this policy.

END OF POLICY

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### Legal Reference(s):

<a href="#">ORS 174.100</a>	<a href="#">ORS 659.850</a>	<a href="#">ORS 659A.147</a>
<a href="#">ORS 243.317 - 243.323</a>	<a href="#">ORS 659A.003</a>	<a href="#">ORS 659A.233</a>
<a href="#">ORS 326.051</a>	<a href="#">ORS 659A.006</a>	<a href="#">ORS 659A.236</a>
<a href="#">ORS 332.505</a>	<a href="#">ORS 659A.009</a>	<a href="#">ORS 659A.309</a>
<a href="#">ORS 338.115</a>	<a href="#">ORS 659A.029</a>	<a href="#">ORS 659A.321</a>
<a href="#">ORS 342.934</a>	<a href="#">ORS 659A.030</a>	<a href="#">ORS 659A.409</a>
<a href="#">ORS 408.225</a>	<a href="#">ORS 659A.040</a>	<a href="#">ORS 659A.820</a>
<a href="#">ORS 408.230</a>	<a href="#">ORS 659A.082</a>	
<a href="#">ORS 408.235</a>	<a href="#">ORS 659A.109</a>	<a href="#">OAR 581-021-0045</a>
<a href="#">ORS 652.210 - 652.220</a>	<a href="#">ORS 659A.112</a>	<a href="#">OAR 581-022-2405</a>

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<sup>1</sup> Race also includes physical characteristics that are historically associated with race, including but not limited to natural hair, hair texture, hair type and protective hairstyles as defined by ORS 659A.001 (as amended by House Bill 2935 (2021)).

<sup>2</sup> This unlawful employment practice related to pregnancy, childbirth or a related medical condition as described in House Bill 2341 (2019) (added to ORS 659A) applies to employers who employ six or more persons.

<sup>3</sup> The public charter school grants a preference in hiring and promotion to veterans and disabled veterans. A veteran is eligible to use the preference any time when applying for a position at any time after discharge or release from service in the Armed Forces of the United States.

<sup>4</sup> This unlawful employment practice related to disability as described in ORS 659A.112 applies to employers who employ six or more persons (ORS 659A.106).

[OAR 839-003-0000](#)  
[OAR 839-006-0435](#)  
[OAR 839-006-0440](#)

[OAR 839-006-0450](#)  
[OAR 839-006-0455](#)  
[OAR 839-006-0460](#)

[OAR 839-006-0465](#)

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, et. seq. (2018).  
Age Discrimination in Employment Act of 1967, 29 U.S.C. §§ 621-634 (2018); 29 C.F.R Part 1626 (2019).  
Age Discrimination Act of 1975, 42 U.S.C. §§ 6101-6107 (2018).  
Equal Pay Act of 1963, 29 U.S.C. § 206(d) (2018).  
Rehabilitation Act of 1973, 29 U.S.C. §§ 791, 794 (2018); 34 C.F.R. Part 104 (2019).  
Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-1683, 1701, 1703-1705, 1720 (2018); Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 34 C.F.R. Part 106 (2020).  
Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213 (2018); 29 C.F.R. Part 1630 (2019); 28 C.F.R. Part 35 (2019).  
Wygant v. Jackson Bd. of Educ., 476 U.S. 267 (1989).  
Americans with Disabilities Act Amendments act of 2008, 42 U.S.C. §§ 12101-12133 (2018).  
The Vietnam Era Veterans' Readjustment Assistance Act of 1974, 38 U.S.C. § 4212 (2018).  
Genetic Information Nondiscrimination Act of 2008, 42 U.S.C. § 2000ff-1 (2018).  
Chevron USA Inc. v. Echazabal, 536 U.S. 736 (2002).  
Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. §§ 4301-4303 (2018).

Corrected 4/25/23

# MITCH Charter School

Code: GBA-AR  
Revised/Reviewed:

## Veterans' Preference

Oregon's veterans' preference law requires the public charter school to grant a preference to qualified and eligible veterans and disabled veterans at each stage in the hiring and promotion process. To be **qualified** for veterans' preference, a veteran or disabled veteran must meet the minimum and any other special qualifications required for the position sought. To be **eligible** for veterans' preference<sup>1</sup> a veteran or disabled veteran must provide certification they are a veteran or disabled veteran as defined by Oregon law<sup>2</sup>.

The public charter school is not obligated to hire or promote a qualified and eligible veteran or disabled veteran. The school is obligated to interview all minimally qualified veterans or disabled veterans and to hire or promote a qualified or eligible veteran or disabled veteran if the individual is equal to or better than the top candidate after the veterans' preference has been applied.

A veteran may submit a written request to the public charter school for an explanation of the reasons why they were not selected for the position. The school shall provide the reasons for not selecting the candidate when requested.

### Recruitment Procedures

All job postings or announcements will include a concise list of minimum and any special qualifications required for the position. Job postings will include a statement that the public charter school's policy is to provide veterans and disabled veterans with preference as required by law and the job posting will require applicants to provide certification<sup>3</sup> of eligibility for preference, in addition to other requested materials.

### Selection Procedures

- Step 1: Before the review of any applications the executive director will establish an evaluation scoring guide based on the minimum and any special qualifications listed in the job posting.
- Step 2: The executive director will review the application materials using the evaluation scoring guide to determine which applicants meet the minimum and any special qualifications listed in the job posting. In assessing the applicant materials of a veteran or disabled veteran the executive director shall evaluate whether the skill experience obtained in the military are transferable to

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<sup>1</sup> See Oregon Revised Statute (ORS) 408.235.

<sup>2</sup> See Oregon Revised Statute (ORS) 408.225 and OAR 839-006-0440 for definitions of veteran and disabled veteran.

<sup>3</sup> See Verification of Veteran's Preference (OAR 839-006-0465). An applicant claiming veteran's or disabled veteran's preference will submit a copy of their Certificate of Release or Discharge from Active Duty (DD Form 214 or 215) or a certification that the veteran is expected to be discharged or released from active duty under honorable conditions not later than 120 days after the submission of the certification. A disabled veteran may also submit a copy of their letter from the U.S. Department of Veterans Affairs, unless the information is included in the DD Form 214/215 or a certification that the veteran is expected to be medically separated from active duty under honorable conditions not later than 120 days after the submission of the certification.

the posted position. Any applicants that do not meet the minimum and any special qualifications shall be removed from the applicant pool.

- Step 3: Based on Step 2, the executive director determines who will be interviewed. All qualified and eligible veterans or disabled veterans shall be given an opportunity to interview.
- Step 4: Interview questions and scoring sheets will be developed and each scoring sheet must be completed after each interview by the interviewers.
- Step 5: Following completion of the interviews, the executive director shall complete the selection matrix and score the applicants based on the scoring sheets completed during interviews. Veterans' preference shall be applied by adding 5 percentage points to an eligible veteran and 10 percentage points to an eligible disabled veteran.
- Step 6: The executive director makes the offer to the applicant with the highest final score. The public charter school is not obligated to hire or promote a qualified and eligible veteran or disabled veteran. The public charter school is obligated to hire or promote a qualified or eligible veteran or disabled veteran if they are equal or better than the top candidate after the veterans' preference has been applied.

A veteran may submit a written request to the public charter school for an explanation of the reasons why they were not selected for the position. The public charter school shall provide the reasons for not selecting the candidate when requested.

### **Filing a Complaint**

A veteran or disabled veteran is encouraged to contact the school office if they have any concerns or questions concerning the application of or the process used for veterans' preference.

A veteran or disabled veteran claiming to be aggrieved by a violation of Board policy GBA - Equal Employment Opportunity or this administrative regulation, may file a written complaint with the Civil Rights Division of the Bureau of Labor and Industries (BOLI) in accordance with Oregon Revised Statute (ORS) 659A.820.

Corrected 4/25/23



# MITCH Charter School

Code: GBC

Adopted:

## Staff Ethics

### I. Prohibited Use of Official Position for Financial Gain

No public charter school employee will attempt to use their public charter school position to obtain financial gain or avoidance of financial detriment for themselves, relatives, members of household or for any business with which the employee, a household member or relative is associated, if the financial gain or avoidance of financial detriment would not otherwise be available but for the public charter school employee's employment with the public charter school.

This prohibition does not apply to any part of an official compensation package as approved by the Board, honorarium, reimbursement of expenses, or unsolicited awards of professional achievement. Further, this prohibition does not apply to gifts from one without a legislative or administrative interest. Nor does it apply if the gift is under the \$50 gift limit for one who has a legislative or administrative interest in any matter subject to the decision or vote of the public charter school employee.

The employee may receive public charter school logo apparel as part of the employee's compensation package.

Public charter school employees will not engage in, or have a personal financial interest in, any activity that raises a reasonable question regarding the use of their official position in regards to their duties and responsibilities as school employees. This would also apply to any personal financial benefit for the school employee's relative or member of household of the employee, or any business with which the school employee or a relative or member of the household of the school employee is associated.

This means that:

1. Employees, relatives or members of the school employee's household will not use the employee's position to obtain financial gain or avoidance of financial detriment from students, parents or staff;
2. Any device, publication or any other item developed during the employee's paid time shall be public charter school property;
3. Employees will not further personal gain through the use of confidential information gained in the course of or by reason of position or activities in any way;
4. No public charter school employee may serve as a Board or budget committee member for the sponsoring district;
5. An employee will not perform any duties related to an outside job during regular working hours or during the additional time needed to fulfill the position's responsibilities; nor will an employee use any public charter school facilities, equipment or materials in performing outside work;
6. If an employee authorizes a public contract, the employee may not have a direct beneficial financial interest in that public contract for two years after the date the contract was authorized.

If a school employee has a potential or actual conflict of interest, the school employee must notify their supervisor in writing of the nature of the conflict and request that the supervisor dispose of the matter giving rise to the conflict. This must be done on each occasion the school employee is met with a conflict of interest.

“Potential conflict of interest” means any action or any decision or recommendation by a school employee that could result in a financial benefit or detriment for self or relatives or for any business with which the school employee or relatives are associated, unless otherwise provided by law.

“Actual conflict of interest means any action or any decision or recommendation by a school employee that would result in a financial benefit or detriment for self or relatives or for any business with which the school employee or relatives are associated, unless otherwise provided by law.

In order to avoid violation of nepotism provisions and school policy, public charter school employees must abide by the following rules when an employee’s relative or member of the household of the school employee, is seeking and/or holds a position with the public charter school:

1. A public charter school employee may not appoint, employ, promote, discharge, fire or demote or advocate for such an employment decision for a relative or a member of the household, unless they comply with the conflict of interest requirements of Oregon Revised Statute (ORS) Chapter 244. This rule does not apply to employment decisions regarding unpaid volunteer position, unless it is a Board-related position;
2. A public charter school employee may not participate as a public official in any interview, discussion or debate regarding the appointment, employment, promotion, discharge, firing or demotion of a relative or a member of the household. An employee may still serve as a reference, provide a recommendation or perform other acts that are part of the normal job functions of the employee;
3. More than one member of an employee’s family may be hired as a regular public charter school employee. In accordance with Oregon law, however, the public charter school may refuse to hire individuals, or may transfer current employees, in situations where an appointment would place one family member in a position of exercising supervisory, appointment or grievance adjustment authority over another member of the same family. Employees who are members of the same family may work in the same building with approval from the executive director and shall not be supervised by a relative.

“Member of the household” means any person who resides with the employee.

“Relative” means: the spouse<sup>1</sup>, parent, step-parent, child, sibling, step-sibling, son-in-law or daughter-in-law of the employee; or the parent, step-parent, child, sibling, step-sibling, son-in-law or daughter-in-law of the spouse of the employee. Relative also includes any individual for whom the employee has a legal support obligation, whose employment provides benefits<sup>2</sup> to the employee, or who receives any benefit from the employee’s public employment.

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<sup>1</sup> The term spouse includes domestic partner.

<sup>2</sup> Examples of benefits may include, but not be limited to, elements of an official compensation package including benefits such as insurance, tuition or retirement allotments.

## II. Gifts

Public charter school employees must comply with the following rules involving gifts:

Employees are public officials and therefore will not solicit or accept a gift or gifts with an aggregate value in excess of \$50 from any single source in a calendar year that has a legislative or administrative interest in any matter subject to the decision or vote of the public charter school employee. All gift-related provisions apply to the employee, their relatives, and members of their household. The \$50 gift limit applies separately to the employee and to the employee's relatives or members of household, meaning that the employee and each member of their household and relative can accept up to \$50 each from the same source/gift giver. A gift may be received by the school employee from, but not limited to, another school employee, a student or parent of a student or a vendor. Except for exclusions in ORS 244.040(2), an item received by an employee from the school is prohibited.

“Gift” means something of economic value given to an employee without valuable consideration of equivalent value, which is not extended to others who are not public officials on the same terms and conditions.

“Relative” means: the spouse<sup>3</sup>, parent, step-parent, child, sibling, step-sibling, son-in-law or daughter-in-law of the employee; or the parent, step-parent, child, sibling, step-sibling, son-in-law or daughter-in-law of the spouse of the employee. Relative also includes any individual for whom the employee has a legal support obligation, whose employment provides benefits<sup>4</sup> to the employee, or who receives any benefit from the employee's public employment.

“Member of the household” means any person who resides with the employee.

### Determining the Source of Gifts

Employees, the employee's relatives or members of the employee's household should not accept gifts in any amount without obtaining information from the gift giver as to who is the source of the gift. It is the employee's personal responsibility to ensure that no single source provides gifts exceeding an aggregate value of \$50 in a calendar year, if the source has a legislative or administrative interest in any matter subject to the decision or vote of the public charter school employee. If the giver does not have a legislative or administrative interest, the \$50 limit does not apply and the employee need not keep track of it, although they are advised to do so anyway in case of a later dispute.

### Determining Legislative and Administrative Interest

A “legislative or administrative interest” means an economic interest, distinct from that of the general public, in any action subject to the official decision of an employee.

A “decision” means an act that commits the public charter school to a particular course of action within the employee's scope of authority and that is connected to the source of the gift's economic interest. A decision is not a recommendation or work performed in an advisory capacity. If a supervisor delegates the

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<sup>3</sup> Ibid. p. 2

<sup>4</sup> Ibid. p. 2

decision to a subordinate but retains responsibility as the final decision maker, both the subordinate and supervisor's actions would be considered a "decision."

### **Determining the Value of Gifts**

The fair market value of the merchandise, goods or services received will be used to determine benefit or value.

"Fair market value" is the dollar amount goods or services would bring if offered for sale by a person who desired, but was not obligated, to sell and purchased by one who is willing, but not obligated, to buy. Any portion of the price that was donated to charity, however, does not count toward the fair market value of the gift if the employee does not claim the charitable contribution on personal tax returns. Below are acceptable ways to calculate the fair market value of a gift:

1. In calculating the per person cost at receptions or meals the payor of the employee's admission or meal will include all costs other than any amount donated to a charity.

For example, a person with a legislative or administrative interest buys a table for a charitable dinner at \$100 per person. If the cost of the meal was \$25 and the amount donated to charity was \$75, the benefit conferred on the employee is \$25. This example requires that the employee does not claim the charitable contribution on personal tax returns.

2. For receptions and meals with multiple attendees, but with no price established to attend, the source of the employee's meal or reception will use reasonable methods to determine the per person value or benefit conferred. The following examples are deemed reasonable methods of calculating value or benefit conferred:
  - a. The source divides the amount spent on food, beverage and other costs (other than charitable contributions) by the number of persons whom the payor reasonably expects to attend the reception or dinner;
  - b. The source divides the amount spent on food, beverage and other costs (other than charitable contributions) by the number of persons who actually attend the reception or dinner; or
  - c. The source calculates the actual amount spent on the employee.

Upon request by the employee, the source will give notice of the value of the merchandise, goods, or services received.

Attendance at receptions where the food or beverage is provided as an incidental part of the reception is permitted without regard to the fair market value of the food and beverage provided.

### **Value of Unsolicited Tokens or Awards: Resale Value**

Employees may accept unsolicited tokens or awards that are engraved or are otherwise personalized items. Such items are deemed to have a resale value under \$25 (even if the personalized item cost the source more than \$50), unless the personalized item is made from gold or some other valuable material that would have value over \$25 as a raw material.

## Entertainment

Employees may not solicit or accept any gifts of entertainment over \$50 in value from any single source in a calendar year that has a legislative or administrative interest in any matter subject to the decision of the employee unless:

1. The entertainment is incidental to the main purpose of another event (i.e. a band playing at a reception). Entertainment that involves personal participation is not incidental to another event (such as a golf tournament at a conference); or
2. The employee is acting in their official capacity for a ceremonial purpose.

Entertainment is ceremonial when an employee appears at an entertainment event for a “ceremonial purpose” at the invitation of the source of the entertainment who requests the presence of the employee at a special occasion associated with the entertainment. Examples of an appearance by an employee at an entertainment event for a ceremonial purpose include: throwing the first pitch at a baseball game, appearing in a parade and ribbon cutting for an opening ceremony.

## Exceptions

The following are exceptions to the ethics rules on gifts that apply to employees:

1. Gifts from relatives and members of the household to the employee are permitted in an unlimited amount; they are not considered gifts under the ethics rules;
2. Informational or program material, publications, or subscriptions related to the recipient’s performance of official duties;
3. Food, lodging, and travel generally count toward the \$50 aggregate amount per year from a single source with a legislative/administrative interest, with the following exceptions.

*Organized Planned Events.* Employees are permitted to accept payment for travel conducted in the employee’s official capacity, for certain limited purposes:

- a. Reasonable expenses (i.e., food, lodging, travel, fees) for attendance at a convention, fact-finding mission or trip, or other meeting do not count toward the \$50 aggregate amount IF:
  - (1) The employee is scheduled to deliver a speech, make a presentation, participate on a panel, or represent the public charter school; AND
    - (a) The giver is a unit of a:
      - (i) Federal, state, or local government;
      - (ii) An Oregon or federally recognized Native American Tribe; OR
      - (iii) Nonprofit corporation.
    - (2) The employee is representing the public charter school:
      - (a) On an officially sanctioned trade-promotion or fact-finding mission; OR
      - (b) Officially designated negotiations or economic development activities where receipt of the expenses is approved in advance by the executive director.

The purpose of the exception in a. above is to allow employees to attend organized, planned events and engage with the members of organizations by speaking or answering questions, participating in panel discussions or otherwise formally discussing matters in their official capacity. This exception to the gift definition does not authorize private meals where the participants engage in discussion.

4. Food or beverage, consumed at a reception, meal, or meeting IF held by an organization and IF the employee is representing the public charter school.

“Reception” means a social gathering. Receptions are often held for the purpose of extending a ceremonial or formal welcome and may include private or public meetings during which guests are honored or welcomed. Food and beverages are often provided, but not as a plated, sit-down meal;

5. Food or beverage consumed by employee acting in an official capacity in the course of financial transactions between the public body and another entity described in ORS 244.020(7)(b)(I)(i);
6. Waiver or discount of registration expenses or materials provided to employee at a continuing education event that the employee may attend to satisfy a professional licensing requirement;
7. An item received by the employee as part of the usual or customary practice of the employee’s private business, employment or position as a volunteer that bears no relationship to the employee’s charter school position;
8. Reasonable expenses paid to employee for accompanying students on an educational trip.

### **Honoraria**

An employee may not solicit or receive, whether directly or indirectly, honoraria for the employee or any relative or member of the household of the employee if the honoraria are solicited or received in connection with the official duties of the employee.

The honoraria rules do not prohibit the solicitation or receipt of an honorarium or a certificate, plaque, commemorative token, or other item with a value of \$50 or less; or the solicitation or receipt of an honorarium for services performed in relation to the private profession, occupation, avocation, or expertise of the employee.

END OF POLICY

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#### **Legal Reference(s):**

[ORS 244.010 - 244.400](#)  
[ORS 332.016](#)

[ORS 659A.309](#)

[OAR 199-005-0001 - 199-020-0020](#)  
[OAR 584-020-0040](#)

OR. ETHICS COMM’N, OR. GOV’T ETHICS LAW, A GUIDE FOR PUBLIC OFFICIALS.

Corrected 4/25/23

# MITCH Charter School

Code: GBC-AR

Revised/Reviewed:

## Staff Ethics

Public charter school employees are allowed financial benefits as identified in Oregon Revised Statute (ORS) 244.040(2), such as their official compensation package, reimbursed expenses, limited honoraria and unsolicited awards for professional achievement. Public charter school employees are prohibited from using or attempting to use their position to obtain a financial gain or to avoid a financial detriment for the public charter school employee, a relative or member of the household of the employee, or any business with which the employee or a relative or member of the household of the employee is associated, if the opportunity for financial gain or avoidance of a financial detriment would not otherwise be available but for the employee's position with the public charter school. Specifically, this means that:

1. Employees will not use public charter school equipment for personal use, unless it is available to a significant segment of the general public. This includes, but is not limited to, the personal use of the public charter school's:
  - a. Fax machine<sup>1</sup>;
  - b. Phones to make long distance personal calls;
  - c. Public charter school vehicles;
  - d. Professional technology equipment (e.g., wood shop, automotive shop, CAD); and
  - e. Athletic facilities (e.g., pool or weight room).

Further, the public charter school's supplies, facilities, equipment, employees, records or any other public resources are not to be used to engage in private business interests. For example, the public charter school's computer cannot be used to sell products on an auction website during school hours.

2. When employees are traveling on official public charter school business, any gift given because of this travel must be either declined or passed on to the public charter school for use for future public charter school travel. For example, if the hotel where the employee is staying gives the employee a free night's stay on a future visit, this must be declined or given back to the public charter school for future public charter school travel. The frequent flyer miles earned when traveling on official public charter school business can only be used for public charter school travel. If the employee's spouse is traveling with the employee, the employee is responsible for all additional charges (i.e., additional room charge).
3. Employees may not use personal credit cards for public charter school travel or other public charter school business and receive incentives such as cash reimbursements, frequent flyer miles and other benefits based upon the dollar amount of purchases made.
4. Employees may not use discounts offered by private companies for the employee's personal benefit if the discount is only offered because of the employee's official position. For example, an office

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<sup>1</sup> The public charter school could establish a fee schedule that would allow only public charter school employees to pay for the personal use of the public charter school fax machines. If the public charter school established a fee schedule for the use of fax machines the fee schedule must be equal to or exceed the prevailing rates offered at commercial businesses.

supplies store provides all teachers a 10 percent discount. Because the teachers are receiving this discount only because of their official position, they cannot use the discount to purchase personal

items. Teachers may use the discount to purchase items for public charter school use. Employees can also accept the discount if it is also available to a substantial segment of the population who are not public officials.

5. Employees may accept free passes to public charter school extracurricular events if they are attending these events in their official capacity (i.e., chaperoning, ticket sales or managing concession sales). In order to promote employee participation in extracurricular activities, the public charter school may include free passes in employees' official compensation packages or employees may be reimbursed by the public charter school for the cost of admission.
6. The employee's public charter school position is not to be used to take official action that could have a financial impact on a private business with which the employee, a relative or member of the employee's household are associated. For example, if the employee's sibling owns a pest-control business which is seeking a contract with the public charter school, and the employee is part of the decision-making process, the employee must declare an actual conflict of interest, in writing, describing the nature of the conflict, and provide this to the employee's supervisor.
7. Confidential information gained as a public charter school employee is not to be used to obtain a financial benefit for the employee, a relative or member of the employee's household or a business with which any are associated. For example, the employee should not use the information that a student in their class is falling behind in math to provide the parents a referral to the employee's sibling's tutoring business.
8. Public charter school employees who mentor student teachers may not receive direct payments from sponsoring colleges or universities. The payment may be provided by the college or university to the public charter school, which can then distribute the compensation to the teachers as an element of their official compensation package.
9. Public charter school employees must follow Oregon Government Ethics Commission guidelines for outside employment if the employee acts as a chaperone for student group trips on personal time and the public charter school employee accepts compensation in the form of travel expenses from a private business or organization. Specifically, public charter school employees must conduct all activities related to the trip on personal time and cannot use the classroom or school environment to plan the off-campus trip. Employees may use public charter school facilities for this purpose only if they comply with the public charter school's public use of facilities policy. It is not an ethics violation for the employee to accept reasonable expenses for accompanying students on an education trip.

These restrictions do not apply if the teacher is chaperoning students on a fact-finding mission that is officially sanctioned by the Board.

Corrected 4/25/23



# MITCH Charter School

Code: GBCA

Adopted:

## Staff Dress Code

The Board believes that staff members set an example in dress and grooming for students and standards of professionalism for the public charter school.

All staff, when on duty, shall:

1. Be clean, neat and well groomed;
2. Dress in a manner consistent with their assigned duties;
3. Be dressed in such a way that does not disrupt the educational process nor cause a health or safety hazard.

All staff, when on duty, shall be allowed to wear religious attire, in accordance with the employee's sincerely-held religious beliefs, while maintaining religious neutrality and refraining from endorsing religion in the educational environment.

The public charter school retains the authority to specify religious dress guidelines for staff that will prevent such matters from having an adverse impact on the educational process.

### Exceptions

1. Appropriate athletic clothing may be worn when teaching or assisting with physical education classes or coaching athletic activities.
2. Other exceptions will be allowed for staff with specific job assignments such as but not limited to agriculture, professional technical and/or fine arts with permission from the public charter school executive director.

### Unacceptable Attire

The following items are deemed disruptive to the educational environment or to the maintenance of a safe and orderly school and are not acceptable in public charter school buildings, on public charter school grounds or at school-sponsored activities when staff is on duty:

1. Clothing with holes, rips or is excessively torn;
2. Inappropriately sheer, tight-fitting or body-hugging Lycra, Spandex or low-cut clothing (midriffs, halter tops, backless clothing, tube tops, undergarments made of fishnet, mesh or similar material, muscle tops, etc.) that bare or expose traditionally private parts of the body including, but not limited to, the stomach, buttocks, back and breast;

3. Any clothing, paraphernalia, grooming, jewelry, hair coloring, accessories or body adornments that contain any advertisement, symbols, words, slogans, patches or pictures that:
  - a. Refer to drugs, tobacco, alcohol or weapons;
  - b. Are of sexual nature;
  - c. By virtue of color, arrangement, trademark or other attribute denote membership in gangs which advocate drug use, violence or disruptive behavior;
  - d. Are obscene, profane, vulgar, lewd or legally libelous;
  - e. Threaten the safety and welfare of any person;
  - f. Promote any activity prohibited by the student code of conduct;
  - g. Otherwise disrupt the teaching-learning process.

END OF POLICY

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**Legal Reference(s):**

[ORS 243.650\(7\)](#)  
[ORS 327.109](#)

[ORS 338.115\(2\)](#)  
[ORS 339.351](#)

[ORS 659.850](#)  
[ORS 659A.030](#)

OR. CONST., art. I, § 5.  
U.S. CONST. amend. I.

Corrected 4/25/23

# MITCH Charter School

Code: **GBDA**  
Adopted:

## Expression of Milk or Breast-feed in the Workplace

When possible an employee must give reasonable notice of the intent to express milk or breast-feed to executive director. The public charter school shall provide the employee a reasonable rest period to express milk or breast-feed each time the employee has a need to express milk or breast-feed. If feasible, the employee will take the rest period at the same time as the rest periods or meal periods provided by the public charter school.

The public charter school will make a reasonable effort to provide a location, other than a public restroom or toilet stall, in close proximity to the employee’s work area, where an employee can express milk or breast-feed in private. “Close proximity” means within walking distance from the employee’s work area that does not appreciably shorten the rest or meal period. If a private location is not within close proximity to the employee’s work area, the public charter school may not include the time taken to travel to and from the location as part of the break period.

The public charter school must allow the employee to bring a cooler or other insulated food container to work for storing the expressed milk and ensure there is adequate space in the workplace to accommodate the employee’s cooler or insulated food container. If the public charter school allows employees access to refrigeration for personal use, the public charter school may allow, but cannot require, an employee who expresses milk during work hours to use the available refrigeration to store the expressed milk.

This policy including the list of designated locations will be published in the employee handbook. A list of designated locations must be readily available upon request in the school’s office

This policy only applies to employees who are expressing milk or breast-feeding for children 24 months of age or younger.

END OF POLICY

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### Legal Reference(s):

[ORS 243.650](#)  
[ORS 338.115](#)

[ORS 653.077](#)  
[ORS 653.256](#)

[OAR 839-020-0051](#)

Corrected 4/25/23

# MITCH Charter School

Code: GBEA

Adopted:

## 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<sup>1</sup> 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.

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<sup>1</sup> “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<sup>2</sup> or nondisparagement<sup>3</sup> 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

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<sup>2</sup> A “nondisclosure” agreement or provision prevents either party from disclosing the contents of or circumstances surrounding the agreement.

<sup>3</sup> 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).

Corrected 4/25/23

# MITCH Charter School

Code: GBEA-AR

Revised/Reviewed:

## Workplace Harassment Reporting and Procedure

Any public charter school employee who believes they have been a victim of workplace harassment may file an oral or written report consistent with this administration regulation, may file a report through the Bureau of Labor and Industries' (BOLI) complaint resolution process, or under any other available law.

Additional information regarding the filing of a report may be obtained through the executive director.

A complaint alleging an unlawful employment practice as described in ORS 659A.030, 659A.082, 659A.112 or ORS 659A.370 must be filed no later than five years after the occurrence of the alleged unlawful employment practice.

All documentation related to workplace harassment complaints may become part of the personnel file of the employee who is the alleged harasser, as appropriate. Additionally, a copy of all workplace harassment reports, complaints, and documentation will be maintained by the public charter school as a separate confidential file and stored in the public charter school office.

### Investigation Procedure

The executive director is responsible for investigating reports concerning workplace harassment. The investigator(s) shall be a neutral party having had no involvement in the report presented. If the alleged workplace harassment involves the executive director, the employee may report to the business manager. All reports of alleged workplace harassment behavior shall be investigated.

The investigator shall:

1. Document the alleged, reported incident of workplace harassment;
2. Provide information about legal resources and counseling and support services, which may include public charter school-provided assistance services available to the public charter school employee;
3. Provide a copy of the public charter school's Board policy GBEA - Workplace Harassment and this administrative regulation to the public charter school employee; and
4. Complete the following steps:

Step 1 Promptly initiate an investigation. The investigator will arrange such meetings as may be necessary to discuss the issue with all concerned parties within five working days after receipt of the report. The parties will have an opportunity to submit evidence and a list of witnesses. All findings of the investigation, including the response of the alleged harasser, shall be reduced to writing. The investigator shall notify the complainant in writing that the investigation is concluded and if a violation of the policy was found to have occurred to the extent allowable by law.

A copy of the report, complaint, or other documentation about the incident, and the date and details of notification to the complainant of the results of the investigation, together with any other documentation related to the workplace harassment incident, including disciplinary action taken or recommended, shall be forwarded to the executive director.

**Step 2** If a complainant is not satisfied with the decision at Step 1, the complainant may submit a written appeal to the Board. Such appeal must be filed within 10 working days after receipt of the Step 1 decision. The Board will review the findings and conclusion in a public meeting to determine what action is appropriate. Appropriate action may include, but is not limited to, holding a hearing, requesting additional information, and adopting the executive director's decision as the public charter school's final decision.

If the Board conducts a hearing, the complainant shall be given an opportunity to present the appeal at a Board meeting. The Board may hold the hearing in executive session if the subject matter qualifies under Oregon law. The parties involved may be asked to attend such hearing for the purposes of making further explanations and clarifying the issues. The Board shall decide in open session what action, if any, is warranted. The Board shall provide a written decision to the complainant within 30 days from receipt of the appeal or complaint.

If the Board chooses not to hear the appeal, the decision in Step 1 is final.

Reports involving the executive director should be referred to the Board chair on behalf of the Board. The Board chair will cause the information<sup>1</sup> required to be issued to the complainant as described in this administrative regulation. The Board chair shall present the complaint to the Board at a Board meeting. If the Board decides an investigation is warranted, the Board may refer the investigation to a third party. When the investigation is complete, the results will be presented to the Board. The Board may hold the hearing in executive session if the subject matter qualifies under Oregon law. The Board shall decide, within 30 days, in open session what action if any is warranted. The Board chair shall notify the complainant in writing within 10 days that the investigation is concluded and if a violation of the policy was found to have occurred to the extent allowable by law.

### **Follow-up Procedures**

The executive director will follow up with the public charter school employee of the alleged harassment once every three months for the calendar year following the date on which the executive director received a report of harassment, to determine whether the alleged harassment has stopped or if the employee has experienced retaliation. The executive director will document the record of this follow-up. The executive director will continue follow-up in this manner until and unless the employee directs the executive director in writing to stop.

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<sup>1</sup> Provide information about legal resources and counseling and support services, which may include public charter school-provided assistance services available to the public charter school employee, and a copy the public charter school's Board policy GBEA - Workplace Harassment and this administrative regulation to the public charter school employee.



## **Other Reporting Options and Filing Information**

Nothing in this policy prevents an employee from filing a formal complaint with BOLI or the Equal Employment Opportunity Commission (EEOC); or if applicable, the U.S. Department of Labor (USDOL) Civil Rights Center.

Nothing in Board policy GBEA - Workplace Harassment or this administrative regulation prevents any person from seeking remedy under any other available law, whether civil or criminal.

An employee or claimant must provide advance notice of claim against the employer as required by ORS 30.275.

### **Filing a report with the U.S. Department of Labor (USDOL) Civil Rights Center.**

An employee whose agency receives federal financial assistance from the USDOL under the Workforce Innovation and Opportunity Act, Mine Safety and Health Administration, Occupational Safety and Health Administration, or Veterans' Employment and Training Service, may file a complaint with the state of Oregon Equal Opportunity Officer or directly through the USDOL Civil Rights Center. The complaint must be written, signed and filed within 180 days of when the alleged discrimination or harassment occurred.

**WORKPLACE HARASSMENT REPORTING OR COMPLAINT FORM**

Name of person making report/complainant: \_\_\_\_\_

Position of person making report/complainant: \_\_\_\_\_

Date of complaint: \_\_\_\_\_

Name of alleged harasser: \_\_\_\_\_

Date and place of incident or incidents: \_\_\_\_\_

Description of alleged misconduct: \_\_\_\_\_

Name of witnesses (if any): \_\_\_\_\_

Evidence of workplace harassment, i.e., letters, photos, etc. (attach evidence if possible): \_\_\_\_\_

Any other information: \_\_\_\_\_

I agree that all of the information on this form is accurate and true to the best of my knowledge.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**WITNESS DISCLOSURE FORM**

Name of Witness: \_\_\_\_\_

Position of Witness: \_\_\_\_\_

Date of Testimony/Interview: \_\_\_\_\_

Description of Instance Witnessed: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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\_\_\_\_\_

Any Other Information: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

I agree that all the information on this form is accurate and true to the best of my knowledge.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Corrected 4/25/23

# MITCH Charter School

Code: GBEB  
Adopted:

## Communicable Diseases - Staff

The public charter school shall provide reasonable protection against the risk of exposure to communicable disease for employees while engaged in the performance of their duties. Reasonable protection from communicable disease is generally attained through immunization, exclusion or other measures as provided by Oregon law, by the local health department or in the *Communicable Disease Guidance* published by the Oregon Department of Education (ODE) and the Oregon Health Authority (OHA).

An employee may not attend work while in a communicable stage of a restrictable disease or when an executive director has reason to suspect that the employee has or has been exposed to any disease for which exclusion is required in accordance with law and per administrative regulation GBEB-AR - Communicable Diseases - Staff. If the disease is a reportable disease, the executive director will report the occurrence to the local health department.

Employees shall comply with all other measures adopted by the public charter school and with all rules adopted by Oregon Health Authority, Public Health Division and the local health department.

Employees shall provide services to students as required by law. In cases when a restrictable or reportable disease is diagnosed and confirmed for a student, the executive director shall inform the appropriate employees with a legitimate educational interest to protect against the risk of exposure.

The public charter school shall protect the confidentiality of an employee's health condition and record to the extent possible and consistent with federal and state law.

The public charter school will include, as part of its emergency plan, a description of the actions to be taken by school staff in the case of a declared public health emergency or other catastrophe that disrupts public charter school operations.

The executive director will develop administrative regulations necessary to implement this policy.

END OF POLICY

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### Legal Reference(s):

[ORS 338.115\(1\)\(z\)](#)  
[ORS 431.150 - 431.157](#)  
[ORS 433.001 - 433.526](#)

[OAR 333-018](#)  
[OAR 333-019-0010](#)  
[OAR 333-019-0014](#)

[OAR 437-002-0360](#)  
[OAR 437-002-0377](#)  
[OAR 581-022-2220](#)

OREGON DEPARTMENT OF EDUCATION and OREGON HEALTH AUTHORITY, *Communicable Disease Guidance* (2020).  
Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g (2018); Family Educational Rights and Privacy, 34 C.F.R. Part 99 (2019).  
Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. §§ 1320d to -1320d-8 (2018); 45 C.F.R. Parts 160, 164 (2019).

# MITCH Charter School

Code: GBEB-AR

Revised/Reviewed:

## Communicable Diseases – Staff

In accordance with state law, administrative rule, the local health authority and the *Communicable Disease Guidance*, the procedures established below will be followed.

1. “Restrictable diseases” are defined by rule and include but are not limited to COVID-19<sup>1</sup>, chickenpox, diphtheria, hepatitis A, hepatitis E, measles, mumps, pertussis, rubella, Salmonella enterica serotype Typhi infection, scabies, Shiga-toxigenic Escherichia coli (STEC) infection, shigellosis and infectious tuberculosis, and may include a communicable stage of hepatitis B infection if, in the opinion of the local health officer, the person poses an unusually high risk to others (e.g., a child that exhibits uncontrollable biting or spitting). Restrictable disease also includes any other communicable disease identified in an order issued by the Oregon Health Authority or the local public health officer as posing a danger to the public’s health. A disease is considered to be a restrictable disease if it is listed in Oregon Administrative Rule (OAR) 333-019-0010, or it has been designated to be a restrictable disease by the local public health executive director after determining that it poses a danger to the public’s health.
2. “Susceptible” for an employee means lacking evidence of immunity to the disease.
3. “Reportable diseases” means a disease or condition, the reporting of which enables a public health authority to take action to protect or to benefit the public health.

### Restrictable Diseases

1. An employee of the public charter school will not attend or work at a public charter school facility while in a communicable stage of a restrictable disease, including a communicable stage of COVID-19<sup>2</sup>, unless authorized to do so under Oregon law. When an executive director has reason to suspect that an employee has a restrictable disease, the executive director shall send the employee home.
2. An executive director shall exclude an employee if the executive director has reason to suspect that an employee has been exposed to measles, mumps, rubella, diphtheria, pertussis, hepatitis A, or hepatitis B, unless the local health officer determines that exclusion is not necessary to protect the public’s health. The executive director may request the local health officer to make a determination as allowed by law. If the disease is reportable, the executive director will report the occurrence to the local health department.
3. An executive director shall exclude an employee if the executive director has been notified by a local public health executive director or local public health officer that the employee has had a substantial exposure to an individual with COVID-19 and exclusion is deemed necessary by same.
4. An employee will be excluded in such instances until such time as the employee presents a certificate from a physician, a physician assistant licensed under Oregon Revised Statute (ORS) 677.505 - 677.525, a nurse practitioner licensed under ORS 678.375 - 678.390, local health

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<sup>1</sup> Added per OAR 333-019-1000(2).

<sup>2</sup> “Communicable stage of COVID-19” means having a positive presumptive or confirmed test of COVID-19.

department nurse or school nurse stating that the employee does not have or is not a carrier of any restrictable disease.

5. An executive director may allow attendance of an employee restricted for chickenpox, scabies, staphylococcal skin infections, streptococcal infections, diarrhea or vomiting if the restriction has been removed by a school nurse or health care provider.
6. More stringent exclusion standards for employees from school or work may be adopted by the local health department.
7. The public charter school's emergency plan shall address the school's plan with respect to a declared public health emergency at the local or state level.

### **Reportable Diseases Notification**

1. All employees shall comply with all reporting measures adopted by the public charter school and with all rules set forth by Oregon Health Authority, Public Health Division and the local health department.
2. An executive director may seek confirmation and assistance from the local health officer to determine the appropriate response when the executive director is notified that an employee or a student has been exposed to a restrictable disease that is also a reportable disease.
3. Public charter school staff with impaired immune responses, that are of childbearing age or some other medically fragile condition, should consult with a medical provider for additional guidance<sup>3</sup>.
4. An executive director shall determine other persons who may be informed of an employee's communicable disease, or that of a student's when a legitimate education interest exists or for health and safety reasons, in accordance with law.

### **Equipment and Training**

1. The executive director or designee shall, on a case-by-case basis, determine what equipment and/or supplies are necessary in a particular classroom or other setting in order to prevent disease transmission.
2. The executive director or designee shall consult with the public charter school's nurse or other appropriate health officials to provide special training in the methods of protection from disease transmission.
3. All public charter school personnel will be instructed annually to use the proper precautions pertaining to blood and body fluid exposure per the Occupational Safety and Health Administration (OSHA).

Corrected 4/25/23

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<sup>3</sup> Refer to *Communicable Disease Guidance* published by the Oregon Health Authority and the Oregon Department of Education.

# MITCH Charter School

Code: **GBEBA**

Adopted:

## Staff - HIV, AIDS, and HBV

The public charter school will strictly adhere in its policies and procedures, to the Oregon law and Oregon Administrative Rules as they relate to staff infected with HIV, AIDS, or HBV<sup>1</sup>.

The public charter school recognizes a staff member has no obligation under any circumstance to report a condition to the public charter school, and the staff member has a right to continue working. If the staff member reports a condition to the public charter school, strict adherence to written guidelines outlined by the staff member shall be followed. These guidelines shall identify who may have the information, who will give the information, how the information will be given, and where and when the information will be given. All such information will be held in confidence in accordance with Oregon law.

Accommodations for a staff member infected with HIV, AIDS, or HBV shall be the same as with any other illness.

END OF POLICY

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### Legal Reference(s):

[ORS 243.650](#)

[ORS 338.115\(z\)](#)

[ORS 342.850\(8\)](#)

[ORS 433.008](#)

[ORS 433.045](#)

[ORS 433.260](#)

[OAR 333-017-0000](#)

[OAR 333-018-0000](#)

[OAR 333-018-0005](#)

[OAR 581-022-2220](#)

Corrected 4/25/23

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<sup>1</sup> HIV - Human Immunodeficiency Virus; AIDS - Acquired Immune Deficiency Syndrome; HBV - Hepatitis B Virus

# MITCH Charter School

Code: GBEC  
Adopted:

## Drug-Free Workplace

The public charter school shall provide a drug-free workplace.

The purpose of this policy is to promote safety, health and efficiency by prohibiting the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance or alcohol in the workplace.

This policy applies to all employees, including, but not limited to, those exempt, unclassified, management service, classified and temporary employees who are paid directly or indirectly from funds received under a federal grant or contract.

The public charter school shall provide to each employee a copy of this policy.

An employee shall not unlawfully manufacture, distribute, dispense, possess or use a controlled substance or alcohol in the workplace.

No public charter school employee shall knowingly sell, market or distribute steroid or performance enhancing substances to kindergarten through grade 12 students with whom the employee has contact as part of employee's public charter school duties; or knowingly endorse or suggest the use of such drugs. An employee shall, as a condition of employment, abide by the provisions of this policy.

### Definitions

1. "Controlled substance" shall include any narcotic drug, hallucinogenic drug, amphetamine, barbiturate, marijuana or other controlled substance.
2. "Alcohol" shall include any form of alcohol for consumption, including beer, wine, wine coolers or liquor.
3. "Conviction" means a finding of guilt (including a plea of no contest) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the federal or state criminal drug statutes.
4. "Criminal drug statute" means a federal or state criminal statute involving the manufacture, distribution, dispensation, possession or use of any controlled substance or alcohol.
5. "Drug-free workplace" means a site for the performance of work at which employees are prohibited from engaging in the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance or alcohol.



## **Sanctions and Remedies<sup>1</sup>**

The public charter school, upon determining that an employee has engaged in the unlawful manufacture, distribution, dispensation or possession of a controlled substance or alcohol, or upon having reasonable suspicion (under the section below), of an employee's unlawful use of a controlled substance or alcohol in the workplace, shall, pending any criminal drug statute conviction for a violation occurring in the workplace, take appropriate action which may include transfer, granting of leave with or without pay or suspension with or without pay.

Within 30 calendar days of learning of an employee's criminal drug statute conviction for a violation occurring in the workplace, the public charter school shall:

1. Take appropriate action, which may include discipline up to and including termination; and/or
2. Require satisfactory participation by the employee in a drug-abuse assistance or rehabilitation program approved for such purpose by a federal, state or local health, law enforcement or other appropriate agency.

## **Basis for Reasonable Suspicion of Employee Use of Controlled Substance/Alcohol**

Reasonable suspicion of employee use of an unlawful controlled substance or alcohol shall be based upon any of the following:

1. Observed abnormal behavior or impairment in mental or physical performance (e.g., slurred speech, difficulty walking);
2. Direct observation of use in the workplace;
3. The opinion of a medical professional;
4. Reliable information concerning use in the workplace, the reliability of any such information shall be determined by the employer;
5. A work-related accident in conjunction with a basis for reasonable suspicion as listed above.

## **Employee Assistance Program**

An employee having a drug or alcohol problem is encouraged to seek assistance, on a confidential basis, under the Employee Assistance Program if such program is provided by the employer.

The public charter school shall, upon employee request, grant leave with or without pay to permit an employee to participate in a drug abuse assistance or rehabilitation program.

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<sup>1</sup> Public charter school's directly receiving grants or contracts from the federal government are required to meet this obligation.

## **Establishment of Drug-Free Awareness Program**

The public charter school shall establish a drug-free awareness program to inform employees of the:

1. Dangers of drug abuse in the workplace;
2. Existence of, and content of this policy for maintaining a drug-free workplace;
3. Availability of drug-counseling, rehabilitation and employee assistance programs; and
4. Penalties that may be imposed for drug abuse violations occurring in the workplace.

## **Notification by Employee of Conviction<sup>2</sup>**

An employee shall, as a condition of employment, notify the public charter school in writing of any criminal drug statute conviction for a violation occurring in the workplace no later than five calendar days after such conviction.

## **Notification by the Public Charter School of an Employee Conviction**

The public charter school shall notify the appropriate federal granting or contracting agency, in writing, of an employee's criminal drug statute conviction for a violation occurring in the workplace no later than 10 calendar days after receiving notice of such conviction.

END OF POLICY

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### **Legal Reference(s):**

[ORS 243.650](#)  
[ORS 336.222](#)  
[ORS 338.115](#)

[ORS Chapter 475](#)  
[ORS 657.176](#)  
[ORS 659A.127](#)

[OAR 584-020-0040\(5\)\(e\)](#)

Drug-Free Workplace Act of 1988, 41 U.S.C. §§ 8101-8106 (2012); General Principles Relating to Suspension and Debarment Actions, 34 C.F.R. §§ 84.100-84.670 (2016).  
Controlled Substances Act, 21 U.S.C. § 812; Schedules of Controlled Substances, 21 C.F.R. §§ 1308.11-1308.15 (2016).  
Safe and Drug-Free Schools and Communities Act, 20 U.S.C. §§ 7101-7117 (2012).

Corrected 4/25/23

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<sup>2</sup> Ibid. p. 1

# MITCH Charter School

Code: GBH/JECAC

Adopted:

## Staff/Student/Parent Relations\*\*

The Board encourages parents to be involved in their student's school educational activities and, unless otherwise ordered by the courts, an order of sole custody on the part of one parent shall not deprive the other parent of the following authority as it relates to:

1. Receiving and inspecting their student's education records and consulting with school staff concerning the student's welfare and education, to the same extent as provided the parent having sole custody;
2. Authorizing emergency medical, dental, psychological, psychiatric or other health care for the student if the custodial parent is, for practical reasons, unavailable.

It is the responsibility of the parent with sole custody to provide any court order or parental plan that curtails the rights of the noncustodial parent at the time of enrollment or any other time a court order is issued. A parental plan or court order may specify the school's ability to release a student to a noncustodial parent.

In the case of joint custody, the school will adhere to all conditions specified and ordered by the court.

The public charter school will use reasonable methods to identify and authenticate the identity of both parents.

END OF POLICY

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### Legal Reference(s):

[ORS 107.101](#)  
[ORS 107.102](#)

[ORS 107.106](#)  
[ORS 107.154](#)

[ORS 109.056](#)  
[ORS 163.245 - 163.257](#)

Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g (2012); Family Educational Rights and Privacy, 34 C.F.R. Part 99 (2017).

Protection of Pupil Rights, 20 U.S.C. § 1232h (2012); Student Rights in Research, Experimental Programs and Testing, 34 C.F.R. Part 98 (2017).

Corrected 4/25/23

# MITCH Charter School

Code: GBJ

Adopted:

## Weapons in Schools - Staff

Employees, school contractors and/or their employees and school volunteers shall not possess a dangerous or deadly weapon or firearm on school property or at school-sponsored events. This prohibition includes those who may otherwise be permitted by law to carry such weapons.

For purposes of this policy, as defined by state and federal law, weapon includes:

1. “Dangerous weapon” means any weapon, device, instrument, material or substance, which under the circumstances in which it is used, attempted to be used or threatened to be used is readily capable of causing death or serious physical injury;
2. “Deadly weapon” means any instrument, article or substance specifically designed for and presently capable of causing death or serious physical injury;
3. “Firearm” means any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive, frame or receiver of any such weapon, any firearm silencer or any other destructive device including any explosive, incendiary or poisonous gas.

Weapons under the control of law enforcement personnel are permitted.

The executive director will ensure notice of this policy is provided.

Employees in violation of this policy will be subject to discipline up to and including dismissal. Individuals contracting with the school and volunteers will be subject to appropriate sanctions. A referral to law enforcement may be made.

END OF POLICY

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### Legal Reference(s):

[ORS 161.015](#)

[ORS 166.210 - 166.370](#)

[ORS 338.115\(1\)\(a\)](#)

Gun-Free School Zones Act of 1990, 18 U.S.C. §§ 921(a)(25)-(26), 922(q) (2012).  
Doe v. Medford Sch. Dist. 549C, 232 Or. App. 38, 221 P3d 787 (2009).

Corrected 4/25/23

# MITCH Charter School

Code: GBK/KGC

Adopted:

## Prohibited Use, Distribution or Sale of Tobacco Products and Inhalant Delivery Systems\*\*

To be consistent with Oregon law, the use, distribution or sale of tobacco products or inhalant delivery systems by staff and all others is prohibited on public charter school premises, in any building or facility, on school grounds, including parking lots, in any vehicle owned, rented or chartered by the school or school district and at all school-sponsored activities.

For the purpose of this policy “tobacco products” is defined to include, but not limited to, any lighted or unlighted cigarette, cigar, pipe, bidi, clove cigarette, and any other smoking product, spit tobacco, also known as smokeless, dip, chew or snuff, in any form. This does not include products that are USFDA-approved for sale as a tobacco cessation product or for any other therapeutic purpose, if marketed and sold solely for the approved purpose.

For the purpose of this policy, “inhalant delivery system” means a device that can be used to deliver nicotine or cannabinoids in the form of a vapor or aerosol to a person inhaling from the device; or a component of a device or a substance in any form sold for the purpose of being vaporized or aerosolized by a device, whether the component or substance is sold or not sold separately. This does not include products that are USFDA-approved for sale as a tobacco cessation product or for any other therapeutic purpose, if marketed and sold solely for the approved purpose.

Violation of this policy by staff will result in discipline up to and including dismissal.

Violation of this policy by the public may result in the individual’s removal from public charter school property. The public charter school reserves the right to restrict access to public charter school property by individuals who are repeat offenders.

This policy shall be enforced at all times.

END OF POLICY

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### Legal Reference(s):

[ORS 336.227](#)

[ORS 338.115\(1\)\(x\)](#)

[ORS 339.883](#)

[ORS 431A.175](#)

[ORS 433.835 to -433.990](#)

[OAR 581-021-0110](#)

[OAR 581-053-0230\(9\)\(s\)](#)

[OAR 581-053-0330\(1\)\(m\)](#)

[OAR 581-053-0430\(12\)](#)

[OAR 581-053-0531\(11\)](#)

Pro-Children Act of 1994, 20 U.S.C. §§ 6081-6084 (2012).

Corrected 4/25/23

# MITCH Charter School

Code: GBL

Adopted:

## Personnel Records

An official personnel file will be established for each person employed by the public charter school. Personnel files will be maintained in a central location.

All records containing employee medical condition information such as workers' compensation reports and release or permission to return to work forms will be kept confidential, in a separate file from personnel records. Such records will be released only in accordance with the requirements of the Americans with Disabilities Act or other applicable law.

The executive director will be responsible for establishing procedures regarding the control, use, safety and maintenance of all personnel records. Employees will be given a copy of evaluations, complaints and written disciplinary actions placed in their personnel file. All charges resulting in disciplinary action shall be considered a permanent part of a teacher's personnel file and shall not be removed for any reason. Employees may submit a written response to any materials placed in their personnel file.

Except as provided below, or required by law, school employees'<sup>1</sup> personnel records will be available for use and inspection only by the following:

1. The individual employee. An employee may arrange with the school office to inspect the contents of their personnel file on any day the school office is open for business;
2. Others designated by the employee in writing may arrange to inspect the contents of the employee's personnel file in the same manner described above;
3. The comptroller or auditor, when such inspection is pertinent to carrying out their respective duties, or as otherwise specifically authorized by the Board. Information so obtained will be kept confidential. No files will be removed from their central location for personal inspection;
4. A Board member when specifically authorized by the Board. Information will be kept confidential. No files will be removed from their central location for personal inspection;
5. The executive director and other staff designated by the executive director;
6. School administrators and supervisors who currently or prospectively supervise the employee;
7. Attorneys for the school or the school's designated representative on matters of school business;
8. Upon receiving a request from a prospective employer issued under ORS 339.374(1)(b), the public charter school, pursuant to ORS 339.378(1), shall disclose the requested information if it has or has had an employment relationship with a person who is the subject of the request, no later than 20 days after receiving such request. The records created by the school pursuant to Oregon Revised Statute

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<sup>1</sup> Includes former employees.

(ORS) 339.388(8)(c) are confidential and are not public records as defined in ORS 192.311. The school may use the record as a basis for providing the information required to be disclosed about an employee under ORS 339.378(1);

9. Upon request from a law enforcement agency, the Oregon Department of Human Services, the Teacher Standards and Practices Commission, or the Oregon Department of Education, in conducting an investigation related to suspected abuse or suspected sexual conduct, to the extent allowable by state and federal law, including laws protecting a person from self-incrimination;
10. Upon request from a prospective employer or a former employee, authorized public charter school officials may disclose information about a former employee's job performance to a prospective employer and such disclosure is presumed to be in good faith. Presumption of good faith is rebutted by showing the information disclosed was knowingly false or deliberately misleading, was rendered with malicious purpose or violated any civil right of the former employee protected under Oregon Revised Statute (ORS) 659 or ORS 659A.

The executive director may permit persons other than those specified above to use and to inspect personnel records when, in their opinion, the person requesting access has a legitimate official purpose. The executive director will determine in each case the appropriateness and extent of such access.

Release of personnel records to parties other than those listed above will be in line with Board policy KBA - Public Records.

END OF POLICY

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**Legal Reference(s):**

[ORS 30.178](#)  
[ORS 338.115](#)  
[ORS 339.370 – 339.374](#)  
[ORS 339.378](#)

[ORS 339.388](#)  
[ORS 342.143](#)  
[ORS 342.850](#)  
[ORS 652.750](#)

[ORS Chapter 659](#)  
[ORS Chapter 659A](#)  
[OAR 581-026-0600](#)

OSEA v. Lake County Sch. District, 93 Or. App. 481 (1988).  
Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12112 (2018); 29 C.F.R. Part 1630 (2019); 28 C.F.R. Part 35 (2019).  
Americans with Disabilities Act Amendments Act of 2008, 42 U.S.C. § 2000ff-1 (2018).

Corrected 4/25/23

# MITCH Charter School

Code: GBM  
Adopted:

## Staff Complaints

The executive director will develop a complaint procedure which will be available for all employees who believe there is evidence of, and wishes to report a violation, misinterpretation or inappropriate application of public charter school personnel policies and/or administrative regulations; a mismanagement, gross waste of funds or abuse of authority; or believe there is evidence the public charter school created a substantial and specific danger to public health and safety by its actions. The complaint procedure will provide an orderly process for the consideration and resolution of problems in the application or interpretation of public charter school personnel policies.

Disputes concerning an employee's dismissal, contract nonrenewal or contract nonextension will not be processed under this procedure.

Reasonable efforts will be made to resolve complaints informally.

The public charter school will use the complaint process in administrative regulation KL-AR - Public Complaints Procedure to address any alleged violations of this policy.

END OF POLICY

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### Legal Reference(s):

[ORS 338.115](#)

[ORS 659A.199](#) to [-659A.224](#)

[OAR 581-022-2405](#)

Anderson v. Central Point Sch. Dist., 746 F.2d 505 (9th Cir. 1984).

Connick v. Myers, 461 U.S. 138 (1983).

Corrected 4/25/23



# MITCH Charter School

Code: GBMA

Adopted:

## Whistleblower

When an employee has good faith and reasonable belief the public charter school has violated any federal, state or local, law, rule or regulation; has engaged in mismanagement, gross waste of funds or abuse of authority; or created a substantial and specific danger to public health and safety by its actions, and an employee then discloses or plans to disclose such information, it is an unlawful employment practice for a public charter school to:

1. Discharge, demote, transfer, reassign or take disciplinary action against an employee or threaten any of the previous actions.
2. Withhold work or suspend an employee.
3. Discriminate or retaliate against an employee with regard to promotion, compensation or other terms, conditions or privileges of employment.
4. Direct an employee or to discourage an employee to not disclose or to give notice to the public charter school prior to making any disclosure.
5. Prohibit an employee from discussing, either specifically or generally, the activities of the state or any agency of or political subdivision in the state, or any person authorized to act on behalf of the state or any agency of or political subdivision in the state, with:
  - a. Any member of the Legislative assembly;
  - b. Any Legislative committee staff acting under the direction of any member of the Legislative assembly; or
  - c. Any member of the elected governing body of a political subdivision in the state or any elected auditor of a city, county or metropolitan service district.

An employee's good faith and reasonable belief shall serve as an affirmative defense to civil or criminal charges related to the employee's disclosure of lawfully accessed information related to the violation, including information that is exempt from disclosure by public records law.

The public charter school will use the complaint process in administrative regulation KL-AR - Public Complaints Procedure to address any alleged violations of this policy.

The public charter school shall deliver a written or electronic copy of this policy to each staff member.

END OF POLICY

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### Legal Reference(s):

[ORS 192.501 - 192.505](#)

[ORS 659A.199 - 659A.224](#)

[OAR 581-022-2405](#)

Anderson v. Central Point Sch. Dist., 746 F.2d 505 (9th Cir. 1984).

Connick v. Myers, 461 U.S. 138 (1983).

Corrected 4/25/23

# MITCH Charter School

Code: GBN/JBA

Adopted:

## Sexual Harassment

The public charter school is committed to eliminating sexual harassment. Sexual harassment will not be tolerated in the public charter school. All students, staff members and other persons are entitled to learn and work in an environment that is free of harassment. All staff members, students and third parties are subject to this policy. Any person may report sexual harassment.

The public charter school processes complaints or reports of sexual harassment under Oregon Revised Statute (ORS) 342.700 et. al. and federal Title IX laws found in Title 34 C.F.R. Part 106. Individual complaints may require both of these procedures, and may involve additional complaint procedures.

### General Procedures

When information, a report or complaint regarding sexual harassment is received by the public charter school, the public charter school will review such information, report or complaint to determine which law applies and will follow the appropriate procedures. When the alleged conduct could meet both of the definitions in ORS Chapter 342 and Title IX, both complaint procedures should be processed simultaneously (*see* GBN/JBA-AR(1) - Sexual Harassment Complaint Procedure and GBN/JBA-AR(2) - Federal Law (Title IX) Sexual Harassment Complaint Procedure). The public charter school may also need to use other complaint procedures when the alleged conduct could meet the definitions for other complaint procedures.

### OREGON DEFINITION AND PROCEDURES

#### Oregon Definition

Sexual harassment of students, staff members or third parties<sup>1</sup> shall include:

1. A demand or request for sexual favors in exchange for benefits;
2. Unwelcome conduct of a sexual nature that is physical, verbal, or nonverbal and that:
  - a. Interferes with a student's educational activity or program;
  - b. Interferes with a public charter school staff member's ability to perform their job; or
  - c. Creates an intimidating, offensive or hostile environment.
3. Assault when sexual contact occurs without the student's, staff member's or third party's consent because the student, staff member or third party is under the influence of drugs or alcohol, is unconscious or is pressured through physical force, coercion or explicit or implied threats.

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<sup>1</sup> "Third party" means a person who is not a student or a school staff member and who is: 1) on or immediately adjacent to school grounds or public charter school property; 2) at a school-sponsored activity or program; or 3) off school grounds or public charter school property if a student or a public charter school staff member acts toward the person in a manner that creates a hostile environment for the person while on public charter school property, or at a school-sponsored activity.

Sexual harassment does not include conduct that is necessary because of a job duty of a public charter school staff member or because of a service required to be provided by a contractor, agent, or volunteer, if the conduct is not the product of sexual intent or a person finding another person, or another person's action, offensive because of that other person's sexual orientation or gender identity.

Examples of sexual harassment may include, but not be limited to, physical touching or graffiti of a sexual nature; displaying or distributing of sexually explicit drawings; pictures and written materials; sexual gestures or obscene jokes; touching oneself sexually or talking about one's sexual behaviors in front of others; or spreading rumors about or rating other students or others as to appearance, sexual activity or performance.

### **Oregon Procedures**

Reports and complaints of sexual harassment should be made to the following individual(s):

Name	Position	Phone	Email
Caitlin Blood	Executive director	503-639-5757	cblood@mitchcharterschool.org
Thidarat Kropf	Business manager	503-639-5757	tkropf@mitchcharterschool.org

These individual(s) are responsible for accepting and managing complaints of sexual harassment. Persons wishing to report should contact them using the above information. The executive director is also designated as the Title IX Coordinator. *See* GBN/JBA-AR(1) - Sexual Harassment Complaint Procedure.

### **Response**

Any staff member who becomes aware of behavior that may violate this policy shall report to a public charter school official so the public charter school official (with coordination involving the reporting staff member when appropriate) will take any action necessary to ensure the:

1. Student is protected and to promote a nonhostile learning environment;
2. Staff member is protected and to promote a nonhostile work environment; or
3. Third party who is subjected to the behavior is protected and to promote a nonhostile environment.

This includes providing resources for support measures to the student, staff member or third party who was subjected to the behavior and taking any actions necessary to remove potential future impact on the student, staff member or third party, but are not retaliatory against the student, staff member or third party being harassed or the person who reported to the public charter school official.

Any student or staff member who feels they are a victim of sexual harassment are encouraged to report their concerns to public charter school officials, this includes officials such as the principal, compliance officer or superintendent. Students may also report concerns to a teacher, counselor or school nurse, who will promptly notify the appropriate public charter school official.

## **Investigation**

All reports and complaints about behavior that may violate this policy shall be investigated. The public charter school may use, but is not limited to, the following means for investigating incidents of possible harassment:

1. Interviews with those involved;
2. Interviews with witnesses;
3. Review of video surveillance;
4. Review of written communications, including electronic communications;
5. Review of any physical evidence; and
6. Use of third-party investigator.

The public charter school will use a reasonable person standard when determining whether a hostile environment exists. A hostile environment exists if a reasonable person with similar characteristics and under similar circumstances would consider the conduct to be so severe as to create a hostile environment.

The public charter school may take, but is not limited to, the following procedures and remedial action to address and stop sexual harassment:

1. Discipline of staff and students engaging in sexual harassment;
2. Removal of third parties engaged in sexual harassment;
3. Additional supervision in activities;
4. Additional controls for public charter school electronic systems;
5. Trainings and education for staff and students; and
6. Increased notifications regarding public charter school procedures and resources.

When a student or staff member is harassed by a third party, the public charter school will consider the following:

1. Removing that third party's ability to contract or volunteer with the public charter school, or be present on public charter school property;
2. If the third party works for an entity that contracts with the public charter school, communicating with the third party's employer;
3. If the third party is a student of another public charter school or school, communicate information related to the incident to the other public charter school, school or school district;
4. Limiting attendance at public charter school events; and

5. Providing for additional supervision, including law enforcement if necessary, at public charter school events.

### **No Retaliation**

Retaliation against persons who initiate complaint or otherwise report sexual harassment or who participate in an investigation or other related activities is prohibited. The initiation of a complaint, reporting of behavior, or participation in an investigation, in good faith about behavior that may violate this policy may not adversely affect the:

1. Educational assignments or educational environment of a student or other person initiating the complaint, reporting the behavior, or participating in the investigation; or
2. Any terms or conditions of employment or of work or educational environment of a public charter school staff member or other person initiating the complaint, reporting the behavior, or participating in the investigation.

Students who initiate a complaint or otherwise report harassment covered by the policy or who participate in an investigation may not be disciplined for violations of the public charter school's drug and alcohol policies that occurred in connection with the reported prohibited conduct and that were discovered because of the report or investigation, unless the student gave another person alcohol or drugs without the person's knowledge and with the intent of causing the person to become incapacitated and vulnerable to the prohibited conduct.

### **Notice**

When a person<sup>2</sup> who may have been affected by this policy files a complaint or otherwise reports behavior that may violate the policy, the public charter school shall provide written notification to the following:

1. Each reporting person;
2. If appropriate, any impacted person who is not a reporting person;
3. Each reported person; and
4. Where applicable, a parent or legal guardian of a reporting person, impacted person, or reported person.

The written notification must include<sup>3</sup>:

1. Name and contact information for all person designated by the public charter school to receive complaints;
2. The rights of the person that the notification is going to;

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<sup>2</sup> Student, staff member, or third party, or if applicable, the student or third party's parent. If the person is a minor, the public charter school should consider when to contact the person's parent.

<sup>3</sup> Remember confidentiality laws when providing any information.

3. Information about the internal complaint processes available through the public charter school that the student, student's parents, staff member, person or person's parent who filed the complaint may pursue, including the person designated for the public charter school for receiving complaints and any timelines;
4. Notice that civil and criminal remedies that are not provided by the public charter school may be available to the person through the legal system and that those remedies may be subject to statutes of limitation;
5. Information about services available to the student or staff member through the public charter school, including any counseling services, nursing services or peer advising;
6. Information about the privacy rights of the person and legally recognized exceptions to those rights for internal complaint processes and services available through the public charter school;
7. Information about, and contact information for, services and resources that are available to the person, including but not limited to:
  - a. For the reporting person, state and community-based resources for persons who have experienced sexual harassment; or
  - b. For the reported persons, information about and contact information for state and community-based mental health services.
8. Notice that students who report about possible prohibited conduct and students who participate in an investigation under this policy may not be disciplined for violations of the public charter school's drug and alcohol policies that occurred in connection with the reported prohibited conduct and that were discovered as a result of a prohibited conduct report or investigation unless the student gave another person alcohol or drugs without the person's knowledge and with the intent of causing the person to become incapacitated and vulnerable to the prohibited conduct; and
9. Prohibition of retaliation.

Notification, to the extent allowable under state and federal student confidentiality laws, must be provided when the investigation is initiated and concluded. The notification at the conclusion must include whether a violation of the policy was found to have occurred.

The notice must:

1. Be written in plain language that is easy to understand;
2. Use print that is of a color, size and font that allows the notification to be easily read; and
3. Be made available to students, students' parents, staff members and member of the public at each office, at the public charter school office and on the website of the public charter school.

### **Oregon Department of Education (ODE) Support**

The ODE will provide technical assistance and training upon request.

## FEDERAL DEFINITION AND PROCEDURES

### Federal Definition

Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

1. An employee of the public charter school conditioning the provision of an aid, benefit, or service of the public charter school on an individual's participation in unwelcome sexual conduct;
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the public charter school's education program or activity<sup>4</sup>;
3. "Sexual assault": an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation;
4. "Dating violence": violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship and the frequency of interaction between the persons involved in the relationship;
5. "Domestic Violence": felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction; or
6. "Stalking": engaging in a course of conduct directed at a specific person that would cause a reasonable person fear for the person's own safety or the safety of others, or suffer substantial emotional distress.

This definition only applies to sex discrimination occurring against a person who is a subject of this policy in the United States. A public charter school's treatment of a complainant or a respondent in response to a formal complaint of sexual harassment may constitute discrimination on the basis of sex under Title IX.

### Federal Procedures

The public charter school will adopt and publish grievance procedures that provide for the prompt and equitable resolution of the student and employee complaints alleging any action that would be prohibited by this policy. *See* GBN/JBA-AR(2) - Federal Law (Title IX) Sexual Harassment Complaint Procedure.

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<sup>4</sup> "Education program or activity" includes locations, events, or circumstances over which the public charter school exercised substantial control over both the respondent and the context in which the sexual harassment occurs." Title 34 C.F.R. § 106.44(a).

## Reporting

Any person may report sexual harassment. This report may be made in person, by mail, by telephone, or by electronic mail, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. The report can be made at any time.

The executive director is designated as the Title IX Coordinator and can be contacted at 503-639-5757. The Title IX Coordinator will coordinate the public charter school's efforts to comply with its responsibilities related to this AR. The public charter school prominently will display the contact information for the Title IX Coordinator on the public charter school website and in each handbook.

## Response

The public charter school will promptly respond to information, allegations or reports of sexual harassment when there is actual knowledge of such harassment, even if a formal complaint has not been filed.<sup>5</sup> The public charter school shall treat complainants and respondents equitably by providing supportive measures<sup>6</sup> to the complainant and by following a grievance procedure<sup>7</sup> prior to imposing any disciplinary sanctions or other actions that are not supportive measures against a respondent. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

The Title IX Coordinator must promptly contact the complainant to discuss the availability of supportive measures, consider the complainant's wishes, with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint.<sup>8</sup>

If after an individualized safety and risk analysis, it is determined that there is an immediate threat to the physical health or safety of any person, an emergency removal of the respondent can take place.<sup>9</sup> The public charter school must provide the respondent with notice and an opportunity to challenge the decision immediately following the removal. A non-student employee may also be placed on non-disciplinary administrative leave pending the grievance process.

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<sup>5</sup> (Title 34 C.F.R. §106.44(a)) Response cannot be deliberately indifferent. A public charter school is deliberately indifferent only if its response to sexual harassment is clearly unreasonable in light of the known circumstances.

<sup>6</sup> (Title 34 C.F.R. § 106.44(a)) "Supportive measures" means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the recipient's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the public charter school's educational environment, or deter sexual harassment.<sup>6</sup> The public charter school must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the recipient to provide supportive measures. (Title 34 C.F.R. § 99.30(a))

<sup>7</sup> This grievance procedure must meet the requirements of Title 34 C.F.R. § 106.45 (included in accompanying administrative regulation, *see* GBN/JBA-AR(2) - Federal Law (Title IX) Sexual Harassment Complaint Procedure).

<sup>8</sup> The Title IX Coordinator may also discuss that the Title IX Coordinator has the ability to file a formal complaint.

<sup>9</sup> The public charter school may still have obligations under Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act of 1973 or the American with Disabilities Act (ADA). (Title 34 C.F.R. § 106.44(c))



## **Notice**

The public charter school shall provide notice to all applicants for admission and employment, students, parents or legal guardians, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the public charter school of the following:

1. The name or title, office address, electronic mail address, and telephone number of the Title IX Coordinator(s);
2. That the public charter school does not discriminate on the basis of sex in the education program or activity that it operates, as required by Title IX. This includes admissions and employment; and
3. The grievance procedure and process, how to file a formal complaint of sex discrimination or sexual harassment, and how the public charter school will respond.

Inquiries about the application to Title IX and its requirements may be referred to the Title IX Coordinator or the Assistant Secretary<sup>10</sup>, or both.

## **No Retaliation**

Neither the public charter school or any person may retaliate<sup>11</sup> against an individual for reporting, testifying, providing evidence, being a complainant, otherwise participating or refusing to participate in any investigation or process in accordance with this procedure. The public charter school must keep confidential the identity of parties and participating persons, except as disclosure is allowed under Family Educational Rights and Privacy Act (FERPA), as required by law, or to carry out the proceedings herein. Complaints of retaliation may be filed using these procedures.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding does not constitute retaliation.

## **Publication**

This policy shall be made available to students, parents of students and staff members. This policy and contact information for the Title IX Coordinator shall be prominently published in the public charter school student handbook and on the school website. This policy shall also be made available at the school office. A copy of the policy will be made available to any student, parent of a student, school staff member, or third party upon request.

END OF POLICY

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<sup>10</sup> Of the United States Department of Education.

<sup>11</sup> Retaliation includes, but is not limited to, intimidation, threats, coercion, and discrimination.

**Legal Reference(s):**

[ORS 243.706](#)

[ORS 338.115](#)

[ORS 342.700](#)

[ORS 342.704](#)

[ORS 342.708](#)

[ORS 342.850](#)

[ORS 342.865](#)

[ORS 659.850](#)

[ORS 659A.006](#)

[ORS 659A.029](#)

[ORS 659A.030](#)

[OAR 581-021-0038](#)

[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).

Corrected 4/25/23

# MITCH Charter School

Code: GBN/JBA-AR(1)  
Revised/Reviewed:

## Sexual Harassment Complaint Procedure

Reports and complaints of sexual harassment should be made to the following individual(s):

Name	Position	Phone	Email
Caitlin Blood	Executive director	503-639-5757	cblood@mitchcharterschool.org
Thidarat Kropf	Business manager	503-639-5757	tkropf@mitchcharterschool.org

The public charter school official receiving the complaint shall issue the required written notice as outlined under Oregon Procedures in Board policy GBN/JBA - Sexual Harassment.

**Step 1** The public charter school official receiving the report or complaint shall promptly initiate an investigation using procedures and standards, including but not limited to, those identified in Board policy GBN/JBA - Sexual Harassment and will notify the complainant or reporting person, any impacted person who is not a reporting person (if appropriate), each reported person, and where applicable the parents of a reporting person, impacted person, or reported person, when such investigation is initiated. The official will arrange such meetings as may be necessary to discuss the issue with all concerned parties within 15 school days after receipt of the report or complaint. The parties will have an opportunity to submit evidence and a list of witnesses. All findings of the investigation shall be reduced to writing. The official conducting the investigation shall notify the parties in writing that the investigation is concluded and if a violation of the policy was found to have occurred to the extent allowable by law within 30 days of receipt of the report or complaint.

A copy of the required written notice(s) and the date and details of notification of the notice of investigation and results of the investigation, together with any other documentation related to the sexual harassment incident, including disciplinary action taken or recommended, shall be forwarded to the executive director.

**Step 2** If a complainant is not satisfied with the decision at Step 1, the complainant may submit a written appeal to the public charter school Board. Such appeal must be filed within five school days after receipt of the Step 2 decision. The Board will review the decision of the executive director in a public meeting to determine what action is appropriate. The Board may use executive session if the subject matter qualifies under Oregon law. Appropriate action may include, but is not limited to, holding a hearing, requesting additional information, and adopting the executive director's decision. All parties involved, including the school administration, may be asked to attend a hearing for the purposes of making further explanations and clarifying the issues. The Board shall provide a written decision to the complainant within 30 days following receipt of the appeal.

If the Board chooses not to hear the complaint, the executive director's decision in Step 1 is final.

The executive director is authorized to amend these procedures (including timelines) when the executive director feels it is necessary for the efficient handling of the complaint. Notice of any amendments will be promptly provided to the parties.

Complaints against the executive director or a Board member (other than the Board chair) may start at step 2 and should be referred to the Board chair on behalf of the Board. The Board chair will cause the required notices to be provided. The Board chair shall present the complaint to the Board. The Board may use executive session if the subject matter qualifies under Oregon law. If the Board decides an investigation is warranted, the Board may refer the investigation to a third party. When the investigation is complete, the results will be presented to the Board. After receiving the results of the investigation, the Board shall decide in open session what action, if any, is warranted. The Board chair shall notify the parties in writing within 30 days of receipt of the report or complaint that the investigation is concluded and if a violation of the policy was found to have occurred to the extent allowable by law.

Complaints against the Board chair may start at Step 2 and should be referred to the Board vice chair on behalf of the Board. The Board vice chair will cause required notices to be provided. The Board vice chair shall present the complaint to the Board. The Board may use executive session if the subject matter qualifies under Oregon law. If the Board decides an investigation is warranted, the Board may refer the investigation to a third party. When the investigation is complete, the results will be presented to the Board. After receiving the results of the investigation, the Board shall decide in open session what action, if any, is warranted. The Board vice chair shall notify the parties in writing that the investigation is concluded and if a violation of the policy was found to have occurred to the extent allowable by law. The decision of the Board will be issued within 30 days of receipt of the complaint.

Direct complaints related to employment may be filed with the U.S. Department of Labor, Equal Employment Opportunity Commission or Oregon Bureau of Labor and Industries.

Direct complaints related to educational programs and services may be made to the Regional Civil Rights Director, U.S. Department of Education, Office for Civil Rights, Region X, 915 Second Ave., Room 3310, Seattle, WA 98174-1099.

Additional information regarding filing of a complaint may be obtained through the public charter school executive director or compliance officer.

All documentation related to sexual harassment complaints may become part of the student's education record or employee's personnel file, as appropriate. Additionally, a copy of all sexual harassment complaints and documentation will be maintained as a confidential file and stored in the public charter school office.

The executive director shall report the name of any person holding a teaching license or registered with Teacher Standards and Practices Commission (TSPC) or participating in a practicum under Oregon Administrative Rule (OAR) Chapter 584, Division 17, when, after appropriate investigation, there is reasonable cause to believe the person may have committed an act of sexual harassment. Reports shall be made to TSPC within 30 days of such a finding. Reports of sexual contact with a student shall be given to a representative from law enforcement or Oregon Department of Human Services, Community Human Services, as possible abuse of a child.

**SEXUAL HARASSMENT COMPLAINT FORM**

Name of complainant: \_\_\_\_\_

Position of complainant: \_\_\_\_\_

Date of complaint: \_\_\_\_\_

Name of alleged harasser: \_\_\_\_\_

Date and place of incident or incidents: \_\_\_\_\_

Description of misconduct: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Name of witnesses (if any): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Evidence of sexual harassment, i.e., letters, photos, etc. (attach evidence if possible): \_\_\_\_\_  
\_\_\_\_\_

Any other information: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I agree that all of the information on this form is accurate and true to the best of my knowledge.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**WITNESS DISCLOSURE FORM**

Name of Witness: \_\_\_\_\_

Position of Witness: \_\_\_\_\_

Date of Testimony/Interview: \_\_\_\_\_

Description of Instance Witnessed: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Any Other Information: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

I agree that all the information on this form is accurate and true to the best of my knowledge.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Corrected 4/25/23

# MITCH Charter School

Code: GBN/JBA-AR(2)

Adopted:

## Federal Law (Title IX) Sexual Harassment Complaint Procedure

### Additional Definitions

“Actual knowledge” means notice of sexual harassment or allegations of sexual harassment to the public charter school’s Title IX Coordinator or any official of the public charter school who has authority to institute corrective measures on behalf of the public charter school, or to any employee of an elementary or secondary school.<sup>1</sup>

“Complainant” means an individual who is alleged to be the victim of conduct that could constitute sexual harassment.

“Formal complaint” means a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent<sup>2</sup> and requesting that the public charter school investigate the allegation of sexual harassment.<sup>3</sup>

“Supportive measures” means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the recipient’s education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the public charter school’s educational environment, or deter sexual harassment.<sup>4</sup> The public charter school must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the recipient to provide supportive measures.

### Formal Complaint Procedures

Upon receipt of a formal complaint, the public charter school will provide the parties<sup>5</sup> written notice of the following:

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<sup>1</sup> This standard is not met when the only official with knowledge is the respondent.

<sup>2</sup> “Respondent” means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

<sup>3</sup> A complainant must be participating in or attempting to participate in the education program or activity of the public charter school with which the formal complaint is filed.

<sup>4</sup> Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

<sup>5</sup> Parties include the complainant and the respondent, if known.

1. Notice of the public charter school’s grievance process, including any informal resolution process.
2. Notice of the allegations of sexual harassment potentially constituting sexual harassment, including sufficient details<sup>6</sup> known at the time and with sufficient time to prepare a response before any initial interview.
3. That the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility be made at the conclusion of the grievance process.
4. That the parties may have an advisor of their choice, who may be, but is not required to be, an attorney.
5. The parties may inspect and review evidence.
6. A reference to any provision in the public charter school’s code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

The Title IX Coordinator will contact the complainant and the respondent to discuss supportive measures. If necessary, the Title IX Coordinator will arrange for an individualized safety and risk analysis. If necessary, a student or non-student employee may be removed or placed on leave.

### **Investigation**

The Title IX Coordinator will coordinate the public charter school’s investigation. The investigation must:

1. Include objective evaluation of all relevant evidence, including inculpatory and exculpatory evidence.
2. Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the public charter school and not on the parties.<sup>7</sup>
3. Provide an equal opportunity for the parties to present witnesses, and other inculpatory and exculpatory evidence.
4. Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.
5. Provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by

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<sup>6</sup> Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident, if known.

<sup>7</sup> The public charter school cannot access, consider, disclose, or otherwise use a party’s records that are made of maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional’s capacity, and which are maintained in connection with the provision of treatment to the party, unless the public charter school obtains the party’s (or eligible student’s parent’s) voluntary, written consent to do so.



the advisor of their choice.<sup>8</sup> The public charter school may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties.

6. Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate.
7. Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint.<sup>9</sup> Prior to completion of the investigative report, the public charter school must send to each party and party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least 10 days to submit a written response, which the investigator will consider prior to completion of the investigative report;
8. Create an investigative report that fairly summarizes relevant evidence and is sent to each party and party's advisor in electronic format or hard copy at least 10 days prior to any hearing (if required or provided) or other time of determination of responsibility. The party and advisor will be allowed to review and provide a written response.

After the public charter school has sent the investigative report to the parties and before reaching a determination regarding responsibility, the decision maker(s) must afford each party the opportunity to submit written, relevant questions<sup>10</sup> that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party. The decision-maker(s) must explain to the party proposing the questions any decision to exclude a question as not relevant.

Credibility determinations are not based on the person's status as a complainant, respondent or witness.

No person designated as a Title IX Coordinator, investigator, decision-maker, or any person designated by the public charter school to facilitate an informal resolution process may have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.

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<sup>8</sup> In addition to an advisor, complainants and respondents may also be entitled to other accompaniment as required by law or as necessary for conducting of grievance procedures, including but not limited to translators, services for students with disabilities and parents of minor students.

<sup>9</sup> This includes the evidence upon which the public charter school does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to the investigation. The public charter school must make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

<sup>10</sup> Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the question and evidence concern specific incidents of the complainants prior sexual behavior with respect to the respondent and are offered to prove consent.

If, in the course of an investigation, the public charter school decides to investigate allegations about the complainant or respondent that are not included in the notice previously provided, the public charter school must provide notice of the additional allegations to the parties whose identities are known.

At no point in the process will the public charter school, or anyone participating on behalf of the public charter school, require, allow, rely upon, or otherwise use questions or evidence that constitutes, or seeks disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

### **Determination of Responsibility**

The respondent must be deemed to be not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

The standard to be used for formal complaints in determining whether a violation has occurred is the preponderance of the evidence<sup>11</sup> standard.

The person deciding the question of responsibility (the “decision-maker”) must be someone other than the Title IX Coordinator or the investigator(s). The decision-maker must issue a written determination which must include:

1. Identification of the allegations potentially constituting sexual harassment;
2. A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather evidence, and hearings held;
3. Findings of fact supporting the determination;
4. Conclusions regarding the application of the public charter school’s code of conduct to the facts;
5. A statement of, and rationale for, the result as to each allegation, including:
  - a. A determination regarding responsibility;
  - b. Any disciplinary sanctions the public charter school imposes on the respondent; and
  - c. Whether remedies designed to restore or preserve equal access to the public charter school’s education program or activity will be provided by the public charter school to the complainant; and
6. The public charter school’s procedures and permissible bases for the complainant and respondent to appeal.

The public charter school must provide written determination to the parties simultaneously.

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<sup>11</sup> A preponderance of the evidence standard is understood to mean concluding that a fact is more likely than not to be true. U.S. Department of Education, Title IX Regulations commentary, p. 1268, FN 1409.

The determination regarding responsibility becomes final either on the date that the recipient provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

## **Remedies**

The Title IX Coordinator is responsible for effective implementation of any remedies.

The disciplinary sanctions<sup>12</sup> may include:

1. Discipline up to and including suspension and expulsion;
2. Removal from various activities, committees, extra-curricular, positions, etc.
3. Disqualification for awards and honors;
4. Discipline up to and including termination, in accordance with laws, agreements, contracts, handbooks, etc.<sup>13</sup>

Other remedies may include educational programming.

## **Dismissal of a Formal Complaint**

The public charter school must dismiss a formal complaint with regard to Title IX sexual harassment if the alleged conduct:

1. Would not constitute sexual harassment, even if proved;
1. Did not occur in the public charter school's education program or activity<sup>14</sup>; or
2. Did not occur against a person in the United States.

The public charter school may dismiss a formal complaint with regard to Title IX sexual harassment if at any time during the investigation or hearing, if provided:

1. A complainant notifies the Title IX Coordinator in writing that the complaint would like to withdraw the formal complaint or any allegations therein;
2. The respondent is no longer enrolled or employed by the public charter school; or

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<sup>12</sup> Public charter schools should review any other disciplinary procedures and requirements prior to imposing any discipline, and should contact legal counsel with questions.

<sup>13</sup> It is important to keep supportive measures separate from disciplinary sanctions. Supportive measures must be “non-disciplinary” and “non-punitive.”

<sup>14</sup> Includes locations, events, or circumstances over which the public charter school exercised substantial control over both the respondent the respondent and the context in which the sexual harassment occurs[, and also includes any building owned or controlled by a student organization that is officially recognized by a postsecondary institution]. (Title 34 C.F.R. §106.44(a))

3. Specific circumstances prevent the recipient from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon dismissal of a formal complaint, the public charter school must promptly send written notice of the dismissal and the reason(s) therefor simultaneously to the parties.

**The dismissal of a formal complaint under Title IX does not preclude the public charter school from continuing any investigation and taking action under a different process. The public charter school may have an obligation to continue an investigation and process under a different process.**

### **Consolidation of Complaints**

The public charter school may consolidate formal complaints as to allegations of sexual harassment against more than one respondent, or by one or more complainant against one or more respondents, or by one party against another party, where the allegations of sexual harassment arise out of the same facts or circumstances.

### **Informal Resolution**

If the public charter school receives a formal complaint, at any time prior to reaching a determination regarding responsibility, the public charter school may offer an optional informal resolution process, provided that the public charter school:

1. Provides written notice to the parties disclosing:
  - a. The allegations;
  - b. The requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint; and
  - c. Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.
2. Obtains the parties' voluntary written consent to the informal resolution process; and
3. Does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

### **Appeals**

Either party may file an appeal from a determination regarding responsibility or from a dismissal of a formal complaint, within 15 days of the decision, on the following bases:

1. Procedural irregularity that affected the outcome of the matter;
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; or

3. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

When an appeal is filed, the public charter school must:

1. Notify the other party in writing;
2. Implement appeal procedures equally for both parties;
3. Ensure the decision-makers(s) for the appeal is not the same person as the decision-maker(s) who reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator;
4. Ensure the decision-maker for the appeal is free from conflicts of interest and bias;
5. Give both parties a reasonable equal opportunity to submit a written statement in support of, or challenging the outcome;
6. Issue a written decision describing the result of the appeal and the rationale for the result; and
7. Provide the written decision simultaneously to both parties.

### **Timelines**

The public charter school will complete the following portions of the grievance process within the specified timelines:

1. General grievance process (from receipt of formal complaint to determination of responsibility): 90 days;
2. Appeals (from receipt of appeal): 60 days;
3. Informal resolution process: 60 days.

Temporary delays of the grievance process, or limited extensions of time will be allowed for good cause<sup>15</sup> with written notice to the parties.

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<sup>15</sup> Good cause may include considerations such as the absence of a party, a party's advisor or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities. (Title 34 C.F.R. § 106.45(b)(1)(v))

## Records

Records will be created and maintained in accordance with the requirements in Title 34 C.F.R. §106.45(a)(10).<sup>16</sup>

## Training

Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process must receive training on the definition of sexual harassment, the scope of the public charter school's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and information resolution processes. The training must also include avoiding prejudgment of the facts at issue, conflicts of interest and bias.

Decision-makers must receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions about evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant.

Investigators must receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.

Materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, must not rely on sex stereotypes, must promote impartial investigations and adjudications of formal complaints of sexual harassment and must be made publicly available on the public charter school's website.

Corrected 4/25/23

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<sup>16</sup> This includes creating a record for each investigation. This record must include:

- Supportive measures, or reasons why the response was not clearly unreasonable under the circumstances;
- Basis for the conclusion that the public charter school's response was not deliberately indifferent; and
- What measures were taken to restore or preserve equal access to the public charter school's educational program or activity. (Title 34 C.F.R. § 106.45(a)(10)(ii))

Most records (including training) must be retained for at least seven years.

# MITCH Charter School

Code: GBNA

Adopted:

## Hazing, Harassment, Intimidation, Bullying, Menacing, or Cyberbullying – Staff

The Board is committed to providing a positive and productive learning and working environment.

Hazing, harassment, intimidation, bullying, menacing, and acts of cyberbullying of staff or third parties by students, staff, or third parties are strictly prohibited and shall not be tolerated in the public charter school.

Retaliation against the victim, any person who reports, is thought to have reported, files a complaint, or otherwise participates in an investigation or inquiry is also strictly prohibited. Such retaliation shall be considered a serious violation of Board policy and independent of whether a complaint is substantiated. False charges shall also be regarded as a serious offense and will result in disciplinary action or other appropriate sanctions.

Staff whose behavior is found to be in violation of this policy will be subject to consequences and appropriate remedial action which may include discipline, up to and including dismissal. Third parties whose behavior is found to be in violation of this policy shall be subject to appropriate sanctions as determined and imposed by the public charter school executive director or the Board. Students found in violation of this policy will be subject to consequences and appropriate remedial action which may include discipline, up to and including expulsion.

Individuals may also be referred to law enforcement officials. Licensed staff may be reported to Teacher Standards and Practices Commission if required by Oregon Administrative Rule (OAR) 584-020-0041.

The public charter school executive director is directed to develop administrative regulations to implement this policy. The regulations shall include descriptions of prohibited conduct, reporting and investigative procedures, and provisions to ensure annual notice of this policy is provided to students, staff, and third parties.

END OF POLICY

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### Legal Reference(s):

[ORS 163.190](#)  
[ORS 163.197](#)  
[ORS 166.065](#)  
[ORS 166.155](#) - 166.165  
[ORS 174.100](#)

[ORS 338.115](#)  
[ORS 339.250](#)  
[ORS 659A.006](#)  
[ORS 659A.029](#)  
[ORS 659A.030](#)

[ORS 659A.103](#) - 659A.143  
[ORS 659A.199](#) - 659A.224  
[OAR 839-003-0000](#)  
[OAR 839-005-0021](#)  
[OAR 839-005-0030](#)

Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d (2012).

Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, et. Seq. (2012).

Age Discrimination in Employment Act of 1967, 29 U.S.C. §§ 621-634 (2012); 29 C.F.R. Part 1626 (2018)

Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213 (2012); 29 C.F.R. Part 1630 (2018); 28 C.F.R. Part 35 (2018).

Americans with Disabilities Act Amendments Act of 2008, 42 U.S.C. §§ 12101-12133 (2012).

HR2/28/19 | PH

Hazing, Harassment, Intimidation, Bullying, Menacing,  
or Cyberbullying – Staff – GBNA

Bartsch v. Elkton School District, FDA-13-011 (March 27, 2014).  
OREGON BUREAU OF LABOR AND INDUSTRIES, *Workplace Bullying* (visited Feb. 26, 2019),  
<<https://www.oregon.gov/boli/docs/WorkplaceBullyingPoster-2018.pdf>>.

Corrected 4/25/23



# MITCH Charter School

Code: GBNA-AR

Revised/Reviewed:

## Hazing, Harassment, Intimidation, Bullying, Menacing, or Cyberbullying Reporting Procedures – Staff

The following definitions and procedures shall be used for reporting, investigating, and resolving reports of hazing, harassment, intimidation, bullying, menacing, and cyberbullying of staff or third parties.

### Definitions

1. “Third parties” include, but are not limited to, coaches, school volunteers, parents, school visitors, service contractors, or others engaged in public charter school business, such as employees of businesses or organizations participating in cooperative work programs with the public charter school and others not directly subject to public charter school control at interschool and intraschool athletic competitions or other public charter school events.
2. “Public charter school” includes public charter school facilities, public charter school premises, and nonschool property if the employee is at any public charter school-sponsored, public charter school-approved, or public charter school-related activity or function, such as field trips, athletic events or where the employee is engaged in public charter school business.
3. “Hazing” includes, but is not limited to, any act that recklessly or intentionally endangers the mental health, physical health or safety of a staff member for the purpose of initiation or as a condition or precondition of attaining membership in, or affiliation with, any public charter school-sponsored work activity, work group or work assignment, or other such activities intended to degrade or humiliate regardless of the person’s willingness to participate.
4. “Harassment” is unwelcome conduct that is based on race, color, religion, sex (including pregnancy), sexual orientation, gender identity, national origin, age (40 or older), disability or genetic information. Harassment becomes unlawful when 1) enduring the offensive conduct becomes a condition of continued employment, or 2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.
5. “Intimidation” includes, but is not limited to, any threat or act intended to tamper, substantially damage or interfere with another’s property, cause substantial inconvenience, subject another to offensive physical contact or inflict serious physical injury on the perception of the other’s race, color, religion, national origin, disability, sexual orientation or gender identity.
6. “Bullying” is a pattern of repeated mistreatment that harms, intimidates, undermines, offends, degrades, or humiliates an employee.
7. “Cyberbullying” means the use of any electronic device to harass, intimidate, or bully. Staff will refrain from using personal electronic devices or school equipment to harass or stalk another person or people.

8. “Menacing” includes, but is not limited to, any act intended to place a public charter school employee, student, or third party in fear of imminent serious physical injury.

## **Reporting Procedures**

The public charter school executive director has responsibility for investigations concerning reports of hazing, harassment, intimidation, bullying, acts of cyberbullying, or menacing. The investigator(s) shall be a neutral party having had no involvement in the report presented.

Any employee or third party who has knowledge of conduct in violation of Board policy JFCF – Harassment, Intimidation, Bullying, Cyberbullying, Teen Dating Violence or Domestic Violence – Student shall immediately report concerns to the designated public charter school official.

Any employee or third party who has knowledge of conduct in violation of Board policy or feels they have been hazed, harassed, intimidated, bullied, menaced, or cyberbullied in violation of Board policy or this administrative regulation shall immediately report concerns to the designated public charter school official.

All reports and information will be promptly investigated in accordance with the following procedures:

- Step 1 Any reports or information on acts of hazing, harassment, intimidation, bullying, menacing, or cyberbullying (e.g., complaints, rumors) shall be presented to public charter school executive director. Reports against the executive director shall be filed with the Board chair. All such information will be reduced to writing and will include the specific nature of the offense and corresponding dates.
- Step 2 The public charter school official receiving the report shall promptly investigate. Parents will be notified of the nature of any report involving their student. The public charter school official will arrange such meetings as may be necessary with all concerned parties within 15 school days after receipt of the information or report. The parties will have an opportunity to submit evidence and a list of witnesses. All findings related to the report will be reduced to writing. The public charter school official(s) conducting the investigation shall notify the person making the report within 10 school days of receipt of the information or report, and parents as appropriate in writing when the investigation is concluded and a decision regarding disciplinary action, as warranted, is determined.
- Step 3 If the person making the report is not satisfied with the decision at Step 2, they may submit a written appeal to the Board. Such appeal must be filed within five school days after receipt of the Step 2 decision. The Board shall conduct a hearing at which time the person making the report shall be given an opportunity to present the information or report. The Board shall provide a written decision to the person making the report within 30 days following receipt of the appeal.

Reports against the executive director should be referred to the Board chair on behalf of the Board. The Board chair shall present the report to the Board. If the Board decides an investigation is warranted, the Board may refer the investigation to a third party. When the investigation is complete, the results will be presented to the Board. After receiving the results of the investigation, the Board shall decide in open

session what action, if any, is warranted. The decision of the Board will be issued within 30 days of receipt of the complaint.

Reports against the Board as a whole or against an individual Board member should be made to the Board chair on behalf of the Board and may be referred to counsel. The Board chair shall present the report to the Board. If the Board decides an investigation is warranted, the Board may refer the investigation to a third party. When the investigation is complete, the results will be presented to the Board. After receiving the results of the investigation, the Board shall decide in open session what action if any, is warranted. The decision of the Board will be issued within 30 days of receipt of the complaint.

Reports against the Board chair may be made directly to the Board vice chair on behalf of the Board. The Board vice chair shall present the report to the Board. If the Board decides an investigation is warranted, the Board may refer the investigation to a third party. When the investigation is complete the results will be presented to the Board. After receiving the results of the investigation, the Board shall decide in open session what action, if any, is warranted. The decision of the Board will be issued within 30 days of receipt of the complaint.

Direct complaints of discriminatory harassment related to employment may be filed with the Oregon Bureau of Labor and Industries, Civil Rights Division or the U.S. Department of Labor, Equal Employment Opportunities Commission.

Documentation related to the incident may be maintained as a part of the employee's personnel file. Additionally, a copy of all reported acts of hazing, harassment, intimidation, bullying, menacing, or cyberbullying and documentation will be maintained as a confidential file in the public charter school office.

Corrected 4/25/23

# MITCH Charter School

Code: GBNAA/JHFF

Adopted:

## Suspected Sexual Conduct with Students and Reporting Requirements

Sexual conduct by public charter school employees, contractors<sup>1</sup>, agents<sup>2</sup>, and volunteers<sup>3</sup> is prohibited and will not be tolerated. All public charter school employees, contractors, agents, and volunteers are subject to this policy. Students are also subject to this policy if they are acting as an employee, contractor, agent or volunteer.

<sup>4</sup>“Sexual conduct,” means verbal or physical conduct or verbal, written or electronic communications by a school employee, a contractor, an agent or a volunteer that involve a student and that are sexual advances or requests for sexual favors directed toward the student, or of a sexual nature that are directed toward the student or that have the effect of unreasonably interfering with a student’s educational performance, or of creating an intimidating or hostile environment. “Sexual conduct” does not include touching or other physical contact that is necessitated by the nature of the school employee’s job duties or by the services required to be provided by the contractor, agent or volunteer, and for which there is no sexual intent; verbal, written or electronic communications that are provided as part of an education program that meets state educational standards or a policy approved by the Board; or conduct or communications described in the definition of sexual conduct herein if the school employee, contractor, agent or volunteer is also a student and the conduct or communications arise out of a consensual relationship between students, do not create an intimidating or hostile educational environment and are not prohibited by law, any policies of the public charter school or any applicable employment agreements.

“Student” means any person who is in any grade from prekindergarten through grade 12 or 21 years of age or younger and receiving educational or related services from the public charter school that is not a post-secondary institution of education, or who was previously known as a student by the person engaging in sexual conduct and who left school or graduated from high school within 90 days prior to the sexual conduct.

The public charter school will post in the school building the names and contact information of the employees designated for the respective school building to receive reports of suspected sexual conduct and the procedures the designee will follow upon receipt of the report.

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<sup>1</sup> “Contractor” means a person providing services to the public charter school under a contract in a manner that requires the person to have direct, unsupervised contact with students.

<sup>2</sup> “Agent” means a person acting as an agent for the public charter school in a manner that requires the person to have direct, unsupervised contact with students.

<sup>3</sup> “Volunteer” means a person acting as a volunteer for the public charter school in a manner that requires the person to have direct, unsupervised contact with students.

<sup>4</sup> This definition of “sexual conduct” affects all conduct that occurs before, on or after June 23, 2021, for purposes of reports that are made, investigations that are initiated, or a collective bargaining agreement, an employment contract, an agreement for resignation or termination, a severance agreement or any similar contract or agreement entered into, on or after June 23, 2021.

Any public charter school employee who has reasonable cause to believe that a student has been subjected to sexual conduct by another public charter school employee, contractor, agent or volunteer, or that another public charter school employee, contractor, agent or volunteer has engaged in sexual conduct with a student shall immediately report such suspected sexual conduct to the designated licensed administrator, or the alternate designated licensed administrator in the event the designated administrator is the alleged perpetrator, for their school building. If the conduct also constitutes child abuse, the employee must make mandatory reports in accordance with Board policy GBNAB/JHFE – Suspected Abuse of a Child Reporting Requirements.

A report of suspected sexual conduct about the executive director will be reported to the business manager who shall also report same to the Board chair.

If an employee fails to report suspected sexual conduct or fails to maintain confidentiality of records, the employee may be disciplined up to and including dismissal.

When a designated administrator receives a report of suspected sexual conduct by a public charter school employee, contractor, agent or volunteer, the administrator will follow procedures established by the public charter school and set forth in administrative regulation GBNAA/JHFF-AR - Suspected Sexual Conduct Report Procedures and Forms. All such reports will be reported to the Oregon Department of Education (ODE) or Teacher Standards and Practices Commission (TSPC) in accordance with such administrative regulation. The agency receiving a report will complete an investigation regardless of any changes in the relationship or duties of the person who is the alleged perpetrator.

When there is reasonable cause to support the report, a public charter school employee suspected of sexual conduct shall be placed on paid administrative leave pending an investigation and the public charter school will take necessary actions to ensure the student's safety.

When there is reasonable cause to support the report, a public charter school contractor, agent or volunteer suspected of sexual conduct shall be removed from providing services to the public charter school and the public charter school will take necessary actions to ensure the student's safety.

The public charter school will notify, as allowed by state and federal law, the person who was subjected to the suspected sexual conduct about any actions taken by the public charter school as a result of the report.

A public charter school employee, contractor or agent will not assist another public charter school employee, contractor or agent in obtaining a new job if the individual knows, or has reasonable cause to believe the public charter school employee, contractor or agent engaged in sexual conduct. Nothing in this policy prevents the public charter school from disclosing information required by law or providing the routine transmission of administrative and personnel files pursuant to law.

The initiation of a report in good faith about suspected sexual conduct may not adversely affect any terms or conditions of employment or the work environment of the person who initiated the report or who may have been subject to sexual conduct. If a student initiates a report of suspected sexual conduct by a public charter school employee, contractor, agent or volunteer in good faith, the student will not be disciplined by the public charter school or any public charter school employee, contractor, agent or volunteer.

The public charter school will provide to employees at the time of hire, or to a contractor, agent or volunteer at the time of beginning service for the public charter school, the following:

1. A description of conduct that may constitute sexual conduct;
2. A description of the investigatory process and possible consequences if a report of suspected sexual conduct is substantiated; and
3. A description of the prohibitions imposed on public charter school employees, contractors and agents when they attempt to obtain a new job, pursuant to ORS 339.378(2).

All public charter school employees are subject to Board policy GCAB - Personal Electronic Devices and Social Media - Staff regarding appropriate electronic communications with students.

Any electronic communications with students by a contractor, agent or volunteer for the public charter school will be appropriate and only when directed by public charter school administration. When communicating with students electronically regarding school-related matters, contractors, agents or volunteers shall use public charter school e-mail using mailing lists and/or other internet messaging approved by the school to a group of students rather than individual students or as directed by public charter school administration. Texting or electronically communicating with a student through contact information gained as a contractor, agent or volunteer for the public charter school is prohibited.

The executive director shall develop administrative regulations to implement this policy and to comply with state law.

END OF POLICY

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**Legal Reference(s):**

[ORS 338.115](#)

[ORS 338.135\(7\)\(a\)](#)

[ORS 339.370 - 339.400](#)

[ORS 419B.005 - 419B.045](#)

Every Student Succeeds Act, 20 U.S.C. § 7926 (2018).

House Bill 2136 (2021).

Senate Bill 51 (2021).

Corrected 4/25/23

# MITCH Charter School

Code: GBNAA/JHFF-AR

Revised/Reviewed:

## Suspected Sexual Conduct Report Procedures and Forms

The public charter school posts in each school building the names and contact information of the school employees designated for the respective school building to receive reports of suspected sexual conduct and the procedures the designee(s) will follow upon receipt of the report.

When a designated licensed administrator receives a report of suspected sexual conduct that may have been committed by a commission licensee<sup>1</sup>, the designee shall notify the Teacher Standards and Practices Commission (TSPC). The designee shall notify the Oregon Department of Education (ODE) if the administrator receives a report of suspected sexual conduct that may have been committed by a school employee, contractor, agent or volunteer that is not a commission licensee.

If the executive director is the alleged perpetrator the report shall be submitted to the business manager, who shall also report to the Board chair.

When the designee receives a report of suspected sexual conduct by a public charter school employee, and there is reasonable cause to support the report, the public charter school shall place the public charter school employee on paid administrative leave<sup>2</sup> and take necessary actions to ensure the student's safety. The employee shall remain on leave until TSPC<sup>3</sup> or ODE<sup>4</sup> determines that the report is substantiated and the public charter school takes appropriate employment action against the employee, or cannot be substantiated or is not a report of sexual conduct and the public charter school determines either: 1) an employment policy was violated and the public charter school will take appropriate employment action against the employee; or 2) an employment policy has not be violated and an employment action against the employee is not required.

When the designee receives a report of suspected sexual conduct by a contractor, an agent or a volunteer, the public charter school shall prohibit the contractor, agent or volunteer from providing services to the public charter school. The public charter school may reinstate the contractor, agent or volunteer, and such reinstatement may not occur until such time as a report of suspected sexual conduct has been investigated and a determination has been made by TSPC or ODE, as appropriate, that the report is unsubstantiated.

Upon request from ODE or TSPC the public charter school will provide requested documents or materials to the extent allowed by state and federal law.

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<sup>1</sup> "Commission licensee," as is defined in ORS 342.120 (as amended by HB 2136 (2021)), means a person whom the TSPC has authority to investigate or discipline because the person is enrolled in an approved educator preparation program, is an applicant for a TSPC license or registration, holds a license or registration issued by TSPC, or has held a license or registration issued by the TSPC at any time during the previous five years.

<sup>2</sup> The public charter school employee cannot be required to use any accrued leave during the imposed paid administrative leave.

<sup>3</sup> TSPC investigates reports on commission licensees.

<sup>4</sup> ODE investigates reports on persons who are not commission licensees.

The name, address and other identifying information about the employee who made the report are confidential and are not accessible for public inspection.

An “investigation” means a detailed inquiry into the factual allegations of a report of suspected sexual conduct that is based on interviews with the person who initiated the report, the person who may have been subjected to sexual conduct, witnesses and the person who is the subject of the report, and results in a finding that the report is a substantiated report, cannot be substantiated, or is not a report of sexual conduct. If the subject of the report is a public charter school employee represented by a contract or a collective bargaining agreement, the investigation must meet any negotiated standards of such employment contract or agreement.

Nothing prevents the public charter school from conducting its own investigation, unless another agency requests to lead the investigation or requests the public charter school to suspend their investigation, or taking an employment action based on information available to the public charter school before an investigation conducted by another agency is completed. The public charter school will cooperate with agencies assigned to conduct such investigations.

A “substantiated report” means a report of sexual conduct that TSPC or ODE determines is founded.

If, following the investigation, the public charter school decides to take an employment action, the public charter school will inform the public charter school employee of the employment action to be taken and provide information about the appropriate appeal process. The employee may appeal the employment action taken through an appeal process administered by a neutral third party.

If the public charter school is notified that the employee decided not to appeal the employment action or if the determination of an appeal sustained the employment action, the public charter school shall create a record of the findings of the substantiated report and the employment action taken by the public charter school will be placed in the records on the school employee maintained by the public charter school. Such records created are confidential and not public records as defined in Oregon Revised Statute (ORS) 192.311, however the public charter school may use the record as a basis for providing information required to be disclosed about a public charter school employee under ORS 339.378(1). The public charter school will notify the employee that information about substantiated reports may be disclosed to a potential employer.

## **Training**

The public charter school shall provide information and training each school year to public charter school employees on the following:

1. Prevention and identification of sexual conduct;
2. Obligations of public charter school employees under ORS 339.388 and 419B.005 - 419B.050 and under adopted board policies to report suspected sexual conduct; and
3. Appropriate electronic communications with students.

The public charter school shall make available each school year the training described above to contractors, agents, volunteers and to parents and legal guardians of students attending public charter school-operated schools, and will be made available separately from the training provided to public charter school employees.



The public charter school shall provide to contractors, agents and volunteers each school year information on the following:

1. Prevention and identification of sexual conduct;
2. Obligations of public charter school employees under adopted board policies to report suspected sexual conduct; and
3. Appropriate electronic communications with students.

The public charter school shall make available each school year training that is designed to prevent sexual conduct to students attending public charter school-operated schools.

**SUSPECTED SEXUAL CONDUCT REPORT FORM**

Name of person making report: \_\_\_\_\_

Position of person making report: \_\_\_\_\_

Name of person suspected of sexual conduct: \_\_\_\_\_

Date and place of incident or incidents: \_\_\_\_\_

\_\_\_\_\_

Description of suspected sexual conduct: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Name of witnesses (if any): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Evidence of suspected sexual conduct, e.g., letters, photos, etc. (attach evidence if possible): \_\_\_\_\_

\_\_\_\_\_

Any other information: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

I agree that all of the information on this form is accurate and true to the best of my knowledge.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**WITNESS DISCLOSURE FORM**

Name of witness: \_\_\_\_\_

Position of witness: \_\_\_\_\_

Date of testimony/interview: \_\_\_\_\_

Description of instance witnessed: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Any other information: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

I agree that all the information on this form is accurate and true to the best of my knowledge.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Corrected 4/25/23

# MITCH Charter School

Code: GBNAB/JHFE

Adopted:

## Suspected Abuse of a Child Reporting Requirements\*\*

Any public charter school employee who has reasonable cause to believe that **any child** with whom the employee has come in contact has suffered abuse<sup>1</sup> shall orally report or cause an oral report immediately by telephone or otherwise to the local office of the Oregon Department of Human Services (DHS) or its designee or to the law enforcement agency within the county where the person making the report is located at the time of the contact pursuant to Oregon Revised Statute (ORS) 419B.010. Any public charter school employee who has reasonable cause to believe that **any person**<sup>2</sup> with whom the employee is in contact has abused a child shall immediately report or cause a report to be made in the same manner to DHS or its designee or to the law enforcement agency within the county where the person making the report is located at the time of the contact pursuant to ORS 419B.010. If known, the report shall contain the names and addresses of the child and the parents of the child or other persons responsible for the child's care, the child's age, the nature and extent of the suspected abuse, including any evidence of previous abuse, the explanation given for the suspected abuse, any other information that the person making the report believes might be helpful in establishing the possible cause of the abuse and the identity of a possible perpetrator.

Abuse of a child by public charter school employees, contractors<sup>3</sup>, agents<sup>4</sup>, volunteers<sup>5</sup>, or students is prohibited and will not be tolerated. All public charter school employees, contractors, agents, volunteers and students are subject to this policy and the accompanying administrative regulation.

Any public charter school employee who has reasonable cause to believe that another public charter school employee, contractor, agent, volunteer or student has engaged in abuse, or that a student has been subjected to abuse by another public charter school employee, contractor, agent, volunteer or student shall immediately report such to the Oregon Department of Human Services (DHS) or its designee or the local law enforcement agency pursuant to ORS 419B.015, and to the designated licensed executive director.

The public charter school will designate a licensed administrator and an alternate licensed administrator, in the event that the designated licensed executive director is the suspected abuser, for each school building, to receive reports of suspected abuse of a child by public charter school employees, contractors, agents, volunteers or students.

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<sup>1</sup> Includes the neglect of a child; abuse is defined in ORS 419B.005.

<sup>2</sup> "Person" could include adult, student or other child.

<sup>3</sup> "Contractor" means a person providing services to the public charter school under a contract in a manner that requires the person to have direct, unsupervised contact with students.

<sup>4</sup> "Agent" means a person acting as an agent for the public charter school in a manner that requires the person to have direct, unsupervised contact with students.

<sup>5</sup> "Volunteer" means a person acting as a volunteer for the public charter school in a manner that requires the person to have direct, unsupervised contact with students.

If the executive director is the alleged abuser the report shall be submitted to the business manager who shall also report to the Board chair.

The public charter school will post the names and contact information of the designees for each school building, in the respective school if applicable, designated to receive reports of suspected abuse and the procedures in GBNAB/JHFE-AR(1) – Reporting of Suspected Abuse of a Child the designee will follow upon receipt of a report, the contact information for local law enforcement and the local DHS office or its designee, and a statement that this duty to report suspected abuse is in addition to the requirements of reporting to the designated licensed executive director. This information will be posted in the respective school building.

When a designee receives a report of suspected abuse, the designee will follow procedure established by the public charter school and set forth in administrative regulation GBNAB/JHFE-AR(1) - Reporting of Suspected Abuse of a Child. All such reports of suspected abuse will be reported to a law enforcement agency or DHS, or its designee, for investigation, and the agency will complete an investigation regardless of any changes in the relationship or duties of the person who is the alleged abuser.

When there is reasonable cause to support a report, a public charter school employee suspected of abuse shall be placed on paid administrative leave pending an investigation and the public charter school will take necessary actions to ensure the student’s safety. When there is reasonable cause to support a report, a public charter school contractor, agent or volunteer suspected of abuse shall be removed from providing services to the public charter school and the public charter school will take necessary actions to ensure the student’s safety.

The public charter school will notify the person, as allowed by state and federal law, who was subjected to the suspected abuse of any actions taken by the public charter school as a result of the report.

A substantiated report of abuse by an employee shall be documented in the employee’s personnel file. A substantiated report of abuse by a student shall be documented in the student’s education record.

The initiation of a report in good faith, pursuant to this policy, may not adversely affect any terms or conditions of employment or the work environment of the person initiating the report or who may have been subjected to abuse. If a student initiates a report of suspected abuse of a child by a public charter school employee, contractor, agent, volunteer or student, in good faith, the student will not be disciplined by the public charter school or any public charter school employee, contractor, agent or volunteer. Intentionally making a false report of abuse of a child is a Class A violation.

The public charter school shall provide information and training each school year to public charter school employees on the prevention and identification of abuse, the obligations of public charter school employees under ORS 339.388 and ORS 419B.005 - 419B.050 and as directed by Board policy to report suspected abuse of a child, and appropriate electronic communications with students. The public charter school shall make available each school year the training described above to contractors, agents, volunteers, and parents and legal guardians of students attending public charter school-operated schools, and will be made available separately from the training provided to public charter school employees. The public charter school shall provide each school year information on the prevention and identification of abuse, the obligations of public charter school employees under Board policy to report abuse, and appropriate electronic communications with students to contractors, agents and volunteers. The public charter school shall make available each school year training that is designed to prevent abuse to students attending public charter school-operated schools.

The public charter school shall provide to a public charter school employee at the time of hire, or to a contractor, agent, or volunteer at the time of beginning service for the public charter school, the following:

1. A description of conduct that may constitute abuse;
2. A description of the investigatory process and possible consequences if a report of suspected abuse is substantiated; and
3. A description of the prohibitions imposed on public charter school employees, contractors, and agents when they attempt to obtain a new job, as provided under ORS 339.378. A public charter school employee, contractor or agent will not assist another public charter school employee, contractor or agent in obtaining a new job if the individual knows, or has reasonable or probable cause to believe the public charter school employee, contractor or agent engaged in abuse, unless criteria found in ORS 339.378(2)(c) are applicable.

Nothing in this policy prevents the public charter school from disclosing information required by law or providing the routine transmission of administrative and personnel files pursuant to law.

The public charter school shall make available to students, public charter school employees, contractors, agents, and volunteers a policy of appropriate electronic communications with students.

Any electronic communications with students by a contractor, agent or volunteer for the public charter school will be appropriate and only when directed by public charter school administration. When communicating with students electronically regarding school-related matters, contractors, agents or volunteers shall use public charter school e-mail, using mailing lists and/or other internet messaging approved by the public charter school to a group of students rather than individual students or as directed by public charter school administration. Texting or electronically communicating with a student through contact information gained as a contractor, agent or volunteer for the public charter school is prohibited.

The executive director shall develop administrative regulations as are necessary to implement this policy and to comply with state law.

END OF POLICY

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**Legal Reference(s):**

[ORS 338.125](#)  
[ORS 339.370 - 339.400](#)

[ORS 418.257 - 418.259](#)  
[ORS 419B.005 - 419B.050](#)

[OAR 581-022-2205](#)

Greene v. Camreta, 588 F.3d 1011 (9th Cir. 2009), vacated in part by, remanded by Camreta v. Greene, 131 S. Ct. 2020 (U.S. 2011); vacated in part, remanded by Greene v. Camreta 661 F.3d 1201 (9<sup>th</sup> Cir. 2011).  
Senate Bill 51 (2021).

Corrected 4/25/23

# MITCH Charter School

Code: GBNAB/JHFE-AR(1)

Adopted:

## Reporting Suspected Abuse of a Child

### Reporting

Any public charter school employee having reasonable cause to believe that **any child** with whom the employee comes in contact has suffered abuse<sup>1</sup> shall orally report or cause an oral report immediately by telephone or otherwise to the local office of the Oregon Department of Human Services (DHS) or its designee or to a law enforcement agency within the county where the person making the report is at the time of their contact. Any public charter school employee who has reasonable cause to believe that **any person**<sup>2</sup> with whom the employee is in contact has abused a child shall immediately report or cause a report to be made in the same manner to DHS or its designee or to the law enforcement agency within the county where the person making the report is located at the time of the contact pursuant to ORS 419B.010. Any public charter school employee who has reasonable cause to believe that another public charter school employee, contractor, agent, volunteer or student has engaged in abuse, or that a student has been subjected to abuse by another public charter school employee, contractor, agent, volunteer or student shall immediately report such to the DHS or its designee or the local law enforcement agency pursuant to ORS 419B.015, and to the designated licensed executive director or alternate licensed executive director for their school building.

If known, the report shall contain the names and addresses of the child and the parents of the child or other persons responsible for the child's care, the child's age, the nature and extent of the suspected abuse, including any evidence of previous abuse, the explanation given for the suspected abuse, any other information that the person making the report believes might be helpful in establishing the possible cause of the suspected abuse and the identity of a possible perpetrator.

If the executive director is the alleged abuser the report shall be submitted to the business manager who shall also make a report to the Board chair.

A written record of the abuse report shall be made by the employee reporting the suspected abuse of a student and will include: name and position of the person making the report; name of the student; name and position of any witness; description of the nature and extent of the abuse, including any information which could be helpful in establishing cause of abuse and identity of the abuser; description of how the report was made (i.e., phone or other method); name of the agency and individual who took the report; date and time that the report was made; and name of the school executive director who received a copy of the written report.

The written record of the abuse report shall not be placed in the student's educational record. A copy of the written report shall be retained by the employee making the report and a copy shall be provided to the designee that received the report.

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<sup>1</sup> Includes the neglect of a child; abuse is defined in ORS 419B.005.

<sup>2</sup> "Person" could include adult, student or other child.

When the designee receives a report of suspected abuse of a child by a public charter school employee, and there is reasonable cause to support the report, the public charter school shall place the public charter school employee on paid administrative leave<sup>3</sup> and take necessary actions to ensure the student's safety. The employee shall remain on leave until DHS or law enforcement determines that the report is substantiated and the public charter school takes the appropriate employment action, or cannot be substantiated or is not a report of abuse and the public charter school determines that either 1) an employment policy was violated and the public charter school will take appropriate employment action against the employee, or 2) an employment policy has not be violated and no action is required by the public charter school against the employee.

When the designee receives a report of suspected abuse by a contractor}, agent or volunteer, the public charter school shall prohibit the contractor, agent or volunteer from providing services to the public charter school. The public charter school may reinstate the contractor, agent or volunteer, and such reinstatement may not occur until such time as a report of suspected abuse has been investigated<sup>4</sup> and a determination has been made by law enforcement or DHS that the report is unsubstantiated.

The written record of each reported incident of abuse of a child, action taken by the public charter school and any findings as a result of the report shall be maintained by the public charter school.

If, following the investigation, the public charter school decides to take an employment action, the public charter school will inform the public charter school employee of the employment action to be taken and provide information about the appropriate appeal process. The employee may appeal the employment action taken through an appeal process administered by a neutral third party.

If the public charter school is notified that the employee decided not to appeal the employment action or if the determination of an appeal sustained the employment action, a record of the findings of the substantiated report and the employment action taken by the public charter school will be placed in the records on the school employee maintained by the public charter school. Such records created are confidential and not public records as defined in Oregon Revised Statute (ORS) 192.311, however the public charter school may use the record as a basis for providing information required to be disclosed about a public charter school employee under ORS 339.378(1). The public charter school will notify the employee that information about substantiated reports may be disclosed to a potential employer.

## **Definitions**

1. Oregon law recognizes these and other types of abuse:
  - a. Physical;
  - b. Neglect;
  - c. Mental injury;
  - d. Threat of harm;
  - e. Sexual abuse and sexual exploitation.

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<sup>3</sup> The public charter school employee cannot be required to use any accrued leave during the imposed paid administrative leave.

<sup>4</sup> The public charter school will investigate all reports of suspected abuse, unless otherwise requested by DHS or its designee or law enforcement pursuant to law.



2. “Child” means an unmarried person who is under 18 years of age or is under 21 years of age and residing in or receiving care or services at a child-caring agency.
3. A “substantiated report” means a report of abuse that a law enforcement agency or DHS determines is founded.

### **Confidentiality of Records**

The name, address and other identifying information about the employee who made the report are confidential and are not accessible for public inspection.

Upon request from law enforcement or DHS the public charter school shall immediately provide requested documents or materials to the extent allowed by state and federal law.

### **Failure to Comply**

Any public charter school employee who fails to report a suspected abuse of a child as provided by this policy and the prescribed Oregon law commits a violation punishable by law. A public charter school employee who fails to comply with the confidentiality of records requirements commits a violation punishable by the prescribed law. If an employee fails to report suspected abuse of a child or fails to maintain confidentiality of records as required by this policy, the employee will be disciplined up to and including dismissal.

### **Cooperation with Investigator**

The public charter school staff shall make every effort in suspected abuse of a child cases to cooperate with investigating officials as follows:

1. Any investigation of abuse of a child will be directed by the DHS or law enforcement officials as required by law. DHS or law enforcement officials wishing to interview a student shall present themselves at the school office and contact the executive director or vice principal, unless the executive director or vice principal is the subject of the investigation. When the executive director or vice principal is notified that the DHS or law enforcement would like to interview a student at school, they must request that the investigating official fill out the appropriate form (See GBNAB/JHFE-AR(2) – Abuse of a Child Investigations Conducted on School Premises). The executive director or vice principal should not deny the interview based on the investigator’s refusal to sign the form. If the student is to be interviewed at the school, the executive director or vice principal shall make a private space available. The executive director or vice principal of the school may, at the discretion of the investigator, be present to facilitate the interview. If the investigating official does not have adequate identification the executive director shall refuse access to the student.

Law enforcement officials wishing to remove a student from the premises shall present themselves at the office and contact the executive director or designee. The law enforcement official shall sign the student out in accordance with school procedures;

2. When the subject matter of the interview or investigation is identified to be related to suspected abuse of a child, public charter school employees shall not notify parents or anyone else other than DHS or law enforcement agency, and any school employee necessary to enable the investigation;

3. The executive director or vice principal shall advise the investigator of any conditions of disability prior to any interview with the affected child;
4. Public charter school employees are not authorized to reveal anything that transpires during an investigation in which the employee participates, nor shall the information become part of the student's education records, except that the employee may testify at any subsequent trial resulting from the investigation and may be interviewed by the respective litigants prior to any such trial.

Nothing prevents the public charter school from conducting its own investigation, unless another agency requests to lead the investigation or requests the public charter school to suspend the investigation, or taking an employment action based on information available to the public charter school before an investigation conducted by another agency is completed. The public charter school will cooperate with agencies assigned to conduct such investigations.

Corrected 4/25/23

# MITCH Charter School

Code: GBNAB/JHFE-AR(2)

Revised/Reviewed:

## Abuse of a Child Investigations Conducted on School Premises

The Department of Human Services (DHS) or a law enforcement agency has the authority to conduct an investigation of a report of child abuse on school premises according to Oregon Revised Statute (ORS) 419B.045. The school executive director must be notified that the investigation is to take place, unless the executive director is a subject of the investigation. The investigator is not required to reveal information about the investigation to the school as a condition of conducting the investigation.

After the investigator provides adequate identification, school staff shall allow access to the child and provide a private space for conducting the interview. The investigator shall be advised by a school executive director or a school staff member of a child's relevant disabling conditions, if any, prior to any interview with the child. The school executive director or designee may, at the investigator's discretion, be present to facilitate the investigation.

School staff may only notify DHS, the law enforcement agency or school employees that are necessary to enable the investigation. School staff may not notify any other persons, including the child's parent(s) or guardian(s).

\_\_\_\_\_  
Investigator Name (Printed)

\_\_\_\_\_  
Name of Agency

\_\_\_\_\_  
Name of Worker's/Investigator's Supervisor

\_\_\_\_\_  
Supervisor Contact Information

\_\_\_\_\_  
Investigator Position and Badge or ID Number

\_\_\_\_\_  
Student Name

\_\_\_\_\_  
School

\_\_\_\_\_  
Investigator Signature

\_\_\_\_\_  
Date

Investigator refused to sign. School staff should not deny entry based on refusal to sign.

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**FOR COMPLETION BY SCHOOL STAFF**

- Student not available for interview
- Student refused to be interviewed
- Executive director participated in interview

\_\_\_\_\_  
Name of Executive director Notified

\_\_\_\_\_  
Name of Office Staff Involved

\_\_\_\_\_  
Name of Participating Executive director

This form should be placed in a separate secure file and not in the student's file.

# MITCH Charter School

Code: GCA

Adopted:

## License Requirements

The Board, in adhering to Oregon Revised Statutes, shall require all applicants selected for employment for positions that require licensing, to hold a valid Oregon license issued by the Teacher Standards and Practices Commission (TSPC) as a condition of employment. The public charter school must be able to verify the current license of applicants offered employment.

If an applicant's teaching license application with the TSPC is pending, the applicant may teach for 90 calendar days after the date of submission of the application, if the applicant has:

1. Submitted an application in the manner and form required by the TSPC, including payment of all required fees;
2. Completed a background clearance conducted by the TSPC that includes having:
  - a. Furnished fingerprints, if required;
  - b. Provided satisfactory responses to character questions in the form and manner required by the TSPC; and
  - c. Completed a criminal records check pursuant to state law and a background check through the interstate clearinghouse for revoked or suspended licenses, and is eligible for a teaching license.

The public charter school will complete a review of the applicant's employment history prior to beginning employment.

The public charter school will verify the employee is properly licensed on the 91st calendar day after the application was submitted to the TSPC, if the employee's license application is pending and the employee is teaching in the public charter school.

The verification of licensure includes all license endorsements. It shall be each licensed staff member's responsibility to keep all endorsements current and to submit them to the school office.

END OF POLICY

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### Legal Reference(s):

[ORS 338.115](#)  
[ORS 339.374](#)

[ORS 342.120 - 342.203](#)  
[OAR 584-050-0035](#)

[OAR 584-200-0020](#)

Corrected 4/25/23

# MITCH Charter School

Code: GCAB

Adopted:

## **Personal Electronic Devices and Social Media - Staff\*\***

Staff possession or use of personal electronic devices on public charter school property, in public charter school facilities during the work day and while the staff is on duty in attendance at public charter school-sponsored activities, may be permitted subject to the limitations set forth in this policy and consistent with any additional school rules as may be established by the executive director. At no time, whether on duty or off duty, will a personal electronic device be used in a manner that interferes with staff duty and responsibility for the supervision of students.

A “personal electronic device” is a device not issued by the public charter school and is capable of electronically communicating, sending, receiving, storing, recording, reproducing and/or displaying information and data.

To effectively supervise students and minimize disruptions to the learning environment, the following guidelines should be considered when using a personal cell phone or similar technologies:

- Use for emergencies.
- Use for classroom management purposes (e.g. Class Dojo, etc.).
- Some teachers use cell phones for communication with coworkers during the day. This is a personal choice.
- Classroom phones and email are also available for communication.

Devices, which have the capability to take photographs or record video or audio, shall not be used for such purposes while on public charter school property or while a staff member is on duty in public charter school-sponsored activities, unless as expressly authorized by the executive director or designee for a use directly related to and consistent with the employee’s assigned duties. Computers, tablets, iPads or similar devices brought to school will be restricted to academic activities during on duty time.

The public charter school will not be liable for loss or damage to personal communication devices brought to public charter school property and public charter school-sponsored activities.

Staff members, while on duty and off duty, will utilize social media websites, public websites and blogs, judiciously by not posting confidential information about students, staff or public charter school business.<sup>1</sup> Staff may not post images of school facilities, staff, students, volunteers or parents without written authorization from persons with authority to grant such a release. Staff members, while on duty and off duty, will treat fellow employees, students and the public with respect while posting on social media websites, etc., in order to prevent substantial disruption in school. Communication with students using personal electronic devices will be appropriate and professional. Communication with students using personal electronic devices regarding nonschool-related matters is prohibited during work hours and strongly discouraged at all other times. If communicating with students electronically regarding school-

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<sup>1</sup> Nothing in this policy is intended in any form to limit the right of employees to engage in protected labor activities via the use of social media.

related matters, staff should only use public charter school-approved methods of communication, e.g., Go Guardian, Google Classroom, school email. Other forms of communication shall require approval from the executive director prior to use. Texting students during work hours is prohibited. Texting students while off duty is strongly discouraged.

Exceptions to the prohibitions set forth in this policy may be made for health, safety or emergency reasons with executive director or designee approval.

Staff is subject to disciplinary action up to and including dismissal for using a personal electronic device in any manner that is illegal or violates the terms of this policy. Staff actions on social media websites, public websites and blogs, while on or off duty, which disrupt the school environment, are subject to disciplinary action up to and including dismissal. A “disruption”<sup>2</sup> for purposes of this policy includes but is not limited to, one or more parent threatens to remove their children from a particular class or particular school, actual withdrawal of a student or students from a particular class or particular school, and/or a threatened or actual negative impact on the learning environment.

The taking, disseminating, transferring or sharing of obscene, pornographic or otherwise illegal images or photographs, whether by electronic data transfer or otherwise (commonly called texting, sexting, emailing etc.) may constitute a crime under state and/or federal law. Any person taking, disseminating, transferring or sharing obscene, pornographic or otherwise illegal images or photographs, will be reported to law enforcement and/or other appropriate state or federal agencies.

Licensed staff are subject at all times to the Standards of Competent and Ethical Performance of Oregon Educators.

The executive director shall ensure that this policy is available to all employees.

END OF POLICY

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**Legal Reference(s):**

[ORS 167.057](#)  
[ORS 163.432](#)  
[ORS 163.433](#)  
[ORS 163.684](#)  
[ORS 163.686](#)  
[ORS 163.687](#)

[ORS 163.688](#)  
[ORS 163.689](#)  
[ORS 163.693](#)  
[ORS 163.700](#)  
[ORS 326.011](#)  
[ORS 326.051](#)

[ORS 336.840](#)  
[ORS 338.115\(2\)](#)  
[OAR 584-020-0000](#) to -0035

Copyrights, Title 17, as amended, United States Code; 19 C.F.R. Part 133 (2014).

Melzer v. Bd. Of Educ., City of New York, 336 F.3d 185 (2d Cir. 2003).

Ross v. Springfield Sch. Dist., No. FDA 80-1, aff'd, 56 Or. App. 197, rev'd and remanded, 294 Or. 357 (1982), order on remand (1983), aff'd, 71 Or. App. 111 (1984), rev'd and remanded, 300 Or. 507 (1986), order on second remand (1987), revised order on second remand (1988).

Corrected 4/25/23

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<sup>2</sup> Ibid. p. 1

# MITCH Charter School

Code: GCBDA/GDBDA

Adopted:

## Family Medical Leave

When applicable, the public charter school will comply with the provisions of the Family and Medical Leave Act (FMLA) of 1993, the Oregon Family Leave Act (OFLA) of 1995, the Military Family Leave Act as part of the National Defense Authorization Acts of 2008 and for Fiscal Year 2010 (which expanded certain leave to military families and veterans for specific circumstances), the Oregon Military Family Leave Act (OMFLA) of 2009 and other applicable provisions of Board policies and collective bargaining agreements regarding family medical leave.

FMLA applies to public charter schools with 50 or more employees within 75 miles of the employee's work site, based on employment during each working day during any of the 20 or more work weeks in the calendar year in which the leave is to be taken, or in the calendar year preceding the year in which the leave is to be taken. The 50 employee test does not apply to educational institutions for determining employee eligibility.

OFLA and OMFLA apply to public charter schools that employ 25 or more part-time or full-time employees in Oregon, based on employment during each working day during any of the 20 or more work weeks in the calendar year in which the leave is to be taken, or in the calendar year immediately preceding the year in which the leave is to be taken.

In order for an employee to be eligible for the benefits under FMLA, the employee must have been employed by the public charter school for at least 12 months and have worked at least 1,250 hours during the past 12-month period.

In order for an employee to be eligible for the benefits under OFLA, the employee must work an average of 25 hours per week and have been employed at least 180 calendar days prior to the first day of the family medical leave of absence. For parental leave purposes, an employee becomes eligible upon completing at least 180 calendar days immediately preceding the date on which the parental leave begins. There is no minimum average number of hours worked per week when determining employee eligibility for parental leave.

OMFLA applies to employees who work an average of at least 20 hours per week; there is no minimum number of days worked when determining an employee's eligibility for OMFLA.

Federal and state leave entitlements generally run concurrently.

The executive director will develop administrative regulations as necessary for the implementation of the provisions of both federal and state law.

END OF POLICY

**Legal Reference(s):**

[ORS 332.507](#)

[ORS 338.115](#)

[ORS 342.545](#)

[ORS 659A.090](#)

[ORS 659A.093](#)

[ORS 659A.096](#)

[ORS 659A.099](#)

[ORS 659A.150 to -659A.186](#)

[OAR 839-009-0200 to -0320](#)

Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213 (2012); 29 C.F.R. Part 1630 (2017); 28 C.F.R. Part 35 (2017).

Family and Medical Leave Act of 1993, 29 U.S.C. §§ 2601-2654 (2012); 5 U.S.C. §§ 6381-6387 (2012); Family and Medical Leave Act of 1993, 29 C.F.R. Part 825 (2017).

Americans with Disabilities Act Amendments Act of 2008.

Escriba v. Foster Poultry Farms, Inc. 743 F.3d 1236 (9<sup>th</sup> Cir. 2014).

Corrected 4/25/23



# MITCH Charter School

Code: GCBDA/GDBDA-AR(2)  
Revised/Reviewed:

## Employee Request for OFLA Leave

PLEASE PRINT

Where the need for the leave may be anticipated, written request for OFLA leave must be made, if practical, at least 30 days prior to the date the requested leave is to begin. Failure to provide timely notice could result in the public charter school reducing the available OFLA leave by up to three weeks.

Name \_\_\_\_\_ Effective Date of the Leave \_\_\_\_\_

Department \_\_\_\_\_ Title \_\_\_\_\_

Status:  Full-time  Part-time  Temporary Hire Date \_\_\_\_\_ Length of Service \_\_\_\_\_

I request OFLA leave for one or more of the following reasons:<sup>1</sup>

1.  Because of the birth of my child and to care for my child.

Expected date of birth \_\_\_\_\_ Actual date of birth \_\_\_\_\_  
Leave to start \_\_\_\_\_ Expected return date \_\_\_\_\_

2.  Because of the placement of a child with me for adoption or foster care.

Age of child \_\_\_\_\_ Date of placement \_\_\_\_\_  
Leave to start \_\_\_\_\_ Expected return date \_\_\_\_\_

3.  To care for a family member<sup>2</sup> with a serious health condition.

Leave to start \_\_\_\_\_ Expected return date \_\_\_\_\_

Please check one:  spouse<sup>3</sup>  parent (biological parent of an employee or an individual who stood “in loco parentis” to an employee when the employee was a child  child (including the biological, grandchild, adopted, foster child or stepchild of an employee or a child with whom the employee is or was in a relationship of “in loco parentis”  parent-in-law or the parent of the employee’s registered domestic partner  custodial parent  noncustodial parent  adoptive parent  stepparent  foster parent  grandparent  grandchild

<sup>1</sup> A physician’s certification may be required to support a request for OFLA leave. In addition, a fitness-for-duty certification may be required before reinstatement following the leave.

<sup>2</sup> “Family member,” means the spouse, custodial parent, noncustodial parent, adoptive parent, foster parent, biological parent, stepparent, parents-in-law or parents of the employee’s registered domestic partner, grandparent, grandchild or a person who was “in loco parentis” to the employee when the employee was a child. It also includes the child of the employee (biological, adopted, foster, stepchild, legal ward or the child of an employee’s registered domestic partner, or a child with whom the employee is or was in a relationship of “in loco parentis.”

<sup>3</sup> “Spouse” means individuals in a marriage including “common law” marriage, same-sex marriage or same-sex individuals with a Certificate of Registered Domestic Partnership.

Please state name and address of relation:

Name \_\_\_\_\_ Address \_\_\_\_\_

Describe serious health condition \_\_\_\_\_  
\_\_\_\_\_

- 4.  A sick child leave due to the closure of a child's school or child care provider.
- 5.  For a serious health condition which prevents me from performing my job functions.

Describe \_\_\_\_\_

Leave to start \_\_\_\_\_ Expected return date \_\_\_\_\_

Regarding 3 or 4 above, request intermittent (reduced workday hours) or reduced leave (fewer workdays each workweek) schedule or alternate duty (if applicable, subject to employer's approval). Please describe schedule of when you anticipate you will be unavailable to work: \_\_\_\_\_  
\_\_\_\_\_

- 6.  To care for a child with a condition requiring home care which does not meet the definition of serious health condition and is not life threatening or terminal.  Yes  No  
  
Have you taken OFLA leave in the past 12 months?  Yes  No  
If yes, how many workdays? \_\_\_\_\_
- 7.  Leave for the spouse of a military personnel when they have been notified of an impending call to active duty, ordered to active duty, has been deployed or is on leave from deployment.
- 8.  For the death of a family member.

I understand that I am required to use any available accrued paid leave, including personal and sick leave or available accrued vacation leave before taking OFLA leave without pay during the leave period. The school will specify the order in which the available paid leave is used.

If my request for a leave is approved, it is my understanding that without an authorized extension when the need for an extension could be anticipated, I must report to duty on the first workday following the date my leave is scheduled to end. I understand that failure to do so will constitute unequivocal notice of my intent not to return to work and the public charter school may terminate my employment. (A Fitness-for-Duty Certification may be required.)

I authorize the public charter school to deduct from my paychecks any employee contributions for health insurance premiums, life insurance or long-term disability insurance which remain unpaid after my leave, consistent with state law.

I have been provided a copy of the public charter school's family and medical leave policy with this OFLA leave request form.

Signature of Employee: \_\_\_\_\_ Date: \_\_\_\_\_

Corrected 4/25/23

# MITCH Charter School

Code: GCBDA/GDBDA-AR(3)  
Revised/Reviewed:

## Sample Letter to Employee - OFLA Leave

*The following is a sample cover letter to an employee notifying the employee that the employer is treating a request for leave as a request for OFLA leave (either paid or unpaid) that will reduce the employee's OFLA leave entitlement. This letter should be mailed to the employee within two working days after the employee's request for the leave along with the OFLA notice form.*

Dear Employee:

On \_\_\_\_\_ (date) you advised the public charter school that you were requesting a leave that may qualify for protected time under the Oregon Family Leave Act (OFLA). Under our policy, a leave of absence that qualifies for family and medical leave under state law, may run concurrently with other types of leave such as sick leave, vacation leave, and short-term disability leave. OFLA cannot run concurrently with a leave for workers' compensation injury or illness (unless you refuse a light-duty assignment).

[IF APPROVED: [We have determined the purpose of your requested leave qualifies as family or medical leave under state law. Accordingly, this letter is to notify you that the leave will be counted against your annual OFLA leave entitlement. Also attached is a form entitled OFLA Notice to Employee which contains other information for you regarding state family medical leave rights, including an estimate of time that will count toward your protected time.] ]

[IF NOT APPROVED: [We have determined the purpose of your requested leave does NOT qualify as family or medical leave under state and/or federal law. You may be entitled to other leave time, under Board policy or the collective bargaining agreement, however, the protections of OFLA will not be observed for this leave.] ]

If you have any questions regarding your leave, now or at any time during your leave, please contact [the personnel office] as soon as possible.

Sincerely,

Executive director

Enclosure (OFLA Notice to Employee form)

Corrected 4/25/23

# MITCH Charter School

Code: GCBDA/GDBDA-AR(4)  
Revised/Reviewed:

## OFLA Eligibility Notice to Employee

Date: \_\_\_\_\_

To: \_\_\_\_\_  
(Employee's name)

From: \_\_\_\_\_  
(Name of appropriate employer representative)

Subject: Request for OFLA Leave

On \_\_\_\_\_ (date) you notified us of your need to take Oregon Family Leave (OFLA) due to:

1. \_\_\_\_\_ The birth of your child or the placement of a child with you for adoption or foster care.
2. \_\_\_\_\_ A serious health condition that makes you unable to perform the essential functions of your job.
3. \_\_\_\_\_ A serious health condition of your  spouse<sup>1</sup>,  child (including the biological, grandchild, adopted, foster child or stepchild of an employee or a child with whom the employee is or was in a relationship of "in loco parentis"),  parent (biological parent of an employee or an individual who stood "in loco parentis" to an employee when the employee was a child),  grandparent,  parent-in-law or the parent of an employee's registered domestic partner,  custodial parent,  stepparent,  noncustodial parent,  adoptive parent,  foster parent for which you are needed to provide care.
4. \_\_\_\_\_ A sick child leave due to the closure of a child's school or child care provider;
5. \_\_\_\_\_ An illness or injury to your child which requires home care but is not a serious health condition.
6. \_\_\_\_\_ Your spouse has been notified of an impending call to active duty, has been ordered to active duty or has been deployed or on leave from deployment.
7. \_\_\_\_\_ For the death of a family member<sup>2</sup>.

You notified us that you need this leave beginning on \_\_\_\_\_ (date) and that you expect leave to continue until on or about \_\_\_\_\_ (date).

Except as explained below, you have a right under the OFLA for up to 12 workweeks of unpaid leave in a 12-month period for the reasons listed above.

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<sup>1</sup> "Spouse" means individuals in a marriage, including "common law" marriage and same-sex marriage. For OFLA, spouse also includes same-sex individuals with a Certificate of Registered Domestic Partnership.

<sup>2</sup> Must be completed within 60 days of the date on which the eligible employee receives notice of the death of the family member.

OFLA requires that you be reinstated to the same position, or in some cases under state law, to an equivalent position. The public charter school is not required to maintain benefits if you qualify for OFLA leave, unless provided otherwise by Board policy; all such benefits will be restored to full upon your return to the public charter school.

If you do not return to work following OFLA leave for a reason other than: (1) the continuation, recurrence or onset of a serious health condition which would entitle you to OFLA leave; or (2) other circumstances beyond your control, you may be required to reimburse the school for health insurance premiums paid on your behalf during your OFLA leave.

This is to inform you that (*check appropriate boxes, explain where indicated*):

1. You are  eligible  not eligible for leave under OFLA.
2. The requested leave  will  will not be counted against your annual OFLA leave entitlements.
3. You  will  will not be required to furnish a medical certification of a serious health condition. If required, you must furnish the certification by \_\_\_\_\_ (date) (must be at least 15 days after you are notified of this requirement).
4. You may elect to substitute accrued paid leave for unpaid OFLA leave. We  will  will not require that you substitute accrued paid leave for unpaid OFLA leave. If paid leave will be used, the following conditions will apply: (*Explain*)
5. a. If you choose to pay the premiums for your health insurance, these payments will continue during the period of leave. Arrangements for payment have been discussed with you and it is agreed that you will make premium payments as follows: (*Set forth dates, e.g., the 10th of each month or pay periods, etc., that specifically cover the agreement with the employee.*)
5. b. You have a minimum  30-day  Other: \_\_\_\_\_ (*indicate longer period, if applicable*) grace period in which to make premium payments. If payment is not timely made, your group health insurance may be canceled, **provided** we notify you in writing at least 15 days before the date your health coverage will lapse. At our option, we may also pay your share of the premiums during your OFLA leave as provided by Board policy and/or collective bargaining agreement, and recover these payments from you upon your return to work. We  will  will not pay your share of health insurance premiums while you are on OFLA leave.
5. c. We  will  will not do the same with other benefits (e.g., life insurance, disability insurance, etc.) while you are on OFLA leave. If we do pay your premiums for other benefits, when you return from leave you  will  will not be expected to reimburse us for the payments made on your behalf.
5. d. In the event you do not return to work for the school after your OFLA leave, and the school has paid your share of benefit premiums, you  will  will not be responsible for reimbursing the school the amount paid on your behalf.
6. You  will  will not be required to present a fitness-for-duty certification prior to being restored to employment following leave for your own serious health condition.

7. While on FMLA and/or OFLA leave you  will  will not be required to furnish us with periodic reports every \_\_\_\_\_ (*indicate interval of periodic reports, as appropriate for the particular leave situation*) of your status and intent to return to work. If the circumstances of your leave change and you are able to return to work earlier than the date indicated on this form, you  will  will not be required to notify us at least two workdays prior to the date you intend to report for work.
8. You are notified that all leave taken for the purposes of the death of a family member, counts toward the total period of authorized family leave.

Corrected 4/25/23

# MITCH Charter School

Code: GCBDA/GDBDA-AR(5)  
Revised/Reviewed:

## OFLA Medical Certification (To be completed by health care provider)

### Certification of Health Care Provider (Oregon Family Leave Act)

1. Employee's Name: \_\_\_\_\_
  2. Patient's Name (if different from employee): \_\_\_\_\_
  3. Does the patient's condition qualify as a serious health condition under any of the following reasons listed?  
 Yes  No  
  
If yes, please check the applicable reasons:  
 Inpatient care  Continuing treatment  Chronic conditions  Multiple treatments  
 Permanent, long-term or terminal conditions  Pregnancy and prenatal care
  4. Provide a brief statement as to how the medical facts meet the criteria of the category you checked above. \_\_\_\_\_  
\_\_\_\_\_
  5. What is the common name of the medical condition (e.g., cancer, diabetes, stroke, etc.): \_\_\_\_\_  
\_\_\_\_\_
  6. Please state the approximate date the condition commenced: \_\_\_\_\_,  
and the probable date the employee will be able to return to work: \_\_\_\_\_.
  7. Will it be necessary for the employee to work only intermittently or to work on a less than full schedule as a result of the condition?  Yes  No  
  
If yes, give the probable duration: \_\_\_\_\_
  8. If additional treatments will be required for the condition, provide an estimate of the probable number of such treatments.  
\_\_\_\_\_
- If the patient will miss work intermittently, please indicate dates and intervals of treatment, length of treatment, frequency of treatment, recovery time from treatment.  
\_\_\_\_\_
- If any of these treatments will be provided by another provider of health services (e.g., physical therapist), please state the nature of the treatments and the provider if known.  
\_\_\_\_\_

9. If the condition is a chronic condition, or pregnancy, state whether the patient is presently incapacitated and the likely duration and frequency of episodes of incapacity: \_\_\_\_\_  
\_\_\_\_\_
10. If a regimen of continuing treatment by the patient is required under your supervision, provide a general description of such regimen (e.g., prescription drugs, physical therapy requiring special equipment). \_\_\_\_\_  
\_\_\_\_\_
11. Is leave required to care for a family member with a serious health condition?  Yes  No
- If the family member will need care only intermittently or on a part-time basis, please indicate the probable duration of this need. \_\_\_\_\_  
\_\_\_\_\_
12. If leave is required to care for a family member of the employee with a serious health condition, does the patient require assistance for basic medical or personal needs or safety, or for transportation?  Yes  No
- If yes, briefly describe assistance required: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Health care provider

\_\_\_\_\_  
Date

\_\_\_\_\_  
Address

\_\_\_\_\_  
Phone Number

**To be completed by the employee needing family leave to care for a family member:**

State the care you will provide and an estimate of the period during which care will be provided, including a schedule if leave is to be taken intermittently or if it will be necessary for you to work less than a full schedule.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

Corrected 4/25/23





**Part A: Qualifying Reason for Leave**

1. Describe the reason you are requesting OMFLA (include the specific reason below, either a) an impending call or order to active duty, or b) impending leave for deployment):

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**Part B: Amount of Leave Needed**

1. The approximate date the active duty or deployment commenced: \_\_\_\_\_

The probable duration of such active duty or deployment: \_\_\_\_\_

2. Will you need to be absent from work for a single continuous period of time due to the active duty or deployment?  Yes  No

If yes, estimate the beginning and ending dates for the period of absence: \_\_\_\_\_

3. Will you need to be absent from work periodically to address this active duty or deployment?  Yes  No

If yes, estimate the schedule of leave, including the dates of any scheduled meetings or appointments:

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**Part D: Employee Signature**

I certify that the information I provided above is true and correct. (For Oregon Military Family Leave purposes, notice must be given by the employee within five business days of receiving an official notice.)

\_\_\_\_\_  
Signature of Employee

\_\_\_\_\_  
Date

Corrected 4/25/23

# MITCH Charter School

Code: GCBDA/GDBDA-AR(7)  
Revised/Reviewed:

## Designation Notice – OFLA

Leave covered under the Oregon Family Leave Act (OFLA) must be designated as OFLA-protected and the public charter school must inform the employee of the amount of leave that will be counted against the employee’s OFLA leave entitlement.

In order to determine whether leave is covered under the OFLA, the public charter school may request that the leave be supported by a physician’s certification. If the certification is incomplete or insufficient, the public charter school will state in writing what additional information is necessary to make the certification complete and sufficient.

Employee Name: \_\_\_\_\_ Date: \_\_\_\_\_

We have reviewed your request for leave under the OFLA and any supporting documentation that you have provided. We received your most recent information on \_\_\_\_\_ (date).

Please be advised:

- Your request is approved for OFLA. All leave taken for this reason will be designated as OFLA leave.

The OFLA requires that you notify us as soon as practicable if dates of scheduled leave change or are extended, or were initially unknown. Based on the information you have provided to date, we are providing the following information about the amount of time that will be counted against your entitlement:

- Provided there is no deviation from your anticipated leave schedule, the following number of hours, days or weeks will be counted against your leave entitlement:
- Because the leave you requested will be rescheduled, it is not possible to provide the hours, days or weeks that will be counted against your OFLA entitlement at this time. You have the right to request this information once in a 30-day period (if leave was taken in the 30-day period).

Please be advised (check if applicable):

- You have requested to use paid leave during your OFLA leave. Any paid leave taken for this reason will count against your OFLA leave entitlement.
- We are requiring you to substitute or use paid leave during your OFLA leave.

- You will be required to present a fitness-for-duty certification to be reinstated to your position. If such certification is not timely received, your return to work may be delayed until certification is provided. The Fitness-for-Duty Certification form is attached, please have your medical provider complete this form prior to the termination of your leave. A list of the essential functions of your position  is  is not attached. If attached, the fitness-for-duty certifications must address your ability to perform these functions.
- Additional information is needed to determine if your OFLA leave request can be approved.
- The certification you have provided is incomplete and insufficient to determine whether the OFLA applies to your leave procedures. You must provide the following information no later than \_\_\_\_\_ (date) (at least 15 calendar days), unless it is not practicable under the particular circumstances despite your diligent good faith efforts, or your leave may be denied. The information needed to make the certification complete and sufficient is:

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- We are exercising our right to have you obtain a second or third opinion medical certification at our expense, and we will provide further details at a later time.

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- Your OFLA leave request is NOT APPROVED.
- The OFLA does not apply to your leave request.
- You have exhausted your OFLA leave entitlement in the applicable 12-month period.

Corrected 4/25/23

# MITCH Charter School

Code: GCBDA/GDBDA-AR(8)

Revised/Reviewed:

## Fitness-for-Duty Certification

To: \_\_\_\_\_ Date: \_\_\_\_\_

From: \_\_\_\_\_

Subject: Fitness-for-Duty Certification

Family and medical leave for your own serious health condition ends on (date) \_\_\_\_\_. Prior to returning to work you must provide a Fitness-for-Duty Certification verifying whether you are able to return to work, if you have any job-related restrictions and the duration of any restrictions. Please take this Fitness-for-Duty Certification to your health care provider for completion. The school will use this Fitness-for-Duty Certification to determine if you are able to return to work after your leave.

**Return the completed Fitness-for-Duty Certification to the school prior to the end of your Family and Medical Leave or by (date) \_\_\_\_\_.**

### Fitness-for-Duty Certification

#### Health Care Provider Completes this Section

**Instructions:** Please complete all sections in order for the school to determine if the employee is able to return to duty. The employee's position description or a list of essential duties (school specifies which) is attached to this form.

1. The employee is able to return to work full-time without restrictions:  Yes  No
    - a. If yes, list the effective date: \_\_\_\_\_.
    - b. If no, complete the following:
      - (1) The employee will be able to return to work with no limitation on (date) \_\_\_\_\_.
      - (2) I certify that from (date) \_\_\_\_\_ to (date) \_\_\_\_\_ the above named employee will be:
        - (a) Unable to perform the physical requirements of their work; or
        - (b) Is medically incapacitated:  Totally  Partially\*\*
- \*\*If partially medically incapacitated, complete the following:
- (c) Number of hours per day employee is able to work: \_\_\_\_\_.
  - (d) Number of days per week employee is able to work: \_\_\_\_\_.

(3) List any restrictions on the employee's work: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Printed name of health care provider

\_\_\_\_\_  
Type of practice

\_\_\_\_\_  
Signature of health care provider

\_\_\_\_\_  
Date

**Health care provider: Please return the completed form to the employee/patient.**

Attached: Position description/description of essential duties (school specifies which).

Corrected 4/25/23

# MITCH Charter School

Code: GCBDC/GDBDC  
Adopted:

## Domestic Violence, Harassment, Sexual Assault, or Stalking Leave

### Definitions

1. “Covered employer” means an employer who employs six or more individuals in the state of Oregon for each working day through each of 20 or more calendar workweeks in the year in which the eligible employee takes leave to address domestic violence, harassment, sexual assault or stalking, or in the year immediately preceding the year in which an eligible employee takes leave for domestic violence, harassment, sexual assault or stalking.
2. “Eligible employee” means an employee who is a victim of domestic violence, harassment, sexual assault or stalking or is the parent or guardian of a minor child or dependent who is a victim of domestic violence, harassment, sexual assault or stalking.
3. “Protective order” means an order authorized by Oregon Revised Statutes (ORS) 30.866, 107.095(1)(c), 107.700 - 107.735, 124.005 - 124.040 or 163.730 - 163.750 or any other order that restrains an individual from contact with an eligible employee or the employee’s minor child or dependent.
4. “Victim of domestic violence” means an individual who has been a victim of abuse as defined by ORS 107.705; or an individual designated as a victim of domestic violence by rule adopted under ORS 659A.805.
5. “Victim of harassment” means an individual against whom harassment has been committed as described in ORS 166.065 and any other individual designated as a victim of harassment by rule adopted under ORS 659A.805.
6. “Victim of sexual assault” means an individual against whom a sexual offense has been committed as described in ORS 163.467 or 163.525; or any other individual designated as a victim of sexual assault by rule adopted under ORS 659A.805.
7. “Victim of stalking” means an individual against whom stalking has been committed as described in ORS 163.732; or an individual designated as a victim of stalking by rule adopted under ORS 695A.805; or an individual who has obtained a court’s stalking protective order or a temporary court’s stalking protective order under ORS 30.866.
8. “Victim services provider” means a prosecutor-based victim assistance program or a nonprofit program offering safety planning, counseling, support or advocacy related to domestic violence, harassment, sexual assault or stalking.

A public charter school (covered employer) shall allow an (eligible) employee to take reasonable leave for any of the following reasons:

1. To seek legal or law enforcement assistance or remedies to ensure the health and safety of the employee or the employee's minor child or dependent, including preparing for and participating in protective order proceedings or other civil or criminal legal proceedings related to domestic violence, harassment, sexual assault, or stalking;
2. To seek medical treatment for or to recover from injuries caused by domestic violence or sexual assault to or harassment or stalking of the eligible employee or the employee's minor child or dependent;
3. To obtain or assist a minor child or dependent in obtaining counseling from a licensed mental health professional related to an experience of domestic violence, harassment, sexual assault, or stalking;
4. To obtain services from a victim services provider for the eligible employee or the employee's minor child or dependent;
5. To relocate or take steps to secure an existing home to ensure health and safety of the eligible employee or the employee's minor child or dependent.

The public charter school may limit the amount of leave, if the employee's leave creates an undue hardship on the public charter school.

The public charter school shall not deny leave to an employee or discharge, threaten to discharge, demote, suspend or in any manner discriminate or retaliate against an employee with regards to promotion, compensation or other terms, conditions or privileges of employment as a result of taking such leave.

The employee shall give the public charter school reasonable advanced notice of the employee's intent to take leave unless giving advance notice is not feasible.

The public charter school may require the employee to provide certification that:

1. The employee or minor child or dependent is a victim of domestic violence, harassment, sexual assault, or stalking; and
2. The leave is taken for one of the identified purposes in this policy.

Sufficient certification includes:

1. A copy of a report from law enforcement indicating the employee or child/dependent was a victim of domestic violence, harassment, sexual assault, or stalking;
2. A copy of a protective order or other evidence from a court, administrative agency or attorney that the employee appeared in or was preparing for a civil, criminal or administrative proceeding related to domestic violence, harassment, sexual assault, or stalking;



3. Documentation from an attorney, law enforcement officer, health care professional, licensed mental professional or counselor, members of the clergy or a victim services provider that the employee, employee's child or dependent was undergoing counseling, obtaining services or relocating as a result of domestic violence, harassment, sexual assault, or stalking.

All records and information kept by the public charter school regarding the employee's leave, including the request or obtaining of leave is confidential and may not be released without the express permission of the employee unless otherwise required by law. This information will be kept in a file separate from the employee's personnel file.

The employee may use accrued paid leave that is offered by the public charter school, including personal, sick, and vacation leave. The employer may choose the order in which paid accrued leave is to be used when more than one type of paid leave is available consistent with Board policies.

END OF POLICY

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**Legal Reference(s):**

[ORS 192.355\(38\)](#)

[ORS 659A.270 - 659A.290](#)

Corrected 4/25/23

# MITCH Charter School

Code: GCBDC/GDBDC-AR  
Revised/Reviewed:

## Request for Domestic Violence, Harassment, Sexual Assault or Stalking Leave

PLEASE PRINT

Where the need for the leave may be anticipated, a written request for leave under Oregon Revised Statute (ORS) 659A.270 - 659A.285 shall be made at least 30 days prior to the date the requested leave is to begin. In emergency situations, oral or written notice as soon as practical is allowed.

Name of Eligible Employee \_\_\_\_\_ Effective Date of the Leave \_\_\_\_\_

Department \_\_\_\_\_ Title \_\_\_\_\_

Status:  Full-time  Part-time  Temporary Hire Date \_\_\_\_\_ Length of Service \_\_\_\_\_

The requested leave is for:

- Myself
- My minor child or dependent

The leave is for:

- To seek legal or law enforcement assistance or remedies to ensure the health and safety of the eligible employee or the eligible employee's minor child or dependent.
- To seek medical treatment for or to recover from injuries caused by domestic violence, harassment, sexual assault or stalking for the eligible employee or the eligible employee's minor child or dependent.
- To obtain or assist the eligible employee's minor child or dependent in obtaining counseling from a licensed mental health professional related to an experience of domestic violence, harassment, sexual assault or stalking.
- To obtain services from a victim services provider for the eligible employee or the eligible employee's minor child or dependent.
- To relocate or take steps to secure an existing home to ensure the health and safety of the eligible employee or the eligible employee's minor child or dependent.

The following has been provided by the employee to certify the leave:

- A copy of a report from law enforcement indicating that the eligible employee or the eligible employee's minor child or dependent was a victim or alleged victim of domestic violence, harassment, sexual assault or stalking.
- A copy of a protective order or any other order that restrains an individual from contact with an eligible employee or the employee's minor child or dependent, evidence from a court, administrative

agency or attorney that the eligible employee appeared in or is preparing for a civil or criminal proceeding related to domestic violence, harassment, sexual assault or stalking or other order authorized by ORS 30.866, 107.095(1)(c), 107.700 - 107.735, 124.005 - 124.040 or 163.730 - 163.750.

- Documentation from an attorney, law enforcement officer, health care professional, licensed mental health professional or counselor, member of the clergy or victim services provider with or from whom the eligible employee or the eligible employee's minor child or dependent is receiving services.

I understand that the public charter school requires me to use any accrued sick leave, vacation, personal leave days or other paid time established by Board policy(ies) in the order specified by the public charter school.

If my request for a leave is approved, it is my understanding that without an authorized extension when the need for an extension could be anticipated, I must report to duty on the first workday following the date my leave is scheduled to end. I understand that failure to do so will constitute unequivocal notice of my intent not to return to work and the public charter school may terminate my employment. I understand if I am unable to return to work following the period of authorized leave I will notify my employer as soon as practical and provide any required information which will allow my employer to determine my eligibility for an extension of leave.

I authorize the public charter school to deduct from my paychecks any employee contributions for health insurance premiums, life insurance or long-term disability insurance which remain unpaid after my leave, consistent with state law.

Signature of Employee: \_\_\_\_\_ Date: \_\_\_\_\_

Corrected 4/25/23

# MITCH Charter School

Code: GCDA/GDDA

Adopted:

## Criminal Records Checks and Fingerprinting

In a continuing effort to ensure the safety and welfare of students and staff, the public charter school shall require all newly hired full-time and part-time employees<sup>1</sup> not requiring licensure under Oregon Revised Statute (ORS) 342.223 to submit to a criminal records check and/or fingerprinting as required by law. Other individuals, as determined by the public charter school, that will have direct, unsupervised contact with students shall submit to criminal records checks and/or fingerprinting, as established by Board policy and as required by law.

“Direct, unsupervised contact with students” means contact with students that provides the person opportunity and probability for personal communication or touch when not under direct supervision.

Pursuant to state law, criminal records checks or fingerprint-based criminal records checks shall be required of the following individuals<sup>2</sup>:

1. All individuals employed as or by a contractor, whether employed part-time or full-time, considered by the public charter school to have direct, unsupervised contact with students;
2. Any community college faculty member providing instruction at the site of an early childhood education program, a school site as part of an early childhood program or at a grade K through 12 school site during the regular school day;
3. Any individual considered for volunteer service with the public charter school who is allowed to have direct, unsupervised contact with students.

The public charter school will provide the written notice about the requirements of fingerprinting and criminal records checks through means such as staff handbooks, employment applications, contracts or volunteer forms.

The procedure for processing fingerprint collection is further outlined in GCDA/GDDA-AR – Criminal Records Checks and Fingerprinting.

A subject individual shall be subject to the collection of fingerprint information, only after the offer of employment or contract from the public charter school and may be charged a fee by the public charter school. A subject individual may request the fee be withheld from the amount otherwise due the individual.

When the public charter school is notified of a subject individual who has been convicted of any crimes prohibiting employment or contract the individual will not be employed or contracted, or if employed will be terminated. When the public charter school is notified of a subject individual who knowingly made a false statement as to the conviction of any crime, the individual may be employed or contracted with by the public charter school, or if employed by the public charter school may be terminated. A subject

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<sup>1</sup> Any individual hired within the last three months. A subject individual does not include an employee hired within the last three months if the public charter school has evidence on file that meets the definition in Oregon Administrative Rule (OAR) 581-021-0510(11)(b).

<sup>2</sup> Subject individuals and requirements are further outlined in GCDA/GDDA-AR - Criminal Records Checks and Fingerprinting.

individual who failed to disclose the presence of convictions that would not otherwise prohibit employment or contract with the public charter school as provided by law may be employed or contracted with by the public charter school.

The public charter school's use of criminal history must be relevant to the specific requirements of the position, services or employment.

The public charter school shall begin the employment of a subject individual or terms of a public charter school contractor on a probationary basis pending the return and disposition of the required criminal records check.

The service of a volunteer allowed to have direct, unsupervised contact with students will not begin before the return and disposition of a criminal records check.

A volunteer who knowingly made a false statement or has a conviction of the crimes listed in ORS 342.143, or the substantial equivalent of any of those crimes if the conviction occurred in another jurisdiction or in Oregon under a different statutory name or number may result in immediate termination from the ability to volunteer in the public charter school.

The public charter school executive director shall develop administrative regulations as necessary to meet the requirements of law.

## Appeals

A subject individual may appeal a determination from ODE that prevents employment or eligibility to contract with the public charter school to the Superintendent of Public Instruction as a contested case under ORS 183.413 – 183.470.

A volunteer may appeal a determination from a fingerprint-based criminal records checks by ODE that prevents the ability to volunteer with the school to the Superintendent of Public Instruction as a contested case under ORS 183.413 – 183.470.

END OF POLICY

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### Legal Reference(s):

[ORS 181A.180](#)  
[ORS 181A.230](#)  
[ORS 326.603](#)  
[ORS 326.607](#)  
[ORS 336.631](#)

[ORS 338.115\(1\)\(h\)](#)  
[ORS 342.127](#)  
[ORS 342.143](#)  
[ORS 342.223](#)

[OAR 414-061-0010 - 0030](#)  
[OAR 581-021-0510 – 021-0512](#)  
[OAR 581-022-2430](#)  
[OAR 584-050-0012](#)

Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, et. seq. (2012).

Corrected 4/25/23

# MITCH Charter School

Code: GCDA/GDDA-AR

Revised/Reviewed:

## Criminal Records Checks and Fingerprinting

### Requirements

1. An individual who is an employee<sup>1</sup> of a public charter school, full-time or part-time, shall be required to submit to a criminal records check and fingerprinting.
2. Any individual newly hired, whether full-time or part-time employee<sup>2</sup> and not requiring licensure under ORS 342.223 as a teacher, executive director, personnel specialist or school nurse, shall be required to submit to a criminal records check and fingerprinting.
3. Any individual applying for reinstatement of an Oregon license with the Teacher Standards and Practices Commission (TSPC) that has lapsed for more than three years shall be required to submit to a criminal records check and fingerprinting with TSPC.
4. Any individual registering with the TSPC for student teaching, practicum or internship as a teacher, executive director or personnel specialist shall be required to submit to a criminal records check and fingerprinting with TSPC.
5. Any individual hired as or by a contractor and<sup>3</sup>, whether part-time or full-time, into a position having direct, unsupervised contact with students as determined by the public charter school shall submit to a criminal records check and fingerprinting.

The public charter school executive director will identify contractors who are subject to such requirements.

6. Any community college faculty member providing instruction at the site of an early childhood education program, a school site as part of an early childhood program or at a grade K through 12 school site during the regular school day, shall be required to undergo a criminal records check and fingerprinting.
7. Any person applying for a volunteer position with the school shall submit to an in-state criminal records check.

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<sup>1</sup> Any individual hired within the last three months. A subject individual does not include an employee hired within the last three months if the public charter school has evidence on file that meets the definition in Oregon Administrative Rule (OAR) 581-021-0510(11)(b).

<sup>2</sup> Ibid. 1 p. 1

<sup>3</sup> A contractor's employee may not be required to submit to fingerprinting until the contractor has been offered a contract by the public charter school.

## Exceptions

A newly hired employee<sup>4</sup> is not subject to fingerprinting if the public charter school has evidence on file that the employee successfully completed a state and national criminal records check for a previous employer that was a public charter school, ESD or school district, and has not resided outside the state between the two periods of employment.

## Notification

1. The public charter school will provide the following notification to individuals subject to criminal records checks and/or fingerprinting:
  - a. Such criminal records checks and/or fingerprinting are required by law or Board policy;
  - b. Any action resulting from such checks completed by the Oregon Department of Education (ODE) that impact employment, contract or volunteering may be appealed as a contested case to ODE;
  - c. All employment or contract offers or the ability to volunteer are contingent upon the results of such checks;
  - d. A refusal to consent to a required criminal records check and/or fingerprinting shall result in immediate termination from employment, contract status or the ability to volunteer in the public charter school;
  - e. An individual determined to have knowingly made a false statement as to the conviction of any crime on public charter school employment applications, contracts or ODE forms (written or electronic) may result in immediate termination from employment or contract status;
  - f. An individual determined to have been convicted of any crime that would prohibit employment or contract will be immediately terminated from employment or contract status;
  - g. A volunteer candidate who knowingly made a false statement or has a conviction of the crimes listed in ORS 342.143, or the substantial equivalent of any of those crimes if the conviction occurred in another jurisdiction or in Oregon under a different statutory name or number may result in immediate termination from the ability to volunteer with the public charter school. The public charter school may remove the volunteer from the position allowing direct, unsupervised contact with students.
2. The public charter school will provide the written notice described above through means such as staff handbooks, employment applications, contracts or volunteer forms.

## Processing and Reporting Procedures

1. Immediately following an offer and acceptance of employment or contract, an individual subject to criminal records checks and/or fingerprinting shall complete the appropriate forms authorizing such checks and report to an authorized fingerprinter as directed by the public charter school. The public charter school shall send such authorization, any collection of fingerprint information, and the request to ODE pursuant to law.
2. Fingerprints may be collected by one of the following:
  - a. Employing public charter school staff;
  - b. Contracted agent of employing public charter school; or
  - c. Local or state law enforcement agency.

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<sup>4</sup> Any individual hired within the last three months.

3. To ensure the integrity of the fingerprinting collection and prevent any compromise of the process, the public charter school will provide the name of the individual to be fingerprinted to the authorized fingerprinter.
4. The authorized fingerprinter will obtain the necessary identification and fingerprinting and notify ODE of the results. ODE will then review and notify the public charter school of said results as well as the identity of any individual it believes has knowingly made a false statement as to conviction of a crime, has knowingly made a false statement as to conviction of any crime or has a conviction of a crime prohibiting employment, contract or volunteering.
5. A copy of the fingerprinting results will be kept by the public charter school.

## **Fees**

1. Fees associated with criminal records checks and/or fingerprinting for individuals applying for employment with the public charter school including persons hired as or by contractors, shall be paid by the public charter school.
2. An individual offered a contract or employment by the public charter school may, only upon request, request that the amount of the fee be withheld from the amount otherwise due the individual in accordance with Oregon law.
3. Fees associated with required criminal records checks for volunteers shall be paid by the public charter school.

## **Termination of Employment or Withdrawal of Employment/Contract Offer/Volunteer Status**

1. A subject individual required to submit to a criminal records check and/or fingerprinting in accordance with law and/or Board policy will be terminated from employment or contract status, or withdrawal of offer of employment or contract will be made by the public charter school upon:
  - a. Refusal to consent to a criminal records check and/or fingerprinting; or
  - b. Notification<sup>5</sup> from the Superintendent of Public Instruction that the employee has a conviction of any crimes listed in ORS 342.143, or the substantial equivalent of any of those crimes if the conviction occurred in another jurisdiction or in Oregon under a different statutory name or number.
2. A subject individual may be terminated from employment or contract status upon notification from the Superintendent of Public Instruction that the employee has knowingly made a false statement as to the conviction of any crime.
3. Employment termination shall remove the individual from any public charter school policies, collective bargaining provisions regarding dismissal procedures and appeals and the provisions of Accountability for Schools for the 21st Century Law.
4. A volunteer who refuses to submit, when required, to a criminal records check or a fingerprint-based criminal records check in accordance with law and/or Board policy will be denied such ability to volunteer in the public charter school.
5. If the public charter school has been notified by the Superintendent of Public Instruction that a volunteer knowingly made a false statement or has a conviction for any crimes listed in ORS

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<sup>5</sup> Prior to making a determination that results in this notification and opportunity for a hearing, the Superintendent of Public Instruction may cause an investigation pursuant to OAR 581-021-0511; involved parties shall cooperate with the investigation pursuant to law.



342.143, or the substantial equivalent of any of those crimes if the conviction occurred in another jurisdiction or in Oregon under a different statutory name or number, the individual may be denied the ability to volunteer.

6. A volunteer who knowingly makes a false statement, as determined by the public charter school, on a public charter school volunteer application form may be denied the ability to volunteer in the public charter school.

### **Appeals**

A subject individual may appeal a determination from ODE that prevents employment or eligibility to contract with the public charter school to the Superintendent of Public Instruction as a contested case under ORS 183.413 – 183.470.

A volunteer may appeal a determination from a fingerprint-based criminal records check by ODE that prevents the ability to volunteer with the public charter school to the Superintendent of Public Instruction as a contested case under ORS 183.413 – 183.470.

Corrected 4/25/23

# MITCH Charter School

Code: GCL

Adopted:

## Staff Development - Licensed

The Board recognizes the importance of continued educational experiences and other professional growth activities as a means to improve job performance. Continual work toward professional growth will be expected of all licensed staff members.

Professional development activities may include, but are not limited to, college courses, workshops, curriculum planning, research, travel, supervision of teacher trainees and other activities approved by the supervisor. Professional development offerings from the public charter school may be planned to help licensed employees meet the requirements of their licenses. The public charter school will provide appropriate, reasonable accommodations to ensure such training, whether provided by the public charter school or through public charter school contracts with third parties, is made available for qualified employees with disabilities.

Requests for release time for attendance at meetings or conferences may be approved by the executive director as deemed appropriate by the public charter school and with the stipulation that:

1. Requests are to be submitted sufficiently in advance to permit executive director consideration; and
2. Where release time is granted, a written report will be submitted to the administration after such meeting or conference. Where such meetings or conferences are devoted primarily or exclusively to organizational or business affairs of associations of teachers, political workshops, training sessions for consultation committees and like activities, it is not considered appropriate for the Board to expend public charter school funds.

Each individual licensed employee is solely responsible for ensuring accurate completion of the professional development required for licensure. Once a licensed employee completes licensure requirements, the employee must submit evidence to the executive director, who will verify that the licensed employee has successfully completed the professional development requirements to the executive director, on the Teacher Standards and Practices Commission (TSPC) Professional Educational Experience Report (PEER) form.

END OF POLICY

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### Legal Reference(s):

[ORS 338.115\(2\)](#)  
[ORS 342.138\(3\)](#)

[ORS 342.856](#)

[OAR 584-018-0205](#)  
[OAR 584-255-0010 to -0030](#)

Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213; 29 C.F.R. Part 1630 (2017); 28 C.F.R. Part 35 (2017).  
Americans with Disabilities Act Amendments Act of 2008.

Corrected 4/25/23

# MITCH Charter School

Code: GCL-AR

Revised/Reviewed:

## Staff Development - Licensed

The completion of professional development requirements, as set forth in Oregon Administrative Rule (OAR) Chapter 584, Division 255 by the Teacher Standards and Practices Commission (TSPC) for licensing or license renewal, is the sole responsibility of the employee.

1. Each professional licensed employee employed by the public charter school shall meet the standards as stated in OAR 584-420-0030 for:
  - a. Learner and Learning:
    - (1) Learner development;
    - (2) Learning differences;
    - (3) Learning environments.
  - b. Content:
    - (1) Content knowledge;
    - (2) Application of content.
  - c. Instructional Practice:
    - (1) Assessment;
    - (2) Planning for instruction;
    - (3) Instructional strategies.
  - d. Professional Responsibility:
    - (1) Professional learning and ethical practice;
    - (2) Leadership and collaboration.
2. The continuing professional development of each licensed employee shall conform to the following standards for professional development as stated in OAR 584-255-0020:
  - a. Learning Communities: Professional learning that increases educator effectiveness and results for all students occurs within learning communities committed to continuous improvement, collective responsibility and goal alignment;
  - b. Leadership: Professional learning that increases educator effectiveness and results for all students requires skillful leaders who: develop capacity, advocate and create support systems for professional learning;
  - c. Resources: Professional learning that increases educator effectiveness and results for all students requires prioritizing, monitoring and coordinating resources for educator learning;
  - d. Data: Professional learning that increases educator effectiveness and results for all students uses a variety of sources and types of student, educator and system data to plan, assess and evaluate professional learning;

- e. Learning Designs: Professional learning that increases educator effectiveness and results for all students integrates theories, research and models of human learning to achieve its intended outcomes;
  - f. Implementation: Professional learning that increases educator effectiveness and results for all students applies research on change and sustains support for implementation of professional learning for long term change;
  - g. Outcomes: Professional learning that increases educator effectiveness and results for all students aligns its outcomes with educator performance and student curriculum standards.
3. Each employee is responsible for acquiring the number of continuing professional development units (PDUs) to meet the requirements as stated by the TSPC.
  4. The public charter school will attempt to offer as many professional development activities as recognized needs warrant and resources permit.
  5. Acceptable professional development activities shall be those reviewed and approved by the employee's executive director and for which evidence is submitted to verify completion.
  6. Licensed individuals transferring to the public charter school from another public charter school or a district, including those educators hired without previous experience, shall submit any PDUs of credit earned to their executive director for review.
  7. Upon receipt of evidence from an employee, the employee's executive director shall verify completion of the required PDUs for license renewal on the TSPC-provided Professional Educational Experience Report (PEER) form, and submit the form to the executive director.
  8. The executive director shall ensure that the required forms are submitted to the TSPC.
  9. Completed TSPC, PEER forms shall be filed in the employee's personnel file.

Corrected 4/25/23

# MITCH Charter School

Code: GCN/GDN

Adopted:

## Evaluation of Staff

An effective evaluation program is essential to a quality educational program. It is an important tool to determine the current level of a teacher's performance of the teaching responsibilities. It is also an important assessment of non-licensed employees and current performance of their job assignments. Under Board policy, administrators are charged with the responsibility of evaluating the staff. An evaluation program provides a tool for supervisors who are responsible for making decisions about promotion, demotion, contract extension, contract non-extension, contract renewal or non-renewal, dismissal and discipline.

### Licensed Staff

The evaluation for licensed staff shall be based on the core teaching standards adopted by the Oregon State Board of Education. The standards shall be customized based on collaborative efforts with teachers and any exclusive representatives of the licensed staff.

Evaluation and support systems established by the public charter school for teachers must be designed to meet or exceed the requirements defined in the Oregon Framework for Teacher and Executive director Evaluation and Support Systems, including:

1. Four performance level ratings of effectiveness;
2. Classroom-level student learning and growth goals set collaboratively between the teacher and the evaluator;
3. Consideration of multiple measures of teacher practice and responsibility which may include, but are not limited to:
  - a. Classroom-based assessments including observations, lesson plans and assignments;
  - b. Portfolios of evidence;
  - c. Supervisor reports; and
  - d. Self-reflections and assessments.
4. Consideration of evidence of student academic growth and learning based on multiple measures of student progress, including performance data of students, that is both formative and summative. Evidence may also include other indicators of student success;
5. A summative evaluation method for considering multiple measures of professional practice, professional responsibilities, and student learning and growth to determine the teacher's professional growth path;
6. Customized by each public charter school, which may include individualized weighting and application of standards.

An evaluation using the core teaching standards must attempt to:

1. Strengthen the knowledge, skills, disposition and classroom practices of teachers;
2. Refine the support, assistance and professional growth opportunities offered to a teacher, based on the individual needs of the teacher and the needs of the students and the public charter school;
3. Allow the teacher to establish a set of classroom practices and student learning objectives that are based on the individual circumstances of the teacher, including the classroom and other assignments;
4. Establish a formative growth process for each teacher that supports professional learning and collaboration with other teachers;
5. Use evaluation methods and professional development, support and other activities that are based on curricular standards and are targeted to the needs of the teacher; and
6. Address ways to help all educators strengthen their culturally responsive practices.

Evaluation and support systems established by the public charter school must evaluate teachers on a regular cycle. The executive director shall regularly report to the Board on implementation of the evaluation and support systems and educator effectiveness.

Each probationary teacher shall be evaluated at least annually, but with multiple observations. The purpose of the evaluation is to aid the teacher in making continuing professional growth and to determine the teacher's performance of the teaching responsibilities. Evaluations shall be based upon at least two observations and other relevant information developed by the public charter school.

### **Non-licensed Staff**

All non-licensed employees will be formally evaluated at least once during their first year of employment and at least once each year thereafter.

END OF POLICY

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#### **Legal Reference(s):**

[ORS 243.650](#)  
[ORS 332.505](#)  
[ORS 338.115](#)

[ORS 342.815 to -342.934](#)  
[OAR 581-022-2405](#)

[OAR 581-022-2410](#)  
[OAR 581-022-2415](#)

Corrected 4/25/23

# MITCH Charter School

Code: GCPC/GDPC

Adopted:

## Retirement of Staff

To assist the public charter school in its planning efforts, staff members considering retirement are encouraged to notify the public charter school as early as possible, preferably at the beginning of the school year in which the retirement will take place.

Retiring employees are encouraged to coordinate with PERS and the executive director or business manager to ensure that all requirements are met. The executive director will develop requirements, limitations and procedures for employment as a PERS-retiree.

When an employee of the public charter school retires under PERS, that employee's employment with the public charter school will terminate. PERS-retired individuals may apply for open positions with the public charter school.<sup>1</sup>

END OF POLICY

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### Legal Reference(s):

[ORS Chapter 237](#)

[ORS Chapter 238](#)

[ORS Chapter 238A](#)

[ORS 243.303](#)

[ORS 342.120](#)

Consolidated Omnibus Budget Reconciliation Act of 1985, 29 U.S.C. §§ 1161-1169 (2018).

Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001-1461 (2018).

OR. CONST., art. IX, §§ 10-13.

Corrected 4/25/23

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<sup>1</sup> There must be a break in service for retired employees returning to work.

# MITCH Charter School

Code: GCPD  
Adopted:

## Discipline and Dismissal of Staff

The Board will use due process when disciplining and/or dismissing employees.

END OF POLICY

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### Legal Reference(s):

[ORS 338.115](#)

[ORS 652.140](#)

[OAR 584-020-0040](#)

Corrected 4/25/23



# MITCH Charter School

Code: GCPD-AR

Revised/Reviewed:

## Discipline and Dismissal of Staff

The Board will use due process and comply with all relevant portions of state and/or federal law, as applicable, when disciplining and/or dismissing employees.

### Discipline

Discipline may be in the form of verbal reprimand, written reprimand or suspension depending on the circumstances of each case. Staff members will be disciplined, when in the sole discretion of the executive director or designee, such action is warranted. The level of any discipline issued shall also be at the sole discretion of the executive director or designee and will be based on the severity and frequency of the conduct at issue.

1. “Verbal Reprimand”: The executive director will hold a conference with the employee. He/She will outline the nature of the problem and consider any comments from the employee. The executive director will indicate compliance with specified procedures or cessation of certain conduct is required and future consequences if the employee fails to follow the directives given as expected. A notation of the date of the conference, the individual(s) present and the points discussed at such conference shall be maintained in the executive director’s working files.
2. “Written Reprimand”: The executive director will hold a conference with the employee. The executive director will outline the nature of the problem and consider any comments from the employee. If after considering the comments presented by the employee, the executive director determines a written reprimand is appropriate, he/she will outline in a written “letter of reprimand” compliance with specified procedures and/or notate that cessation of certain conduct is required and/or the future consequences if the employee fails to follow any directives given as expected. The “letter of reprimand” issued shall be placed in the employee’s personnel file. The employee may choose to submit a letter of rebuttal regarding the “letter of reprimand” received; and if submitted, such rebuttal shall be placed in the employee’s personnel file.
3. “Suspension with Pay”: Employees may be suspended with pay in order to maintain the health and/or safety of other employees and/or students and pending the outcome of any related investigation. Employees may also be suspended with pay pending the outcome of an investigation of complaints regarding their job performance or conduct. Any such investigation shall be conducted promptly.
4. “Suspension without Pay”: As a result disciplinary actions against an employee, an employee may be suspended without pay. In any such instance, the executive director will hold a conference with the employee. The employee shall be given advance notice of the conference, the level of discipline being considered and the reason(s) such discipline is being considered.

If so requested by the employee, the employee may have a representative present of their choice. However, such representative may not be a school employee who is “on-duty” at the time of the conference.

During the conference, the executive director will outline the specific reason(s) for the conference including any findings reached during the school's related investigation. Comments from the employee concerning the information presented must be considered. A second meeting with the employee may be required so that in the interim, the executive director can properly consider the employee's comments and any new information presented.

If after considering the comments presented by the employee the executive director determines an unpaid suspension is appropriate, he/she will outline in a written "letter of reprimand/suspension," compliance with specified procedures and/or notate that cessation of certain conduct is required and/or the future consequences if the employee fails to follow any directives given as expected. The "letter of reprimand/suspension" issued shall be placed in the employee's personnel file. The employee may choose to submit a letter of rebuttal regarding the "letter of reprimand/suspension" received, and if submitted, such rebuttal shall be placed in the employee's personnel file.

### **Dismissal**

In the event dismissal is deemed warranted, the executive director will hold a conference with the employee. The employee shall be given advance notice of the conference, the level of discipline being considered and the reason(s) such discipline is being considered.

If so requested by the employee, the employee may have a representative present of his/her choice. However, such representative may not be a school employee who is "on-duty" at the time of the conference.

During the conference, the executive director will outline the specific reason(s) for the conference including any findings reached during the school's related investigation and any previous related discipline issued. Comments from the employee concerning the information presented must be considered. A second meeting with the employee may be required so that in the interim, the executive director can properly consider the employee's comments and any new information presented.

If after considering the comments presented by the employee it is determined dismissal is appropriate, the executive director will notify the employee in writing of such determination. This "letter of dismissal" will outline the specific reasons for the determination reached; include any supporting information considered; and any related discipline issued to the employee in the past. This letter shall be placed in the employee's personnel file. The employee may choose to submit a letter of rebuttal regarding the "letter of dismissal" received, and if submitted, such rebuttal shall be placed in the employee's personnel file.

### **Illness/Other Circumstances**

Illness and/or other circumstances which prevent an employee from performing the essential functions of his/her position as expected must be considered by the school prior to disciplining or dismissing the employee. Depending on the specific situation in question, state and/or federal law may require additional procedures and/or considerations and may limit the school's ability to discipline and/or dismiss an employee.

## **Wages**

Whenever an employee is dismissed or where such employment is terminated by mutual agreement, all wages earned and unpaid at the time of discharge or termination shall be payable no later than the end of the first business day after discharge or termination.

Corrected 4/25/23