

KI CHARTER BOARD POLICY MANUAL

POLICY GROUP 4 – PERSONNEL EQUAL EMPLOYMENT OPPORTUNITY

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Sec. 1. NONDISCRIMINATION IN GENERAL

Ki Charter shall not fail or refuse to hire or discharge any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment on the basis of any of the following protected characteristics:

1. Race, color, or national origin;
2. Sex;
3. Religion;
4. Age (applies to individuals who are 40 years of age or older);
5. Disability; or
6. Genetic information.

42 U.S.C. 1981; 42 U.S.C. 2000e et seq. (Title VII); 20 U.S.C. 1681 et seq. (Title IX); 42 U.S.C. 12111 et seq. (Americans with Disabilities Act); 29 U.S.C. 621 et seq. (Age Discrimination in Employment Act); 29 U.S.C. 793, 794 (Rehabilitation Act); 42 U.S.C. 2000ff et seq. (Genetic Information Nondiscrimination Act); U.S. Const. Amend. I; Human Resources Code 121.003(f); Texas Labor Code Chapter 21 (Texas Commission on Human Rights Act); Texas Labor Code Chapter 21, Subchapter H (genetic information).

a) *Job Qualification*

Ki Charter may take employment actions based on religion, sex, national origin, or age in those certain instances where religion, sex, national origin, or age is a bona fide occupational qualification. *42 U.S.C. 2000e-2(e); 29 U.S.C. 623(f); Labor Code 21.119.*

b) *Employment Postings*

Ki Charter shall not print or publish any notice or advertisement relating to school employment that indicates any preference, limitation, specification, or discrimination based on race, color, religion, sex, or national origin, unless the characteristic is a bona fide occupational qualification. *42 U.S.C. 2000e-3(b); Labor Code 21.059.*

c) *Harassment of Employees*

Ki Charter shall maintain a working environment free of harassment on the basis of a protected characteristics. *42 U.S.C. 2000e et seq.; 29 CFR 1606.8(a), 1604.11.*

d) *Retaliation*

Ki Charter may not discriminate against any employee or applicant for employment because the employee or applicant has opposed any unlawful, discriminatory employment practices or participated in the investigation of any complaint related to an unlawful, discriminatory employment practice. *29 U.S.C. 623(d) (ADEA); 42 U.S.C. 2000e-3(a) (Title VII); 34 CFR 100.7(e) (Title VI); 34 CFR 110.34 (Age Act); 42 U.S.C. 12203 (ADA); Jackson v. Birmingham Bd. of Educ., 544 U.S. 167 (2005) (Title IX); Labor Code 21.055.*

e) *Notices*

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The Superintendent or designee shall post in conspicuous places upon its premises a notice setting forth the information the Equal Employment Opportunity Commission deems appropriate to effectuate the purposes of the anti-discrimination laws. *29 U.S.C. 627; 42 U.S.C. 2000e-10.*

i. Section 504 Notice

The Superintendent or designee shall take appropriate steps to notify applicants and employees, including those with impaired vision or hearing, that Ki Charter does not discriminate on the basis of disability.

The notice shall state:

1. That Ki Charter does not discriminate in employment in its programs and activities; and
2. The identity of Ki Charter's 504 Coordinator.

Methods of notification may include:

1. Posting of notices on the district website;
2. Placing notices in School publications; and
3. Distributing memoranda or other written communications.

If Ki Charter publishes or uses recruitment materials containing general information that it makes available to applicants or employees, it shall include in those materials a statement of its non-discrimination policy.

34 CFR 104.8.

Sec. 2. AGE DISCRIMINATION

Ki Charter may take an employment action on the basis of age pursuant to a bona fide seniority system or a bona fide employee benefit plan. However, a bona fide employee benefit plan shall not excuse the failure to hire any individual and no such benefit plan shall require or permit the involuntary retirement of any individual because of age. *29 U.S.C. 623(f); Labor Code 21.102.*

Sec. 3. SEX DISCRIMINATION

a) *Gender Stereotypes*

Ki Charter may not evaluate employees by assuming or insisting that they match the stereotype associated with their group. *Price Waterhouse v. Hopkins, 490 U.S. 228 (1989).*

b) *Pregnancy*

Ki Charter shall treat women affected by pregnancy, childbirth, or related medical conditions the same for all employment-related purposes, including receipt of benefits under fringe benefit programs. *42 U.S.C. 2000e(k); 29 CFR 1604.10; Labor Code 21.106.*

c) *Equal Pay*

Ki Charter may not pay an employee at a rate less than the rate paid to employees of the opposite sex for equal work on jobs the performance of which require equal skill, effort, or responsibility and which are performed under similar working conditions. This rule does not apply if the payment is pursuant to a seniority system, a merit system, a system that measures earnings by quantity or quality of production, or a differential based on any other factor other than sex. *29 U.S.C. 206(d); 34 CFR 106.54.*

Sec. 4. RELIGIOUS DISCRIMINATION

The prohibition against discrimination on the basis of religion includes all aspects of religious observances and practice, as well as religious belief, unless Ki Charter demonstrates that it is unable to reasonably accommodate an employee's or prospective employee's religious observance or practice without undue hardship to Ki Charter's business. "Undue hardship" means more than a de minimus (minimal) cost. *42 U.S.C. 2000e(j); 29 CFR 1605.2; Labor Code 21.108.*

Ki Charter may not substantially burden an employee's free exercise of religion, unless the burden is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that interest. *Civ. Prac. & Rem. Code 110.003.*

Sec. 5. DISABILITY DISCRIMINATION

Ki Charter may not discriminate against a qualified individual on the basis of disability in job application procedures, hiring, advancement, or discharge of employees, compensation, job training, and other terms, conditions, and privileges of employment. *42 U.S.C. 12112(a), 12201(g); 29 U.S.C. 794(a); Labor Code 21.051, 21.105.*

a) *Discrimination Based on Lack of Disability*

The Americans with Disabilities Act ("ADA") and the Texas Commission on Human Rights Act do not provide a basis for a claim that an individual was subject to discrimination because of the individual's lack of disability. *42 U.S.C. 12201(g); Labor Code 21.005(c).*

Ki Charter must take positive efforts, if it receives assistance under the Individuals with Disabilities Education Act ("IDEA"), to employ and advance in employment qualified individuals with disabilities in programs assisted by the IDEA. *34 CFR 300.177(b).*

b) *Definition of Disability*

"Disability" means a physical or mental impairment that substantially limits one or more of an individual's major life activities, a record of having such an impairment, or being regarded as having such an impairment.

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An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

An individual meets the requirement of being “regarded as” having an impairment if the individual establishes that he or she has been subjected to a prohibited action because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity. However, this provision does not apply to impairments that are transitory or minor. A transitory impairment is one with an actual or expected duration of six months or less. *42 U.S.C. 12102(1), (3), (4); 29 CFR 1630.2(g); Labor Code 21.002, 21.0021.*

c) *Mitigating Measures*

The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures, such as medication, medical supplies, low-vision devices, prosthetics, hearing aids, mobility devices, oxygen therapy, assistive technology, or learned behavioral or adaptive neurological modifications.

The ameliorative effects of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity. Ordinary eyeglasses and contact lenses are lenses that are intended to fully correct visual acuity or to eliminate refractive error.

42 U.S.C. 12102(1), (3), (4); 29 CFR 1630.2(g), (j)(1); Labor Code 21.002, .0021.

d) *Other Definitions*

i. *Physical or Mental Impairment*

“Physical or mental impairment” means:

1. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems, such as neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin, and endocrine; or
2. Any mental or psychological disorder, such as an intellectual disability (formerly termed “mental retardation”), organic brain syndrome, emotional or mental illness, and specific learning disabilities.

29 C.F.R. 1630.3(h).

ii. *Major Life Activities*

“Major life activities” include caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. “Major life activities” also include the operation of major bodily functions,

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including functions of the immune system, normal cell growth, and digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. 42 U.S.C. 12102(2); Labor Code 21.002.

iii. Qualified Individual

“Qualified individual” means an individual who, with or without reasonable accommodation, can perform the essential functions of the employment position that the individual holds or desires. A written job description prepared before advertising or interviewing applicants for the job is evidence of the job’s essential functions. 42 U.S.C. 12111(8).

e) *Reasonable Accommodations*

Ki Charter shall make reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability, unless Ki Charter can demonstrate that the accommodation would impose an undue hardship on the operation of Ki Charter. 42 U.S.C. 12112(b)(5); 29 CFR 1630.9; 29 U.S.C. 794; 34 CFR 104.11; Labor Code 21.128.

“Reasonable accommodation” includes:

1. Making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and
2. Job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modification of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

42 U.S.C. 12111(9); 29 CFR 1630.2(o); 34 CFR 104.12(b).

“Undue hardship” means an action requiring significant difficulty or expense when considered in light of the nature and cost of the accommodation needed, overall financial resources of the affected facility and Ki Charter, and other factors set out in law. 42 U.S.C. 12111(10); 29 CFR 1630.2(p); 34 CFR 104.12(c).

f) *Discrimination Based on Relationship*

Ki Charter shall not exclude or deny equal jobs or benefits to, or otherwise discriminate against, a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a family, business, social, or other relationship or association. 42 U.S.C. 12112(b)(4); 29 CFR 1630.8; 34 CFR 104.11.

g) *Illegal Drugs and Alcohol*

The term “qualified individual with a disability” does not include any employee or applicant who is currently engaging in the illegal use of drugs, when Ki Charter acts on the basis of such use.

i. Drug Testing

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Ki Charter is not prohibited from conducting drug testing of employees and applicants for the illegal use of drugs or making employment decisions based on the results of such tests. *42 U.S.C. 12114(c), (d); Labor Code 21.002(6)(A).*

ii. *Alcohol Use*

The term “qualified individual with a disability” does not include an individual who is an alcoholic and whose current use of alcohol prevents the employee from performing the duties of his or her job or whose employment, by reason of such current alcohol abuse, would constitute a direct threat to property or the safety of others. *42 U.S.C. 12114(a); 29 U.S.C. 705(20)(C); 29 CFR 1630.3(a); 28 CFR 35.104; Labor Code 21.002(6)(A).*

h) *Qualification Standards*

i. *Direct Threat to Health or Safety*

As a qualification standard, Ki Charter may require that an individual not pose a direct threat to the health or safety of other individuals in the workplace. “Direct threat” means a significant risk to the health or safety of the individual or others that cannot be eliminated by reasonable accommodation. *42 U.S.C. 12111(3); 29 CFR 1630.2(r); Labor Code 21.002(6)(B).*

ii. *Vision Standards and Tests*

Ki Charter shall not use qualification standards, employment tests, or other selection criteria based on an individual’s uncorrected vision unless the standard, test, or other selection criteria, as used by Ki Charter, is shown to be job-related for the position in question and consistent with business necessity. *42 U.S.C. 12113(c); Labor Code 21.115(b).*

iii. *Communicable Diseases*

Ki Charter may refuse to assign or continue to assign an individual to a job involving food handling if the individual has an infectious or communicable disease that is transmitted to others through handling of food. *42 U.S.C. 12113(d); 29 U.S.C. 705(20)(D); 29 CFR 1630.16(e); Labor Code 21.002(6)(B).*

i) *Service Animals*

Ki Charter shall comply with the reasonable accommodation requirements of Title I of the ADA and/or Section 504 of the Rehabilitation Act with respect to service animals. *28 C.F.R. 35.140.*

Sec. 6. MILITARY SERVICE

Ki Charter shall not deny initial employment, reemployment, retention in employment, promotion, or any benefit of employment on the basis of membership in a uniformed service, performance in a uniformed service, application for uniformed service, or obligation to a uniformed service. Ki Charter shall not take adverse

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employment action or discriminate against any person who takes action to enforce protections afforded by the Uniformed Services Employment and Re-employment Rights Act (USERRA). 38 U.S.C. 4311.

Sec. 7. GENETIC NONDISCRIMINATION

a) *Definitions*

For the purpose of the Genetic Information Nondiscrimination Act (GINA), “genetic information” means information about:

1. An individual’s genetic tests;
2. The genetic tests of that individual’s family members;
3. The manifestation of disease or disorder in family members of the individual (family medical history);
4. An individual’s request for or receipt of genetic services, or the participation in clinical research that includes genetic services by the individual or a family member of the individual; or
5. The genetic information of a fetus carried by an individual or by a pregnant woman who is a family member of the individual and the genetic information of any embryo legally held by the individual or family member using an assisted reproductive technology.

“Genetic information” **does not include** information about the sex or age of the individual, the sex or age of family members, or information about the race or ethnicity of the individual or family members that is not derived from a genetic test.

29 CFR 1635.3(c).

“Genetic test” means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites that detects genotypes, mutations, or chromosomal changes. Genetic tests include, but are not limited to:

1. A test to determine whether someone has the BRCA1 or BRCA2 variant evidencing a predisposition to breast cancer, a test to determine whether someone has a genetic variant associated with hereditary nonpolyposis colon cancer, and a test for a genetic variant for Huntington’s Disease;
2. Carrier screening for adults using genetic analysis to determine the risk of conditions such as cystic fibrosis, sickle cell anemia, spinal muscular atrophy, or fragile X syndrome in future offspring;
3. Amniocentesis and other evaluations used to determine the presence of genetic abnormalities in a fetus during pregnancy;
4. Newborn screening analysis that uses DNA, RNA, protein, or metabolite analysis to detect or indicate genotypes, mutations, or chromosomal changes, such as a test for PKU performed so that treatment can begin before a disease manifests;
5. Pre-implantation genetic diagnosis performed on embryos created using in vitro fertilization;
6. Pharmacogenetic tests that detect genotypes, mutations, or chromosomal changes that indicate how an individual will react to a drug or a particular dosage of a drug;
7. DNA testing to detect genetic markers that are associated with information about ancestry; and
8. DNA testing that reveals family relationships, such as paternity.

Examples of tests or procedures that are not genetic tests are:

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1. An analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes;
2. A medical examination that tests for the presence of a virus that is not composed of human DNA, RNA, chromosomes, proteins, or metabolites;
3. A test for infectious and communicable diseases that may be transmitted through food handling;
4. Complete blood counts, cholesterol tests, and liver-function tests.

A test for the presence of alcohol or illegal drugs is not a genetic test. However, a test to determine whether an individual has a genetic predisposition for alcoholism or drug use is a genetic test.

29 CFR 1635.3(f).

b) Notices

The Superintendent or designee shall post in conspicuous places on school premises, where notices to employees and applicants for employment are customarily posted, a notice setting forth excerpts from or summaries of the pertinent provisions of the GINA regulation and information pertinent to the filing of a complaint. 29 CFR 1635.10(c).

c) Prohibited Practices

i. Discrimination

Ki Charter shall not discriminate against an individual on the basis of genetic information in regard to hiring, discharge, compensation, or terms, conditions, or privileges of employment. 42 U.S.C. 2000ff-1(a); 29 CFR 1635.4.

ii. Retaliation

Ki Charter shall not discriminate against an individual because the individual has opposed any act or practice made unlawful by GINA or because the individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under GINA. 41 U.S.C. 2000ff-6(f); 29 CFR 1635.7.

iii. Acquisition

Except as set forth below or otherwise provided in the GINA regulations, Ki Charter shall not request, require, or purchase genetic information of an individual or family member of the individual. 42 U.S.C. 2000ff-1(b); 29 CFR 1635.8(a).

“Request” includes:

1. Conducting an Internet search on an individual in a way that is likely to result <<School Name>>’s obtaining genetic information;
2. Actively listening to third-party conversations or searching an individual’s personal effects for the purpose of obtaining genetic information; and

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3. Making requests for information about an individual’s current health status in a way that is likely to result in <<School Name>>’s obtaining genetic information.

29 CFR 1635.8(a).

iv. Disclosure

Except as set forth in the GINA regulations, Ki Charter shall not disclose the genetic information of an employee, regardless of how Ki Charter obtained the information. 29 CFR 1635.9(b).

d) **Manifested Condition**

Ki Charter shall not be considered to be in violation of the GINA regulations based on the use, acquisition, or disclosure of medical information about a manifested disease, disorder, or pathological condition of an employee, even if the disease, disorder, or pathological condition has or may have a genetic basis or component. However, genetic information about a manifested disease, disorder, or pathological condition is subject to the requirements and prohibitions of GINA. 29 CFR 1635.12.

“Manifestation” or “manifested” means, with respect to a disease, disorder, or pathological condition, that an individual has been or could reasonably be diagnosed with the disease, disorder, or pathological condition by a health-care professional with appropriate training and expertise in the field of medicine involved. A disease, disorder, or pathological condition is not manifested if the diagnosis is based principally on genetic information. 29 CFR 1635.3(g).

e) **Inadvertent Acquisition**

The general prohibition against requesting, requiring, or purchasing genetic information does not apply where Ki Charter inadvertently requests or requires genetic information of the individual or family member of the individual. This exception applies in, but is not necessarily limited to, situations where a manager or supervisor learns genetic information about an individual by:

1. Overhearing a conversation between the individual and others;
2. Receiving the information during a casual conversation, including in response to an ordinary expression of concern that is the subject of the conversation. This exception does not apply where a supervisor follows up with questions that are probing in nature, such as whether other family members have the condition or whether the individual has been tested for the condition, because the supervisor or official should know that these questions are likely to result in the acquisition of genetic information;
3. Receiving unsolicited information (e.g., where a supervisor receives an unsolicited e-mail about the health of an employee’s family member from a co-worker); or
4. Accessing a social media platform that the supervisor was given permission to access by the creator of the profile at issue (e.g., a supervisor and employee are connected on a social networking site and the employee provides family medical history on his page).

29 CFR 1635.8(b)(1)(ii).

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f) *Requests for Medical Information*

If Ki Charter acquires genetic information in response to a lawful request for medical information, the acquisition of genetic information will not generally be considered inadvertent unless Ki Charter directs the individual and/or health-care provider from whom it requested medical information not to provide genetic information. 29 CFR 1635.8(b)(1)(i)(A).

Situations involving lawful requests for medical information include, for example:

1. Requests for documentation to support a request for reasonable accommodation under federal, state, or local law where the disability and/or need for accommodation is not obvious, the documentation is no more than is sufficient to establish that an individual has a disability and needs a reasonable accommodation, and the documentation relates only to the impairment that the individual claims to be a disability that requires reasonable accommodation;
2. Requests for medical information as required, authorized, or permitted by federal, state, or local law, such as where an employee requests leave under the Family and Medical Leave Act (“FMLA”) to attend to the employee’s own serious health condition or where an employee complies with the FMLA’s employee return to work certification requirements; or
3. Requests for documentation to support leave that is not governed by federal, state, or local laws requiring leave, as long as the documentation required to support the request otherwise complies with the requirements of the ADA and other laws limiting <<School Name>>’s access to medical information.

29 CFR 1635.8(b)(1)(i)(D).

i. Safe Harbor

Any receipt of genetic information in response to a request for medical information shall be deemed inadvertent if Ki Charter uses language such as the following:

“The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, we are asking that you not provide any genetic information when responding to this request for medical information. ‘Genetic information,’ as defined by GINA, includes an individual’s family medical history, the results of an individual’s or family member’s genetic tests, the fact that an individual or an individual’s family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual’s family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.”

<<School Name>>’s failure to give such a notice or to use this or similar language will not prevent Ki Charter from establishing that a particular receipt of genetic information was inadvertent if the request for medical information was not likely to result in <<School Name>>’s obtaining genetic information (for example, where an overly broad response is received in response to a tailored request for medical information).

29 CFR 1635.8(b)(1)(i)(B), (C).

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g) *Employment Examinations*

The prohibition on acquisition of genetic information applies to medical examinations related to employment. Ki Charter shall tell health-care providers not to collect genetic information, including family medical history, as part of a medical examination intended to determine the ability to perform a job. *29 CFR 1635.8(d)*.

i. Remedial Measures

Ki Charter shall take additional reasonable measures within its control if it learns that genetic information is being requested or required in medical examinations related to employment. Such reasonable measures may depend on the facts and circumstances under which a request for genetic information was made, and may include no longer using the services of a health-care professional who continues to request or require genetic information during medical examinations after being informed not to do so. *29 CFR 1635.8(d)*.

h) *Health or Genetic Services*

The general prohibition against requesting, requiring, or purchasing genetic information does not apply where Ki Charter offers health or genetic services, including services offered as part of a voluntary wellness program, if the conditions at *29 CFR 1635.8(b)(2)* are met.

Ki Charter may not offer a financial inducement for individuals to provide genetic information but may offer financial inducements for completion of health risk assessments that include questions about family medical history or other genetic information. Ki Charter shall make clear, in language reasonably likely to be understood by those completing the health risk assessment, that the inducement will be made available whether or not the participant answers questions regarding genetic information.

Ki Charter may offer financial inducements to encourage individuals who have voluntarily provided genetic information (e.g., family medical history) that indicates that they are at increased risk of acquiring a health condition in the future to participate in disease management programs or other programs that promote healthy lifestyles, and/or to meet particular health goals as part of a health or genetic service. However, Ki Charter must also offer these programs to individuals with current health conditions and/or to individuals whose lifestyle choices put them at increased risk of developing a condition.

29 CFR 1635.8(b)(2).

i) *Leave Requests*

The general prohibition against requesting, requiring, or purchasing genetic information does not apply where Ki Charter requests family medical history to comply with the certification provisions of the FMLA or state or local family and medical leave laws, or pursuant to a policy (even in the absence of requirements of federal, state, or local leave laws) that permits the use of leave to care for a sick family member and that requires all employees to provide information about the health condition of the family member to substantiate the need for leave. *29 CFR 1635.8(b)(3)*.

j) *Publicly Available Information*

The general prohibition against requesting, requiring, or purchasing genetic information does not apply where Ki Charter acquires genetic information from documents that are commercially and publicly available for review or purchase, including newspapers, magazines, periodicals, or books, or through electronic media, such as information communicated through television, movies, or the Internet, except that this exception does not apply to:

1. Medical databases, court records, or research databases available to scientists on a restricted basis;
2. Genetic information acquired through sources with limited access, such as social networking sites and other media sources which require access permission from a specific individual or where access is conditioned on membership in a particular group, unless Ki Charter can show that access is routinely granted to all who request it;
3. Genetic information obtained through commercially and publicly available sources if Ki Charter sought access to those sources with the intent of obtaining genetic information; or
4. Genetic information obtained through media sources, whether or not commercially and publicly available, if Ki Charter is likely to acquire genetic information by accessing those sources, such as Web sites and online discussion groups that focus on issues such as genetic testing of individuals and genetic discrimination.

29 CFR 1635.8(b)(4).

k) *Workplace Monitoring*

The general prohibition against requesting, requiring, or purchasing genetic information does not apply where Ki Charter acquires genetic information for use in the genetic monitoring of the biological effects of toxic substances in the workplace. Such monitoring must meet the criteria at 29 CFR 1635.8(b)(5).

l) *Inquiries Made of Family Members*

Ki Charter does not violate the GINA regulations when it requests, requires, or purchases information about a manifested disease, disorder, or pathological condition of an employee whose family member is also employed by Ki Charter or who is receiving health or genetic services on a voluntary basis. For example, Ki Charter does not violate the GINA regulations by asking someone whose sister also works for Ki Charter to take a post-offer medical examination that does not include requests for genetic information. 29 CFR 1635.8(c).

m) *Confidentiality*

The Superintendent or designee shall maintain genetic information in writing about an employee on forms and in medical files (including where the information exists in electronic forms and files) that are separate from personnel files. Ki Charter must treat such information as a confidential medical record. Ki Charter may maintain genetic information about an employee in the same file in which it maintains confidential medical information under the ADA.

Genetic information placed in personnel files before November 21, 2009, need not be removed. Ki Charter will not be liable under the GINA regulations for the mere existence of the information in the file. However, the

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prohibitions on use and disclosure of genetic information apply to all genetic information that meets the statutory definition, including genetic information requested, required, or purchased before November 21, 2009.

Genetic information that Ki Charter receives orally need not be reduced to writing but may not be disclosed, except as permitted by 29 CFR part 1635.

Genetic information that Ki Charter acquires through sources that are commercially and publicly available, as provided by 29 CFR 1635.8(b)(4), is not considered confidential genetic information but may not be used to discriminate against an individual.

29 CFR 1635.9(a).

n) *Disclosure Permitted*

Ki Charter may disclose genetic information, regardless of how such information was obtained (except for genetic information acquired through commercially and publicly available sources), as follows:

1. To the employee (or family member if the family member is receiving genetic services) about whom the information pertains upon receipt of the employee's written request;
2. To an occupational or other health researcher if the research is conducted in compliance with the regulations and protections at 45 CFR part 46;
3. In response to an order of a court. Ki Charter may disclose only the genetic information expressly authorized by the order. If the order was secured without the knowledge of the employee to whom the information refers, Ki Charter shall inform the employee of the order and any genetic information that was disclosed pursuant to the order;
4. To government officials investigating compliance with Title II of GINA if the information is relevant to the investigation;
5. To the extent the information is disclosed in support of an employee's compliance with the certification provisions of the FMLA or certification requirements under state family and medical leave laws; or
6. To a federal, state, or local public health agency, only with regard to information about the manifestation of a disease or disorder that concerns a contagious disease that presents an imminent hazard of death or life-threatening illness, provided that the individual whose family member is the subject of the disclosure is notified of such disclosure.

29 CFR 1635.9(b).

o) *Relationship to HIPAA Privacy Regulations*

The GINA regulations do not apply to the use or disclosure of genetic information that is protected health information subject to regulation under the Health Insurance Portability and Accountability Act of 1996 (HIPAA).
29 CFR 1635.9(c).

Sec. 8. BANKRUPTCY DISCRIMINATION

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Ki Charter shall not terminate the employment of, or discriminate with respect to employment against, an individual who is or has been a debtor under federal bankruptcy laws, or an individual associated with such debtor or bankrupt, solely because such debtor or bankrupt:

1. Is or has been a debtor under federal bankruptcy laws;
2. Has been insolvent before the commencement of a case under federal bankruptcy laws or during the case but before the grant or denial of a discharge; or
3. Has not paid a debt that is dischargeable in a case under federal bankruptcy laws.

11 U.S.C. 525(b).

Sec. 9. GRIEVANCE POLICIES

The Superintendent shall provide grievance procedure(s) concerning the following:

a) *Section 504*

That incorporate appropriate due process standards and provide for the prompt and equitable resolution of complaints alleging any action prohibited by Section 504 of the Rehabilitation Act. *34 CFR 104.7(b), 104.11.*

b) *Americans with Disabilities Act*

Providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by the ADA. *28 CFR 35.107, 35.140.*

c) *Title IX*

Providing for prompt and equitable resolution of employee complaints alleging any action prohibited by Title IX. *34 CFR 106.8(b); North Haven Board of Education v. Bell, 456 U.S. 512 (1982).*

Sec. 10. COMPLIANCE COORDINATOR

Ki Charter shall designate at least one employee to coordinate its efforts to comply with Title IX, Section 504, the Age Act, and the ADA. The Superintendent shall notify all employees of the name, office address, and telephone number of the employee(s) so designated. *34 CFR 104.7(b), 104.11; 28 CFR 35.107, 35.140; 34 CFR 106.8(b).*

Sec. 11. NONDISCRIMINATION STATEMENT

Ki Charter strictly prohibits discrimination, including harassment, against an employee on the basis of race, color, religion, gender, national origin, age, disability, genetic information, or any other legally protected classification. Retaliation against anyone involved in the complaint process is also a violation of Ki Charter policy.

For purposes of this policy, “employee” includes current employees, volunteers and applicants for employment.

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Sec. 12. GENERAL NON-DISCRIMINATION POLICY

a) *Prohibited Conduct*

In this policy, the term “prohibited conduct” includes discrimination, harassment, and/or retaliation as defined by this policy, even if the behavior does not rise to the level of unlawful conduct.

i. *Prohibited Discrimination*

Discrimination is defined as conduct directed at an employee on the basis of race, color, religion, gender, national origin, age, disability, genetic information or any other basis prohibited by law, that adversely affects his or her employment.

ii. *Prohibited Harassment*

Prohibited harassment of an employee is defined as unwelcome conduct that is based on race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information where:

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.

Harassment may also occur when unwelcome conduct based on an employee’s protected characteristic is so severe, persistent, or pervasive that the conduct:

1. Has the purpose or effect of unreasonably interfering with the employee’s work performance;
2. Creates an intimidating, threatening, hostile, or offensive work environment; or
3. Otherwise adversely affects the employee’s performance, environment, or employment opportunities.

Prohibited harassment may include, but is not limited to, offensive or derogatory language directed at another person’s religious beliefs or practices, accent, skin color, gender identity, or need for workplace accommodation; threatening or intimidating conduct; offensive jokes, name calling, slurs, or rumors; physical aggression or assault; display of graffiti or printed material promoting racial, ethnic, or other stereotypes; or other types of aggressive conduct such as theft or damage to property.

iii. *Prohibited Gender-Based Harassment*

Gender-based harassment includes physical, verbal, or nonverbal conduct based on an employee’s gender, the employee’s expression of characteristics perceived as stereotypical for the employee’s gender, or the employee’s failure to conform to stereotypical notions of femininity or masculinity.

Examples of gender-based harassment, regardless of the employee’s or alleged harasser’s actual or perceived gender, may include offensive jokes, name-calling, slurs, or rumors; physical aggression or assault; threatening or intimidating conduct; or other kinds of aggressive conduct such as theft or damage to property.

iv. *Prohibited Retaliation*

Ki Charter expressly prohibits retaliation against an employee who makes a claim alleging to have experienced discrimination or harassment, or an employee who, in good faith, makes a report, serves as a witness, or otherwise participates in an investigation.

Examples of retaliation may include termination, refusal to hire, demotion, and denial of promotion. Retaliation may also include threats, unjustified negative evaluations, unjustified negative references, or increased surveillance.

v. *False Claims*

An employee who intentionally makes a false claim, offers false statements, or refuses to cooperate or participate in an investigation regarding discrimination or harassment is subject to discipline, up to and including termination of employment.

b) *Reporting Prohibited Conduct (Non-Sexual Harassment)*

An employee who believes that he or she has experienced prohibited conduct, or that another employee has experienced prohibited conduct, should immediately report the alleged conduct to the Principal or his or her supervisor, or to one of the school officials identified below.

In this policy, “prohibited conduct” includes discrimination, harassment, and/or retaliation, even if the behavior does not rise to the level of unlawful conduct.

The reporting procedures in this Section 2 will apply to all allegations of prohibited conduct other than allegations of harassment prohibited by Title IX. For allegations of sex-based harassment that, if proved, would meet the definition of sexual harassment under Title IX (including sexual harassment), see the procedures below at Section 3, Sexual Harassment Prohibited – Title IX Policy.

i. *Title IX Coordinator*

The Title IX Coordinator is responsible for coordinating <<School Name>>’s efforts to comply with its responsibilities under Title IX with respect to discrimination based on sex, including sexual harassment. <<School Name>>designates the following person(s) to coordinate its efforts to comply with Title IX of the Education Amendments of 1972, as amended:

<<Name>>, Position: <<Position>>, Address: <<Office Address>>, Telephone: <<Office #>>

ii. *ADA/Section 504 Coordinator*

Ki Charter designates the following person to coordinate its efforts to comply with legal requirements concerning discrimination on the basis of disability:

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<<Name>>, Position: <<Position>>, Address: <<Office Address>>, Telephone: <<Office #>>

iii. *Title VII/Age Coordinator*

Ki Charter designates the following person to coordinate its efforts to comply with legal requirements concerning discrimination on the basis of race, color, national origin, and age:

<<Name>>, Position: <<Position>>, Address: <<Office Address>>, Telephone: <<Office #>>

iv. *All Other Complaints*

Reports concerning prohibited conduct against the Title IX Coordinator, ADA/Section 504 Coordinator, and/or Title VII/Age Coordinator may be made to the Superintendent or designee. Reports concerning prohibited conduct against the Superintendent or designee may be directed to the Board.

c) ***Timely Reporting***

Employees shall report prohibited conduct as soon as possible after the alleged act or knowledge of the alleged act.

Any supervisor who receives a report of prohibited conduct shall immediately inform the appropriate Ki Charter official identified above.

d) ***Investigating Reports of Prohibited Conduct***

Ki Charter may request, but not insist upon, a written report describing any alleged prohibited conduct. If a report is made orally, the Ki Charter official receiving the report shall reduce the report to writing.

After receiving a report or notice of a report, the appropriate Compliance Coordinator shall determine if the allegations, if proven, would constitute prohibited conduct under this policy. If so, the Compliance Coordinator shall immediately authorize or conduct an investigation, regardless of whether a criminal or regulatory investigation concerning the allegations is pending. The investigation may be conducted by the Compliance Coordinator or designee, or by a third party authorized by Ki Charter, such as an attorney. The employee's Principal or supervisor shall be notified of the investigation, if appropriate.

The investigation may consist of personal interviews of individuals with knowledge of the allegations, including the person making the report, and the person against whom the report is filed. The investigation may also include consideration of documents or other information concerning the allegations.

If appropriate, Ki Charter shall take prompt action to prevent prohibited conduct from occurring during the course of the investigation.

i. *Concluding the Investigation*

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Investigations of prohibited conduct should be completed as soon as reasonably possible and appropriate under the circumstances. The investigator shall prepare a written report of the investigation, and provide the report to the Ki Charter official overseeing the investigation.

ii. School Action

If an investigation indicates that prohibited conduct occurred, Ki Charter shall promptly take appropriate disciplinary or corrective action to address the conduct.

Ki Charter may also take action following an investigation, even if the alleged conduct did not rise to the level of prohibited or unlawful conduct.

iii. Confidentiality

Ki Charter shall respect the privacy of all individuals involved in a report or investigation of prohibited conduct. Limited disclosures may be necessary.

iv. Appeal

A complainant who is dissatisfied with the outcome of an investigation may appeal through Board Policy PG-XX (Employee Complaints and Grievances – General).

e) **Records Retention**

Copies of reports alleging prohibited conduct, investigation reports, and other related records shall be maintained for at least three years.

Sec. 13. SEXUAL HARASSMENT PROHIBITED – TITLE IX POLICY

a) **Definitions for Title IX Terms**

i. Actual Knowledge

“Actual knowledge” means notice of sexual harassment or allegations of sexual harassment to <<School Name>>’s Title IX Coordinator or any Ki Charter official who has authority to institute corrective measures on behalf of Ki Charter, or to any employee of an elementary and secondary school. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge. This standard is not met when the only official of Ki Charter with actual knowledge is the respondent (as that term is defined below). The mere ability or obligation to report sexual harassment or to inform a student about how to report sexual harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of Ki Charter. “Notice” as used in this definition includes, but is not limited to, a report of sexual harassment to the Title IX Coordinator. *34 C.F.R. 106.30(a)*.

ii. Complainant

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“Complainant” means an individual who is alleged to be the victim of conduct that could constitute sexual harassment. *34 C.F.R. 106.30(a)*.

iii. Consent

“Consent” is not currently defined by the Title IX regulations, nor do the regulations require Ki Charter to adopt a particular definition of consent with respect to sexual assault. *34 C.F.R. 106.30(a)*.

iv. Deliberate Indifference Standard

If Ki Charter has actual knowledge of sexual harassment in an education program or activity of <<School Name>> against a person in the United States, it must respond promptly in a manner that is not deliberately indifferent. Ki Charter is deliberately indifferent only if its response to sexual harassment is clearly unreasonable in light of the known circumstances. *34 C.F.R. 106.44*.

v. Education Program or Activity

For purposes of this Title IX policy, “education program or activity” includes locations, events, or circumstances over which Ki Charter exercised substantial control over both the respondent and the context in which sexual harassment occurs. *34 C.F.R. 106.44*.

vi. Formal Complaint

“Formal complaint” means a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that Ki Charter investigate the allegation of sexual harassment. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in <<School Name>>’s education program or activity. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by email, by using the contact information for the Title IX Coordinator provided by Ki Charter, and by any additional method designated by Ki Charter. As used in this definition, the term “document filed by a complainant” means a document or electronic submission (such as by email or through an online portal provided for this purpose by <<School Name>>) that contains the complainant’s physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint. Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a complainant or otherwise a party to the Title IX formal complaint, and must comply with the requirements of the Title IX formal process, including the informal resolution process. *34 C.F.R. 106.30(a)*.

vii. Respondent

“Respondent” means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment. *34 C.F.R. 106.30(a)*.

viii. Sexual Harassment

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

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1. An employee of Ki Charter conditioning the provision of an aid, benefit, or service of <<School Name>> 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 <<School Name>>'s education program or activity; or
3. "Sexual assault" as defined in [20 U.S.C. 1091\(f\)\(6\)\(A\)\(v\)](#); "dating violence" as defined in [34 U.S.C. 12291\(a\)\(10\)](#); "domestic violence" as defined in [34 U.S.C. 12291\(a\)\(8\)](#); or "stalking" as defined in [34 U.S.C. 12291\(a\)\(30\)](#).

34 C.F.R. 106.30(a).

ix. *Supportive Measures*

"Supportive measures" means nondisciplinary, nonpunitive 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 <<School Name>>'s education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or <<School Name>>'s educational environment, or deter sexual harassment. 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 the parties, changes in work, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. Ki Charter must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair <<School Name>>'s ability to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures. *34 C.F.R. 106.30(a).*

b) *Requirement to Designate Title IX Coordinator*

Ki Charter must designate at least one employee as a Title IX Coordinator to coordinate <<School Name>>'s efforts to comply with its requirements under Title IX.

c) *Notification of Title IX Policy*

Ki Charter must notify applicants for admission and employment, students, parents or legal guardians of students, and all professional organizations holding professional agreements with Ki Charter of the name or title, office address, email address, and telephone number of the employee or employees designated as the Title IX Coordinator.

Ki Charter must also notify the individuals noted above that Ki Charter does not discriminate on the basis of sex in the education program or activity that it operates, and that it is required under Title IX not to discriminate in such a manner. The notification must also state that the requirement not to discriminate in the education program or activity extends to admission and employment, and that inquiries about the application of Title IX to Ki Charter may be referred to the designated Title IX Coordinator, to the assistant secretary for civil rights of the Department of Education, or both.

34 C.F.R. 106.8(a), (b)(1).

d) *Handbook Information and Website Postings*

Ki Charter must prominently display the contact information required to be listed for the Title IX Coordinator and the nondiscrimination policy described in “Notification of Title IX Policy,” above, on the Ki Charter website, if any, and in the Employee Handbook and Student / Parent Handbook.

Ki Charter may not use or distribute a publication stating that Ki Charter treats applicants, students, or employees differently on the basis of sex except when such treatment is permitted by Title IX.

34 C.F.R. 106.8(b)(2).

e) *Reporting Sex Discrimination / Sexual Harassment*

Any person may report sex discrimination, including sexual harassment, whether or not the reporting person is the person alleged to be the victim of conduct that may constitute sex discrimination or sexual harassment. Reports may be made in person, by mail, by telephone, or by email through the contact information listed for Ki Charter’s Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person’s verbal or written report. Reports may be made at any time (including during nonbusiness hours) by using the telephone number or email address, or by mail to the office address, listed for the Title IX Coordinator. *34 C.F.R. 106.8(a).*

f) *Complaint Procedures*

Ki Charter must adopt and publish procedures that provide for the prompt and equitable resolution of student and employee complaints alleging any action that would be prohibited by Title IX, and a formal Title IX complaint process that complies with applicable federal regulations.

Ki Charter must provide notice to the individuals identified in Sec. 3(c) above of the school’s procedures and Title IX formal complaint process, including how to report or file a complaint of sex discrimination, how to report or file a formal complaint of sexual harassment, and how Ki Charter will respond.

The requirements of this provision apply only to sex discrimination occurring against a person in the United States.

34 C.F.R. 106.8(c)-(d).

g) *Response by Title IX Coordinator*

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.

i. *Required Supportive Measures*

<<School Name>>'s response must treat complainants and respondents equitably by offering supportive measures and by following a grievance process that complies with the Title IX regulations (*see* Process for Formal Title IX Complaint, Sec. 3(h) below) before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent.

34 C.F.R. 106.44(a).

ii. *Response to Formal Complaint*

In response to a formal complaint, Ki Charter must follow a process that complies with the Title IX regulations (*see* Process for Formal Title IX Complaint, Sec. 3(h) below).

34 C.F.R. 106.44(b)(1).

iii. *Emergency Removals*

Ki Charter is not precluded from removing a respondent from its education program or activity on an emergency basis, provided that <<School Name>>:

1. Undertakes an individualized safety and risk analysis;
2. Determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal; and
3. Provides the respondent with notice and an opportunity to challenge the decision immediately following the removal.

This may not be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act.

34 C.F.R. 106.44(c).

iv. *Administrative Leave*

Ki Charter is not prohibited from placing a nonstudent employee respondent on administrative leave during the pendency of a Title IX formal complaint. This does not modify any rights under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act. *34 C.F.R. 106.44(d).*

h) *Process for Title IX Formal Complaint*

For purposes of addressing formal complaints of sexual harassment, <<School Name>>'s process must comply with the requirements listed in this section. Any provisions, rules, or practices other than those required by the Title IX regulations or this policy that Ki Charter adopts as part of its process for handling formal complaints of sexual harassment must apply equally to both parties. *34 C.F.R. 106.45(b).*

<<School Name>>'s Title IX formal complaint process must:

1. Treat complainants and respondents equally by providing remedies to a complainant where a determination of responsibility for sexual harassment has been made against the respondent, and by following a process that complies with the Title IX regulations before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent. Remedies must be designed to restore or preserve equal access to <<School Name>>'s education program or activity. Such remedies may include the same individualized services described as supportive measures; however, remedies need not be nondisciplinary or nonpunitive and need not avoid burdening the respondent.
2. Require an objective evaluation of all relevant evidence—including both inculpatory and exculpatory evidence—and provide that credibility determinations may not be based on a person's status as a complainant, respondent, or witness.
3. Require that any individual designated by Ki Charter as a Title IX Coordinator, investigator, decision-maker, or any person designated by Ki Charter to facilitate an informal resolution process, not to have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. Ki Charter must ensure that Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process receive training on the definition of sexual harassment, the scope of <<School Name>>'s education program or activity, how to conduct an investigation and Title IX formal complaint process (including hearings, appeals, and informal resolution processes, as applicable), and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. Ki Charter must ensure that decision-makers receive training on any technology to be used at a live hearing, if any, and on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant. <<School Name>> must also ensure that investigators receive training on relevance to create an investigative report that fairly summarizes relevant evidence. Any 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 and must promote impartial investigations and adjudications of formal complaints of sexual harassment.
4. Include a presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the Title IX formal complaint process.
5. Include reasonably prompt timeframes for concluding the grievance process, including reasonably prompt timeframes for filing and resolving appeals and informal resolution processes if Ki Charter offers informal resolution processes, and a process that allows for the temporary delay of the Title IX formal complaint process or the limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. 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.
6. Describe the range of possible disciplinary sanctions and remedies or list the possible disciplinary sanctions and remedies that Ki Charter may implement following any determination of responsibility.
7. State whether the standard of evidence to be used to determine responsibility is the preponderance of the evidence standard or the clear and convincing evidence standard, apply the same standard of evidence for formal complaints against students as for formal complaints against employees, including faculty, and apply the same standard of evidence to all formal complaints of sexual harassment.

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8. Include the procedures and permissible bases for the complainant and respondent to appeal.
9. Describe the range of supportive measures available to complainants and respondents.
10. Not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally-recognized privilege, unless the person holding such privilege has waived the privilege.

34 C.F.R. 106.45(b)(1).

i. Notice of Allegations

Upon receipt of a formal complaint, Ki Charter must provide the following written notice to the parties who are known:

1. Notice of <<School Name>>'s Title IX formal complaint process, including any informal resolution process.
2. Notice of the allegations of sexual harassment potentially constituting sexual harassment, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include:
 - a. The identities of the parties involved in the incident, if known;
 - b. The conduct allegedly constituting sexual harassment; and
 - c. The date and location of the alleged incident, if known.

The written notice must include a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the Title IX formal complaint process. The written notice must inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney and may inspect and review evidence. The written notice must inform the parties of any provision in <<School Name>>'s Code of Conduct that prohibits knowingly making false statements or knowingly submitting false information during the Title IX formal complaint process.

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

34 C.F.R. 106.45(b)(2).

ii. Dismissal of Formal Complaint

Ki Charter must investigate the allegations in a formal complaint.

If the conduct alleged in the formal complaint would not constitute sexual harassment even if proved, did not occur in <<School Name>>'s education program or activity, or did not occur against a person in the United States, then Ki Charter must dismiss the formal complaint with regard to that conduct for purposes of sexual harassment

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under Title IX; such a dismissal does not preclude action under another provision of <<School Name>>'s Code of Conduct.

<<School Name>> may dismiss the formal complaint or any allegations therein if, at any time during the investigation or hearing (if applicable):

1. A complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein;
2. The respondent is no longer enrolled or employed by <<School Name>>; or
3. Specific circumstances prevent <<School Name>> from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon a dismissal of a formal complaint, Ki Charter must promptly send written notice of the dismissal and reason(s) therefore simultaneously to the parties.

34 C.F.R. 106.45(b)(3).

iii. Consolidation of Formal Complaints

Ki Charter may consolidate formal complaints as to allegations of sexual harassment against more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances. Where a Title IX formal complaint process involves more than one complainant or more than one respondent, references in this section to the singular “party,” “complainant,” or “respondent” include the plural, as applicable. *34 C.F.R. 106.45(b)(4).*

iv. Investigating Formal Complaints

When investigating a formal complaint and throughout the Title IX formal complaint process, Ki Charter must:

1. Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on Ki Charter and not on the parties, provided that Ki Charter cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless Ki Charter obtains that party's voluntary, written consent to do so for a Title IX formal complaint. If a party is not an “eligible student,” as defined in the FERPA regulations, Ki Charter must obtain the voluntary, written consent of a “parent,” as defined in the FERPA regulations.
2. Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.
3. Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.
4. Provide the parties with the same opportunities to have others present during any Title IX formal complaint proceeding, including the opportunity to be accompanied to any related or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice

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- or presence of the advisor for either the complainant or respondent in any meeting or Title IX formal complaint proceeding; however, Ki Charter 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.
5. Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings (if applicable), investigative interviews, or other meetings, with sufficient time for the party to prepare to participate.
 6. 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, including the evidence upon which Ki Charter 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 conclusion of the investigation. Prior to completion of the investigative report, Ki Charter must send to each party and the 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 ten days to submit a written response, which the investigator will consider prior to completion of the investigative report. Ki Charter must make all such evidence subject to the parties' inspection and review available at any hearing (if applicable) to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.
 7. Create an investigative report that fairly summarizes relevant evidence and, at least ten days prior to a hearing (if a hearing is required or otherwise provided) or other time of determination regarding responsibility, send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response.

34 C.F.R. 106.45(b)(5).

v. Hearings

<<School Name>>'s Title IX formal complaint process may, but need not, provide for a hearing. With or without a hearing, after Ki Charter has sent to the investigate 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 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. With or without a hearing, 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 questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. The decision-maker(s) must explain to the party proposing the questions any decision to exclude a question as not relevant. 34 C.F.R. 106.45(b)(6)(ii).

vi. Determination Regarding Responsibility

The decision-maker(s), who cannot be the same person(s) as the Title IX Coordinator or the investigator(s), must issue a written determination regarding responsibility. To reach this determination, Ki Charter must apply the same standard of evidence described at "Process for Title IX Formal Complaint, Sec. 3(h) above. The written determination must include:

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1. Identification of the allegations potentially constituting sexual harassment.
2. A description of the procedural steps taken from 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 other evidence, and hearings held (if any).
3. Findings of fact supporting the determination.
4. Conclusions regarding the application of <<School Name>>'s Code of Conduct to the facts.
5. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions Ki Charter imposes on the respondent, and whether remedies designed to restore or preserve equal access to <<School Name>>'s education program or activity will be provided by Ki Charter to the complainant.
6. <<School Name>>'s procedures and permissible bases for the complainant and respondent to appeal.

Ki Charter must provide the written determination to the parties simultaneously. The determination regarding responsibility becomes final either on the date that Ki Charter 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.

34 C.F.R. 106.45(b)(7)(i)-(iii).

The Title IX Coordinator is responsible for effective implementation of any remedies identified in a determination regarding responsibility. *34 C.F.R. 106.45(b)(7)(iv).*

vii. Appeals

Ki Charter must offer both parties an appeal from a determination regarding responsibility, and from <<School Name>>'s dismissal of a formal complaint or any allegations therein, 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 on responsibility or dismissal was made, that could affect the outcome of the matter; and
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.

Ki Charter may offer an appeal equally to both parties on additional bases.

As to all appeals, Ki Charter must:

1. Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
2. Ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator;

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3. Ensure that the decision-maker(s) for the appeal complies with standards regarding conflict of interest and bias found in the Title IX regulations (as discussed in “Process for Formal Title IX Complaint,” Sec. 3(h) above);
4. Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
5. Issue a written decision describing the result of the appeal and the rationale for the result; and
6. Provide the written decision simultaneously to both parties.

34 C.F.R. 106.45(b)(8).

viii. Informal Resolution

Ki Charter may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment consistent with Title IX. Similarly, Ki Charter may not require the parties to participate in an informal resolution process and may not offer an informal resolution process unless a formal complaint is filed. However, at any time prior to reaching a determination regarding responsibility, Ki Charter may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication.

With respect to informal resolution, Ki Charter must provide written notice to the parties disclosing:

1. The allegations;
2. 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
3. Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

Ki Charter also must obtain the parties’ voluntary, written consent to the informal resolution process.

Ki Charter cannot offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

34 C.F.R. 106.45(b)(9).

ix. Recordkeeping

Ki Charter must maintain for a period of seven years records of:

1. Each sexual harassment investigation including any determination regarding responsibility, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to <<School Name>>’s education program or activity;

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2. Any appeal and the result therefrom;
3. Any informal resolution and the result therefrom; and
4. All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. Ki Charter must make these training materials publicly available on its website or, if Ki Charter does not maintain a website, Ki Charter must make these materials available upon request for inspection by members of the public.

For each response required under “Response by Title IX Coordinator,” Sec. 3(g) above, Ki Charter must create and maintain for a period of seven years records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment. In each instance, Ki Charter must document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to <<School Name>>’s education program or activity.

If Ki Charter does not provide a complainant with supportive measures, Ki Charter must document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit Ki Charter in the future from providing additional explanations or detailing additional measures taken.

34 C.F.R. 106.45(b)(10).

i) Retaliation Prohibited

Neither Ki Charter nor any other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under Title IX.

Intimidation, threats, coercion, or discrimination, including charges against an individual for Code of Conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX, constitutes retaliation.

Complaints alleging retaliation may be filed according to the “Process for Formal Title IX Complaint,” Sec. 3(h) above.

The exercise of rights protected under the First Amendment does not constitute retaliation prohibited by Title IX.

Charging an individual with a Code of Conduct violation for making a materially false statement in bad faith in the course of a Title IX formal complaint proceeding does not constitute retaliation prohibited by Title IX provided, however, that a determination regarding responsibility alone is not sufficient to conclude that any party made a materially false statement in bad faith.

34 C.F.R. 106.71(a)-(b).

j) Confidentiality

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Ki Charter must keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted by the Family Educational Rights and Privacy Act (“FERPA”) statute, 20 U.S.C. 1232g, or FERPA regulations, 34 C.F.R. part 99, or as required by law, or to carry out the purposes of the Title IX regulations at 34 C.F.R. part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder. *34 C.F.R. 106.71(a)*.

k) *Relationship to General Non-Discrimination Policy*

The formal complaint investigation and resolution process outlined above in Sec. 3(h) applies only to formal complaints alleging sexual harassment under Title IX, but not to complaints alleging sex discrimination that do not constitute sexual harassment. Complaints of sex discrimination that do not constitute sexual harassment may be filed with the Title IX Coordinator and will be handled under <<School Name>>’s general process for receiving reports of suspected discrimination and harassment, as outlined in Section 2 above.

Sec. 14. DISTRIBUTION OF POLICY

The Superintendent or designee shall ensure that this policy and accompanying procedures are made available to all employees through the Ki Charter Employee Handbook.

Sec. 15. LIABILITY FOR HARASSMENT

Ki Charter accepts no liability for harassment of any student or employee by another employee. Any Ki Charter employee who is found to have engaged in prohibited conduct is subject to disciplinary action, up to and including termination.

Ki Charter does not consider conduct in violation of this policy to be within the course and scope of employment or the direct consequences of the discharge of one’s duties. Accordingly, to the extent permitted by law, Ki Charter reserves the right not to provide a defense or pay damages assessed against employees for conduct in violation of this policy.

Sec. 16. DEFINITIONS

“Employee” means an employee or appointed officer who is paid to perform services for Ki Charter. This definition does not include independent contractors.

“Law” means a state or federal statute, an ordinance of a local governmental entity, or a rule adopted under a statute or ordinance.

“Personnel action” means an action that affects an employee’s compensation, promotion, demotion, transfer, work assignment, or performance evaluation.

A “good faith” belief that a violation of law occurred means that:

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1. An employee believed the conduct reported was a violation of law; and
2. The employee’s belief was reasonable in light of the employee’s experience and training.

A “good faith” belief that a law enforcement authority is an appropriate one means:

1. The employee believed the governmental entity was authorized to
 - a. Regulate under or enforce the law alleged to be violated in the report; or
 - b. Investigate or prosecute a violation of criminal law; and
2. The employee’s belief was reasonable in light of the employee’s experience and training.

Sec. 17. WHISTLEBLOWER COMPLAINTS

An employee who alleges a violation of whistleblower protection may take legal action against Ki Charter as described in Chapter 554 of the Texas Government Code. Before taking such action, an employee must initiate a grievance under PG-XX (Employee Complaints and Grievances - General).

The employee must invoke the grievance process under PG- XX no later than the 90th day after the date on which the alleged suspension, termination, or other adverse employment action occurred or was discovered by the employee through reasonable diligence. Ki Charter may shorten the timelines outlined in PG-XX (Employee Complaints and Grievances - General) in order to allow the Board to make a final decision concerning the grievance within 60 days of initiation of the grievance.

If the Board does not render a final decision before the 61st day after grievance procedures are initiated, the employee may elect to:

1. Exhaust the grievance process under PG-XX (Employee Complaints and Grievances - General), in which case the employee must file legal action not later than the 30th day after the date those procedures are exhausted to obtain relief under Chapter 554 of the Texas Government Code; or
2. Terminate the grievance process under PG-XX (Employee Complaints and Grievances - General) and file legal action within the timelines set by sections 554.005 and 554.006 of the Texas Government Code.

Gov’t Code 554.005, .006.

Sec. 18. WHISTLEBLOWER PROTECTIONS

Neither the Board nor its agents shall suspend or terminate the employment of, or take other adverse personnel action against, an employee who in good faith reports a violation of law by Ki Charter or another Ki Charter employee to an appropriate law enforcement authority. *Gov’t Code 554.002.*

Sec. 19. NOTICE OF RIGHTS

Ki Charter shall inform employees of their rights regarding whistleblower protection by posting a sign in a prominent location in the workplace. *Gov’t Code 554.009.*

Sec. 20. PERSONNEL DUTIES

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The Superintendent or designee shall define the qualifications, duties, and responsibilities of all positions and shall ensure that job descriptions are current and accessible to employees and supervisors.

Sec. 21. POSTING VACANCIES

The Superintendent or designee shall establish guidelines for advertising employment opportunities and posting notices of vacancies, which shall advance the commitment of Ki Charter to equal opportunity employment and to recruit well-qualified candidates. Current Ki Charter employees may apply for any vacancy for which they qualify.

Sec. 22. APPLICATIONS

All applicants shall complete the application form supplied by Ki Charter. Information on applications shall be confirmed before hiring or as soon as possible thereafter.

Sec. 23. NEW HIRES

f) *I-9 Forms*

The Superintendent or designee shall ensure that an employee properly completes Section 1 (“Employee Information and Verification”) on Form I-9 at the time of hire.

Ki Charter must verify employment eligibility, pursuant to the Immigration Reform and Control Act, and complete Form I-9 by the following dates:

1. Within three business days of hiring. If Ki Charter hires an individual for employment for a duration of less than three business days, the Superintendent or designee must verify employment at the time of hire.

Ki Charter shall not be deemed to have hired an individual if the individual is continuing in his or her employment and has a reasonable expectation of employment at all times.

When Ki Charter rehires an individual, the Superintendent or designee may, in lieu of completing a new I-9, inspect a previously completed I-9 executed within three years of the date of rehire, to determine whether the individual is still eligible to work.

2. For an individual whose employment authorization expires, not later than the date of expiration.

8 C.F.R. 274a.2(b)(1)(ii), (iii), (vii), (viii).

g) *New Hire Reporting*

Ki Charter shall furnish to the Directory of New Hires (Texas Attorney General’s Office) a report that contains the name, address, and social security number of each newly hired employee. The report shall also contain <<School Name>>’s name, address, and employer identification number.

Ki Charter may also provide, at its option, the employee's date of hire, date of birth, expected salary or wages, and <<School Name>>'s payroll address for mailing of notice to withhold child support.

Ki Charter shall report new hire information on a Form W-4 or an equivalent form, by first class mail, telephonically, electronically, or by magnetic media, as determined by Ki Charter and in a format acceptable to the attorney general.

h) *Deadline*

New hire reports are due:

1. Not later than 20 calendar days after the date Ki Charter hires the employee; or
2. In the case of Ki Charter transmitting reports magnetically or electronically, by two monthly transmissions (if necessary) not less than 12 days nor more than 16 days apart.

New hire reports shall be considered timely if postmarked by the due date or, if filed electronically, upon receipt by the agency.

42 U.S.C. 653a(b), (c); Family Code 234.101–.105; 1 TAC 55, Subch. I.

Sec. 24. EXIT INTERVIEWS AND EXIT REPORTS

An exit interview shall be conducted, if possible, and an exit report shall be prepared for every employee who leaves employment with Ki Charter.

Sec. 25. SOCIAL SECURITY NUMBERS

It shall be unlawful for Ki Charter to deny to any individual any right, benefit, or privilege provided by law because of the individual's refusal to disclose his or her social security number.

a) *Exceptions*

The above provision does not apply to:

1. Any disclosure that is required by federal statute. The United States Internal Revenue Code provides that the social security number issued to an individual for purposes of federal income tax laws shall be used as the identifying number for taxpayers;
2. Any disclosure to Ki Charter maintaining a system of records in existence and operating before January 1, 1975, if such disclosure was required under statute or regulation adopted before such date to verify the identity of an individual; or
3. Any use for the purposes of establishing the identity of individuals affected by any tax, general public assistance, driver's license, or motor vehicle registration law within <<School Name>>'s jurisdiction.

b) *Statement of Uses*

Upon disclosing an employee's social security number, Ki Charter shall inform that employee whether the disclosure is mandatory or voluntary, by what statutory authority such number is solicited, and what uses will be made of it.

Privacy Act of 1974, Pub. L. No. 93-579, Sec. 7, 88 Stat. 1896, 1897 (1974).

Sec. 26. EMPLOYMENT ASSISTANCE PROHIBITED

Upon receipt of Title I funds, the Superintendent shall adopt regulations that prohibit any individual who is a Ki Charter employee, contractor, or agent from assisting a Ki Charter employee in obtaining a new job, apart from the routine transmission of administrative and personnel files, if the individual or Ki Charter knows, or has probable cause to believe, that such school employee engaged in sexual misconduct regarding a minor or student in violation of the law.

This requirement shall not apply if the information giving rise to probable cause has been properly reported to a law enforcement agency with jurisdiction over the alleged misconduct; and has been properly reported to any other authorities as required by federal, state, or local law, including Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.) and the implementing regulations under Part 106 of Title 34, Code of Federal Regulations, or any succeeding regulations; and:

1. The matter has been officially closed or the prosecutor or police with jurisdiction over the alleged misconduct has investigated the allegations and notified Ki Charter officials that there is insufficient information to establish probable cause that the school employee engaged in sexual misconduct regarding a minor or student in violation of the law;
2. The school employee has been charged with and acquitted or otherwise exonerated of the alleged misconduct; or
3. The case or investigation remains open and there have been no charges filed against, or indictment of, the school employee within four years of the date on which the information was reported to a law enforcement agency.

20 U.S.C 7926.

Sec. 27. MINIMUM QUALIFICATIONS FOR PRINCIPALS AND TEACHERS

A person employed by Ki Charter as a Principal or teacher must hold at least a baccalaureate degree. *Education Code 12.129.*

Sec. 28. PRE-EMPLOYMENT AFFIDAVIT

An applicant for employment as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, school counselor, audiologist, occupational therapist, physical therapist, physician, nurse, school psychologist, associate school psychologist, licensed professional counselor, marriage and family therapist, social worker, or speech language pathologist must submit, using a form adopted by the

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Texas Education Agency, a pre-employment affidavit disclosing whether the applicant has ever been charged with, adjudicated for, or convicted of having an inappropriate relationship with a minor.

An applicant who answers affirmatively concerning an inappropriate relationship with a minor must disclose in the affidavit all relevant facts pertaining to the charge, adjudication, or conviction, including whether the charge was determined to be true or false.

An applicant is not precluded from being employed based on a disclosed charge if Ki Charter determines based on the information disclosed in the affidavit that the charge was false.

A determination that an employee failed to disclose information required to be disclosed by an applicant is grounds for termination of employment.

Education Code 21.009.

Sec. 29. TEA REGISTRY OF PERSONS NOT ELIGIBLE FOR EMPLOYMENT IN PUBLIC SCHOOLS

Ki Charter shall discharge or refuse to hire any person listed on the registry of persons who are not eligible to be employed by a school district, district of innovation, open-enrollment charter school, other charter entity, regional education service center, or shared services arrangement, as such registry is maintained and published by the Texas Education Agency. *Education Code § 22.092(b).*

Sec. 30. NOTICE TO PARENTS – QUALIFICATIONS

The Superintendent or designee shall provide to the parent or guardian of each student enrolled in Ki Charter written notice of the qualifications of each teacher employed by Ki Charter. *Education Code 12.129.*

Parents may also request, and Ki Charter will provide in a timely manner, information regarding the professional qualifications of their student’s classroom teachers. Information provided in response to a parent request will include, at a minimum:

1. Whether a child’s teacher(s) have met state qualification and licensing criteria for their grade levels and subject areas;
2. Whether a child’s teacher(s) are serving under emergency or other provisional status through which state qualification or licensing criteria have been waived;
3. Whether the teacher(s) are teaching in the field of discipline of the certification of the teacher; and
4. Whether a child receives services from paraprofessionals and, if so, their qualifications.

Sec. 31. ACCESS TO EMPLOYEE RECORDS

Custodians of personnel records shall adhere to the requirements of the Texas Public Information Act (“TPIA”).

Information in a personnel file is excepted from the requirements of the TPIA if the disclosure would constitute a clearly unwarranted invasion of personal privacy.

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A Ki Charter employee shall choose whether to allow public access to information in <<School Name>>'s custody that relates to the employee's home address, home telephone number, emergency contact information, Social Security number, or that reveals whether the person has family members. *Gov't Code 552.024, 552.102(a)*. The Superintendent shall develop procedures for employees to opt-out of having the above information released.

All information in the personnel file of a Ki Charter employee shall be made available to that employee or the employee's designated representative as public information is made available under the TPIA. An employee or an employee's authorized representative has a special right of access, beyond the right of the general public, to information held by Ki Charter that relates to the employee and that is protected from public disclosure by laws intended to protect the accessing employee's privacy interests. Ki Charter may assert as grounds for denial of access other provisions of the TPIA or other laws that are not intended to protect the accessing employee's privacy interests.

Sec. 32. DEFINITIONS

"Criminal history clearinghouse" ("Clearinghouse") means the electronic clearinghouse and subscription service established by the Department of Public Safety ("DPS") to provide criminal history record information to persons entitled to receive that information and to provide updates to such information. A person who is the subject of the criminal history record information requested must consent to the release of the information. *Gov't Code 411.0845(a), (h)*.

"Criminal history record information" (the "CHRI") means information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal criminal charges and their dispositions. The term does not include:

- (A) Identification information, including fingerprint records, to the extent that the identification information does not indicate involvement of the person in the criminal justice system; or
- (B) Driving record information maintained by the department under Subchapter C, Chapter 521, Transportation Code.

Gov't Code 411.082(2).

"National criminal history record information" ("NCHRI") means criminal history record information obtained from DPS under Government Code Chapter 411, Subchapter F, and the Federal Bureau of Investigation (the "FBI") under Government Code 411.087. *Education Code 22.081(2)*.

Sec. 33. CERTIFIED PERSONS

The State Board for Educator Certification (the "SBEC") shall review the NCHRI of a person who has not previously submitted fingerprints to the department or been subject to a national criminal history record information review who is an applicant for or holder of a certificate and who is employed by or is an applicant for employment by Ki Charter. *Education Code 22.0831(b), (c)*.

Sec. 34. NONCERTIFIED EMPLOYEES

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This section applies to a person who is not an applicant for or holder of a certificate from the SBEC and who, on or after January 1, 2008, is offered employment by:

1. <<School Name>>; or
2. A shared services arrangement, if the employee's or applicant's duties are or will be performed on school property or at another location where students are regularly present.

For noncertified employees of Ki Charter or a shared services arrangement hired before January 1, 2008, see Section 7 (All Other Employees) below.

i) *Information to DPS and the Texas Education Agency (the "TEA")*

Before or immediately after employing or securing the services of a person subject to this section, Ki Charter shall send or ensure that the person sends to the DPS information that the DPS requires for obtaining NCHRI, which may include fingerprints and photographs.

Ki Charter shall provide the TEA with the name of a person to whom this section applies. The TEA shall examine the CHRI of the person and notify Ki Charter if the person may not be hired or must be discharged under Education Code 22.085.

j) *Employment Pending Review*

After the required information is submitted, the person may begin employment, but that employment is conditional upon the review and acceptability of that person's CHRI by Ki Charter and by the TEA. If Ki Charter or the TEA makes a determination that the employee or applicant is ineligible for employment, the employee must be terminated.

k) *Criminal History*

Ki Charter shall obtain all CHRI that relates to a person subject to this section through the Clearinghouse and shall subscribe to the CHRI of that person. Ki Charter may require the person to pay any fees related to obtaining the CHRI.

Education Code 22.0833; 19 TAC 153.1109(d).

Sec. 35. SUBSTITUTE TEACHERS

This section applies to a person who is a substitute teacher for Ki Charter or a shared services arrangement. For purposes of this policy, a "substitute teacher" is a teacher who is on call or on a list of approved substitutes to replace a regular teacher and has no regular or guaranteed hours. A substitute teacher may be certified or noncertified.

a) *Information to DPS and TEA*

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Ki Charter shall send or ensure that a person to whom this section applies sends to the DPS information required for obtaining NCHRI, which may include fingerprints and photographs.

Ki Charter shall provide the TEA with the name of a person to whom this section applies. The TEA shall examine the CHRI and certification records of the person and notify Ki Charter if the person:

1. May not be hired or must be discharged as provided by Education Code 22.085; or
2. May not be employed as a substitute teacher because the person's educator certification has been revoked or is suspended.

b) *Employment Pending Review*

After the required information is submitted, the person may begin employment, but that employment is conditional upon the review of that person's CHRI by Ki Charter and by the TEA. If Ki Charter or the TEA makes a determination that the employee or applicant is ineligible for employment, the employee must be terminated.

c) *Criminal History*

Ki Charter shall obtain all CHRI that relates to a person to whom this section applies through the Clearinghouse. Ki Charter may require the person to pay any fees related to obtaining the CHRI.

Education Code 22.0836; 19 TAC 153.1101(5), 153.1111(d).

Sec. 36. STUDENT TEACHERS AND VOLUNTEERS

This section applies to:

1. A person participating in an internship consisting of student teaching to receive a teaching certificate; and
2. A volunteer or person who has indicated, in writing, an intention to serve as a volunteer with Ki Charter.

a) *Criminal History*

A person may not perform any student teaching or volunteer duties until:

1. The student teacher or volunteer has provided to Ki Charter a driver's license or another form of identification containing the person's photograph issued by an entity of the United States government; and
2. Ki Charter has obtained from the DPS all CHRI that relates to the student teacher or volunteer. Ki Charter may also obtain CHRI relating to a student teacher or volunteer from any other law enforcement agency, criminal justice agency, or private consumer reporting agency.

Ki Charter may require a student teacher or volunteer to pay any costs related to obtaining the CHRI.

b) *Exception*

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The criminal history requirements above do not apply to a person who volunteers or is applying to volunteer with Ki Charter if the person:

1. Is the parent, guardian, or grandparent of a child who is enrolled in <<School Name>>;
2. Will be accompanied by a Ki Charter employee while on a Ki Charter campus; or
3. Is volunteering for a single event on Ki Charter campus.

Education Code 22.0835.

Sec. 37. COORDINATION OF EFFORTS

Ki Charter may coordinate with the TEA, the SBEC, and a shared services arrangement as necessary to ensure that criminal history reviews are not unnecessarily duplicated. *Education Code 22.0833(h).*

Sec. 38. ALL OTHER EMPLOYEES

Ki Charter shall obtain CHRI that relates to a person who is not subject to a NCHRI review and who is an employee of:

1. <<School Name>>; or
2. A shared services arrangement, if the employee's duties are performed on school property or at another location where students are regularly present.

Ki Charter may obtain the CHRI from:

1. The DPS;
2. A law enforcement or criminal justice agency; or
3. A private consumer reporting agency.

Education Code 22.083(a), (a-1), (c); Gov't Code 411.097.

Sec. 39. CONFIDENTIALITY OF CRIMINAL HISTORY RECORDS

CHRI that Ki Charter obtains from the DPS, including any identification information that could reveal the identity of a person about whom the CHRI is requested and information that directly or indirectly indicates or implies involvement of a person in the criminal justice system:

1. Is for the exclusive use of <<School Name>>; and
2. May be disclosed or used by Ki Charter only if, and only to the extent, disclosure is authorized or directed by a statute, rule, or order of a court of competent jurisdiction.

For purposes of these confidentiality provisions, "criminal history record" information does not refer to any specific document provided by the DPS, but to the information contained, wholly or partly, in a document's original form or any subsequent form or use.

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Ki Charter or an individual may not confirm the existence or non-existence of CHRI to any person who is not eligible to receive the information. *Gov't Code 411.084.*

CHRI obtained by Ki Charter, in the original form or any subsequent form, may not be released to any person except the individual who is the subject of the information, the TEA, the SBEC, or by court order. The CHRI is not subject to disclosure under Government Code Chapter 552 (Public Information Act).

A Ki Charter employee may request from the Human Resources Department a copy of any CHRI related to that employee that Ki Charter has obtained from the DPS. Ki Charter may charge a fee to provide the information, not to exceed the actual cost of copying the CHRI. *Gov't Code 411.097(d), (f).*

Ki Charter generally will not print out CHRI, unless necessary for conducting a review of records or if seeking legal advice concerning eligibility for employment following receipt of a CHRI report.

Any Ki Charter employee who violates confidentiality protocols concerning access to, review of, or confidentiality of CHRI is subject to discipline, up to and including termination.

a) *Destroying CHRI*

Ki Charter shall destroy CHRI obtained from the DPS on the earlier of:

1. The date the information is used for the authorized purpose; or
2. The first anniversary of the date the information was originally obtained.

Gov't Code 411.097(d)(3).

This process also applies if it is necessary to print out CHRI.

Sec. 40. CONFIDENTIALITY OF CHRI INFORMATION

Ki Charter may not release information collected about a person in order to obtain CHRI, including the person's name, address, phone number, social security number, driver's license number, other identification number, and fingerprint records, except:

1. To comply with Government Code Chapter 22, Subchapter C (criminal records);
2. By court order; or
3. With the consent of the person who is the subject of the information.

In addition, the information is not subject to disclosure under Government Code Chapter 522 (Public Information Act). Ki Charter shall destroy the information not later than the first anniversary of the date the information is received. *Education Code 22.08391.*

Sec. 41. SBEC NOTIFICATION

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The Superintendent or designee shall promptly notify the SBEC in writing by filing a report with the TEA staff within seven calendar days of the date the Superintendent obtains or has knowledge of information indicating that an applicant for or holder of a certificate issued by the SBEC has a reported criminal history and Ki Charter obtained information about the educator’s criminal record by a means other than by the DPS.

“Reported criminal history” means information concerning any formal criminal justice system charges and dispositions. The term includes arrests, detentions, indictments, criminal information, convictions, deferred adjudications, and probations in any state or federal jurisdiction. *Education Code 22.087; 19 TAC 249.14(d), .3(43).*

Sec. 42. DISCHARGE OF CONVICTED EMPLOYEES

a) *Discharge Under Education Code 22.085*

In accordance with Education Code 22.085, Ki Charter shall discharge or refuse to hire an employee or applicant for employment if Ki Charter obtains information through a CHRI review that the employee or applicant has been:

1. Convicted of or placed on deferred adjudication community supervision for an offense for which a defendant is required to register as a sex offender under Code of Criminal Procedure Chapter 62; or
2. Convicted of:
 - a. A felony offense under Title 5, Penal Code, if the victim of the offense was under 18 years of age at the time the offense was committed; or
 - b. An offense under the laws of another state or federal law that is equivalent to an offense under item 1 or item 2(a).

However, Ki Charter is not required to discharge or refuse to hire an employee or applicant if the person committed an offense under Title 5 Penal Code and:

1. The date of the offense is more than 30 years before:
 - a. June 15, 2007 in the case of a person employed by Ki Charter as of that date; or
 - b. The date the person’s employment will begin, in the case of a person applying for employment with Ki Charter after June 15, 2007; and
2. The employee or applicant for employment satisfied all terms of the court order entered on conviction.

b) *Discharge Under Education Code 12.120 and 19 TAC 100.151*

Additionally, in accordance with Education Code 12.120 and 19 TAC 100.1151, an individual may not be employed by Ki Charter if he or she:

1. Has been convicted of any felony or a misdemeanor involving moral turpitude;
2. Has been convicted of any offense listed in Education Code section 37.007(a); or
3. Has been convicted of an offense listed in the Code of Criminal Procedure section 62.001(5).

c) *Exception*

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Notwithstanding the foregoing, a person may be employed in any position by Ki Charter if a school district could employ the person in that position and the TEA approves of the employment pursuant to Education Code section 12.1059. *Education Code 12.120; 19 TAC 100.1151(b)*.

d) *Certification to TEA*

Each school year, the Superintendent or designee shall certify to the Commissioner of Education that Ki Charter has complied with the above provisions.

e) *Optional Termination*

Ki Charter may discharge an employee if it obtains information of the employee's conviction of a felony or misdemeanor involving moral turpitude that the employee did not disclose to the SBEC or Ki Charter.

Sec. 43. NOTIFICATION OF ARRESTS, INDICTMENTS, CONVICTIONS, AND OTHER ADJUDICATIONS

A Ki Charter employee shall notify his or her Principal or immediate supervisor within three calendar days of any arrest, indictment, conviction, guilty or no contest plea, or other adjudication of the employee for any felony offense or misdemeanor offense involving moral turpitude and/or:

1. Crimes involving Ki Charter property or funds;
2. Crimes involving attempt by fraudulent or unauthorized means to obtain or alter any certificate or permit that would entitle any person to hold or obtain a position as an educator;
3. Crimes that occur wholly or in part on Ki Charter property or at a school-sponsored or school-related activity; or
4. Crimes involving moral turpitude, which include:
 - a. Dishonesty, fraud, deceit, theft, misrepresentation;
 - b. Deliberate violence;
 - c. Base, vile or depraved acts that are intended to arouse or gratify the sexual desire of the actor;
 - d. Acts constituting public intoxication, operating a motor vehicle while under the influence of alcohol, or disorderly conduct; or
 - e. Acts constituting abuse under the Texas Family Code.

Sec. 44. DISCRIMINATION BASED ON CRIMINAL HISTORY

Except as required by state or federal law, Ki Charter does not prohibit employment or refuse to consider an application for employment solely on the grounds that an applicant/employee has a prior criminal record. Ki Charter does not prohibit employment or refuse to consider an application for employment based solely on the grounds that the applicant/employee has been arrested. It is the policy of Ki Charter, prior to any exclusion of an applicant for employment or continued employment of an employee that has a criminal record, to conduct an individualized assessment of the criminal conduct at issue. In conducting such an assessment, Ki Charter shall carefully consider the following in order to determine that any exclusion based on criminal conduct is job related to the position in question and consistent with the business necessity of <<School Name>>:

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- The nature and gravity of the offense or offenses;
- The time that has passed since the conviction and/or completion of the sentence;
- The nature of the job held or sought.

Ki Charter shall consider the additional information provided by the applicant/employee that demonstrates that the criminal conduct is not job related and is consistent with business necessity of Ki Charter prior to making any final determination. Such additional information may include:

- The facts or circumstances surrounding the offense or conduct;
- The number of offenses for which the individual was convicted;
- Age at the time of conviction, or release from prison;
- Evidence that the individual performed the same type of work, post-conviction, with the same or a different employer, with no known incidents of criminal conduct;
- The length and consistency of employment history before and after the offense;
- Rehabilitation efforts, e.g., education/training;
- Employment or character references regarding fitness for the particular position;
- Whether the individual is bonded under a federal, state or local bonding program.

Sec. 45. CONSUMER CREDIT REPORTS

a) *Definitions*

“Adverse action” includes a denial of employment or any other decision for employment purposes that adversely affects any current or prospective employee.

“Consumer report” includes any information from a consumer reporting agency that is used or expected to be used as a factor in establishing the person’s eligibility for employment.

“Consumer reporting agency” is an agency that, for monetary fees, dues, or on a cooperative nonprofit basis, regularly assembles or evaluates consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties.

“Employment purposes” when used in connection with a consumer report means a report used for the purpose of evaluating a person for employment, promotion, reassignment, or retention as an employee.

15 U.S.C. 1681a.

b) *Obtaining Consumer Credit Reports*

Ki Charter may not procure a consumer report for employment purposes unless:

1. Ki Charter has provided the applicant or employee a written disclosure that a consumer report may be obtained for employment purposes; and
2. The applicant or employee has authorized in writing the procurement of the consumer report.

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c) *Adverse Action*

Before taking any adverse action based on the consumer report, Ki Charter shall provide the applicant or employee a copy of the consumer report and a written description of the person's rights under the Fair Credit Reporting Act, as prescribed by the Federal Trade Commission.

15 U.S.C. 1681b(b)(2).

d) *Discrepancies in Address*

The Superintendent or designee shall develop and implement reasonable policies and procedures designed to enable Ki Charter, when it receives a notice of address discrepancy, to form a reasonable belief that a consumer report relates to the consumer about whom it has requested the report. The Superintendent or designee shall also develop and implement reasonable policies and procedures for furnishing an address for the consumer, which Ki Charter has reasonably confirmed is accurate, to the consumer reporting agency. *16 CFR 641.1.*

e) *Disposing of Consumer Credit Report Records*

Ki Charter must properly dispose of a consumer report by taking reasonable measures to protect against unauthorized access to or use of the information. "Dispose" includes discarding or abandoning the consumer report, or selling, donating, or transferring any medium, including computer equipment, upon which the consumer report is stored.

Examples of reasonable measures include:

1. Burning, pulverizing, or shredding papers containing a consumer report so the information cannot practicably be read or reconstructed;
2. Destroying or erasing electronic media containing a consumer report so that the information cannot practicably be read or reconstructed; or
3. After due diligence, entering into and monitoring compliance with a contract with another party engaged in the business of record destruction to dispose of the consumer report.

16 CFR 682.3.

KI CHARTER shall strive to protect the privacy of employees' medical information to the greatest extent possible.

Sec. 46. "MEDICAL INFORMATION" DEFINED

"Medical information" is any information, data, or documentation relating to an employee's mental or physical condition. The term includes, but is not limited to:

1. Oral, written, or digital information concerning an employee's mental or physical condition;
2. Medical records;
3. Dental records;

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4. Disability records;
5. Workers' compensation records;
6. Medical leave records;
7. Genetic information;
8. Health insurance information; and/or
9. Information concerning visits or payments to any health care professional, hospital, emergency room, or other type of short- or long-term health care facility.

Sec. 47. CONFIDENTIALITY OF RECORDS

Any medical information concerning employees will be maintained in separate, confidential medical files apart from regular personnel records. Only employees authorized by the Superintendent may access such files.

Employees are hereby notified that medical information concerning employees is absolutely confidential under state and federal laws and may not be discussed at any time with any person under any circumstances, unless:

1. An employee needs to do so in order to carry out his or her job duties, or
2. The person discussing the information is talking or otherwise communicating with the subject of the information at that person's invitation.

If an employee is concerned about a possible medical condition on the part of another employee, the employee must not discuss such concern with anyone other than his or her Principal or immediate supervisor.

Sec. 48. POLICY VIOLATIONS

Any employee who is found to have discussed medical information concerning another employee with anyone else in violation of this policy, or who is found to have released such information without authorization, will be subject to severe disciplinary action, up to and possibly including immediate termination from employment. Such an employee may also be subject to both civil and criminal action in a court of law under state and federal law.

Sec. 49. OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION COMPLIANCE

The Superintendent shall ensure that Ki Charter complies with all applicable requirements of the Occupational Safety and Health Administration (the "OSHA") in order to reduce dangers to health and safety by creating and maintaining improved working conditions free from recognized hazards that may cause serious physical injury.

Accordingly, Ki Charter shall:

1. Maintain a log of all occupational injuries and illnesses and report such occurrences as required by the OSHA;
2. Post notice of employee protections under the OSHA in the workplace;
3. Post citations issued by the OSHA, if any, at or near the place of the alleged violation and correct workplace hazards in the time allowed; and
4. Furnish all employees a place of employment free from recognized hazards.

l) *Reporting Employee Injuries*

Any employee suffering an injury or illness that is work-related – no matter how minor – is responsible for immediately reporting that illness or injury to his or her supervisor. Supervisors must report the injury or illness to the appropriate agency.

Once an injury or illness has been reported, an injury report must be completed within 48 hours.

m) *Reporting Serious Injuries*

Within eight hours after the death of any employee from a work-related incident or the in-patient hospitalization of three or more employees as a result of a work-related accident, Ki Charter will orally report the fatality/multiple hospitalization by telephone or in person to the Area Office of the OSHA that is nearest to the site of the incident.

Ki Charter will utilize the required OSHA forms to document and log each recordable injury or illness. This information will be kept current, maintained accurately, and retained for a period of five years.

n) *Personal Protective Equipment*

Each campus shall provide personal protective equipment for all employees so they are able to work safely with chemicals.

o) *Safety Training*

The Superintendent or designee shall provide training to employees on hazards and related matters as required by the OSHA.

Sec. 50. GENERAL SAFETY

All employees are expected to work in a safe and prudent manner abiding by all safety related policies and procedures

Lighted candles or open flames are not permitted for any purpose in Ki Charter facilities, except when related to an approved lesson plan. Pyrotechnics in Ki Charter buildings or on school grounds is strictly prohibited.

Sec. 51. ASBESTOS MANAGEMENT PLAN

Ki Charter shall utilize the services of an accredited management planner to develop an asbestos management plan for each campus. A copy of the management plan shall be kept in the Central Office and be made available for inspection during normal business hours.

Sec. 52. PEST CONTROL TREATMENT

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Employees are prohibited from applying any pesticide or herbicide without appropriate training and prior approval of the integrated pest management (IPM) coordinator. Any application of pesticide or herbicide must be done in a manner prescribed by law and <<School Name>>'s integrated pest management program.

Notices of planned pest control treatment will be posted in Ki Charter facilities 48 hours before the treatment begins. Individual employees may request in writing to be notified of pesticide applications. An employee who requests individualized notice will be notified by telephone, written or electric means.

Employees should immediately report any evidence of pest activity to Ki Charter administrators or the Director of Facilities.

Sec. 53. CLEAN AIR ACT

In compliance with the Clean Air Act, Ki Charter shall use only licensed technicians to service and replace air conditioning and refrigeration equipment.

Sec. 54. HAZARD COMMUNICATION ACT

To the extent that the requirements of the OSHA do not apply to Ki Charter, Ki Charter shall comply with the Texas Hazard Communication Act, Health and Safety Code Chapter 502.

Ki Charter is concerned about the safety of all employees. The Superintendent or designee shall adopt procedures and perform the following duties in compliance with the Texas Hazard Communication Act:

1. Post and maintain the notice promulgated by the Texas Department of State Health Services (the "TDSHS") in the workplace.
2. Provide an education and training program for employees using or handling hazardous chemicals under normal operating conditions or foreseeable emergencies.
3. Maintain the written hazard communication program and a record of each training session to employees, including the date, a roster of the employees who attend, the subjects covered in the training session, and the names of the instructors. Records will be maintained for at least five years.
4. Compile and maintain a workplace chemical list that includes required information for each hazardous chemical normally present in the workplace or temporary workplace in excess of 55 gallons or 500 pounds, or as determined by the TDSHS for certain highly toxic or dangerous hazardous chemicals. The list will be readily available to employees and their representatives.
5. Update the list as necessary, but at least by December 31 each year, and maintain the list as required by law. Each workplace chemical list shall be dated and signed by the person responsible for compiling the information.
6. As required by law, label new or existing stocks of hazardous chemicals with the identity of the chemical and appropriate hazard warnings, if such stocks are not already appropriately labeled.
7. Maintain a legible copy of the most current manufacturer's material safety data sheets ("MSDS") for each hazardous chemical; request such sheets from the manufacturer if not already provided or otherwise obtain a current MSDS; make such sheets readily available to employees or their representatives on request.
8. Provide employees with appropriate personal protective equipment.

Sec. 55. PEST CONTROL TREATMENT NOTICE

The Superintendent or designee shall notify employees of any planned pest control treatment by both of the following methods:

1. Posting the sign provided by the certified applicator or technician in an area of common access the employees are likely to check on a regular basis at least 48 hours before each planned treatment.
2. Providing the official Structural Pest Control Service Consumer Information Sheet to any individual working in the building, on request.

Sec. 56. BLOODBORNE PATHOGEN CONTROL

The Superintendent or designee shall establish a written Exposure Control Plan designed to eliminate or minimize exposure to blood or other potentially infectious materials, as defined by 29 C.F.R. 1910.1030.

The Exposure Control Plan shall contain at least the following elements:

1. An exposure determination containing:
 - a. A list of all job classifications in which all employees in those job classifications have occupational exposure;
 - b. A list of job classifications in which some employees have occupational exposure; and
 - c. A list of all tasks and procedures or groups of closely related task and procedures in which occupational exposure occurs and that are performed by employees in job classifications in which some employees have occupational exposure.
2. The schedule and method of implementation for the requirements set forth in 29 C.F.R. 1910.1030 regarding methods of compliance, HIV and HBV research laboratories and production facilities, Hepatitis B vaccination and post-exposure evaluation and follow-up, communication of hazards to employees, and recordkeeping; and
3. The procedure for the evaluation of circumstances surrounding exposure incidents as required by 29 C.F.R. 1910.1030.

The Exposure Control Plan shall be made accessible to all employees. The Superintendent or designee shall review and update the Exposure Control Plan at least annually and whenever necessary to reflect new or modified tasks and procedures that affect occupational exposure and to reflect new or revised employee positions with occupational exposure.

Where there is occupational exposure, Ki Charter shall provide, at no cost to employees, appropriate personal protective equipment. 29 C.F.R. 1910.1030.

Sec. 57. PRE-EMPLOYMENT INQUIRIES AND EMPLOYMENT ENTRANCE EXAMINATIONS

Ki Charter shall not conduct a medical examination or make inquiries of a job applicant as to whether such applicant is an individual with a disability or as to the nature or severity of a disability, except as provided below. However, Ki Charter is permitted to make pre-employment inquiries into the ability of an applicant to perform job-related functions, such as asking an applicant to describe or demonstrate how, with or without reasonable

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accommodation, the applicant will be able to perform job-related functions. *42 U.S.C. 12112(d)(2); 29 CFR 1630.14(a).*

Ki Charter may require a medical examination (and/or inquiry) after an offer of employment has been made to a job applicant and prior to the beginning of employment duties and may condition the offer on the results of such examination (and/or inquiry), provided all entering employees in the same job category are subjected to such an examination (and/or inquiry) regardless of disability.

The results of an employment entrance medical examination shall be used only to determine the applicant's ability to perform job-related functions. *42 U.S.C. 12112(d)(3); 29 CFR 1630.14(b).*

a) Confidentiality

Information obtained regarding the medical condition or history of the applicant shall be collected and maintained on separate forms and in separate medical files and shall be treated as confidential medical records. However, supervisors and managers may be informed regarding necessary restrictions on the employee's work or duties and necessary accommodation; first aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment. *29 CFR 1630.14(b)(c).*

b) Examination During Employment

Ki Charter may require a medical examination (and/or inquiry) of an employee that is job related and consistent with business necessity and may make inquiries into the ability of an employee to perform job-related functions. The results of an employee's medical examination shall be used only to determine the employee's ability to perform job-related functions. *42 U.S.C. 12112(d)(3)–(4); 29 CFR 1630.14(c).*

Sec. 58. EXAMINATIONS DURING EMPLOYMENT

The Superintendent or designee may require an employee to undergo a medical examination if information received from the employee, the employee's supervisor, or other sources indicates the employee has a physical or mental impairment that:

1. Interferes with the employee's ability to perform essential job functions; or
2. Poses a direct threat to the health or safety of the employee or others. A communicable or other infectious disease may constitute a direct threat.

Ki Charter may designate the physician to perform the examination. If Ki Charter designates the physician, Ki Charter shall pay the cost of the examination. Ki Charter may place the employee on paid administrative leave while awaiting results of the examination and evaluating the results.

Based on the results of the examination, the Superintendent or designee shall determine whether the employee has an impairment. If so, the Superintendent or designee shall determine whether the impairment interferes with the employee's ability to perform essential job functions or poses a direct threat. If not, the employee shall be returned to his or her job position.

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If the impairment does interfere with the employee's ability to perform essential job functions or poses a direct threat, the Superintendent or designee shall determine whether the employee has a disability and, if so, whether the disability requires reasonable accommodation.

Sec. 59. OTHER REQUIREMENTS

Employees with communicable diseases shall follow recommendations of public health officials regarding contact with students and other employees. Food service workers shall comply with health requirements established by city, county, and state health authorities.

Sec. 60. DRUG- AND ALCOHOL-FREE WORKPLACE

KI CHARTER intends to provide a safe and drug- and alcohol-free environment for employees and students. With this goal in mind, KI CHARTER expressly prohibits:

1. The use, possession, solicitation for, or sale of narcotics or other illegal drugs, alcohol, or prescription medication without a prescription on Ki Charter property or while performing an assignment.
2. Being impaired or under the influence of legal or illegal drugs or alcohol away from Ki Charter, if such impairment or influence adversely affects the employee's work performance, the safety of the employee or of others, or put at risk <<School Name>>'s reputation.
3. Possession, use, solicitation for, or sale of legal or illegal drugs or alcohol away from Ki Charter, if such activity or involvement adversely affects the employee's work performance, the safety of the employee or of others, or puts at risk <<School Name>>'s reputation.
4. The presence of any detectable amount of prohibited substances in the employee's system while at work, while on Ki Charter property, or while on <<School Name>>-related business. "Prohibited substances" include illegal drugs, alcohol, or prescription drugs not taken in accordance with a prescription given to the employee.

Sec. 61. DRUG AND ALCOHOL TESTING

Ki Charter will conduct drug and/or alcohol testing under any of the following circumstances:

p) *School Drivers*

Employees who drive <<School Name>>-owned or leased vehicle(s) on school-related business may be subject to drug and/or alcohol testing as determined necessary by the Ki Charter administration.

q) *Random Testing*

Employees may be selected at random for drug and/or alcohol testing at any interval determined by Ki Charter.

r) *For-Cause Testing*

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Ki Charter may direct an employee to submit to a drug and/or alcohol test at any time Ki Charter believes that the employee may be under the influence of drugs or alcohol, including, but not limited to, the following circumstances:

1. Evidence of drugs or alcohol on or about the employee's person or in the employee's vicinity;
2. Unusual conduct on the employee's part that suggests impairment or influence of drugs or alcohol;
3. Negative performance patterns; or
4. Excessive and unexplained absenteeism or tardiness.

s) *Post-Accident Testing*

Any employee involved in an on-the-job accident or injury under circumstances that suggest possible use or influence of drugs or alcohol in the accident or injury event may be asked to submit to a drug and/or alcohol test. "Involved in an on-the-job accident or injury" means not only the one who was or could have been injured, but also any employee who potentially contributed to the accident or injury event in any way.

Sec. 62. POLICY VIOLATIONS

An employee is subject to disciplinary sanctions under this policy if:

1. The employee is tested for drugs or alcohol outside of the employment context and the results indicate a violation of this policy;
2. The employee is tested for drugs or alcohol in accordance with this policy and the results indicate a violation of this policy; and/or
3. The employee refuses to submit to testing under this policy.

Disciplinary sanctions for violations of this policy may include, but are not limited to:

1. Referral to drug and/or alcohol counseling or rehabilitation programs;
2. Referral to employee assistance programs;
3. Referral to appropriate law enforcement officials for prosecution;
4. Removal from safety-sensitive functions;
5. Employment actions, up to and including termination of employment; and/or
6. Any other form of disciplinary sanction deemed appropriate by Ki Charter.

Sec. 63. DRUG-FREE AWARENESS PROGRAM

The Superintendent shall establish, as needed, a drug-free awareness program complying with legal requirements. The program shall provide relevant information to employees in the following areas:

1. The dangers of drug use and abuse in the workplace.
2. <<School Name>>'s drug-free workplace policy.
3. Counseling, rehabilitation, and other assistance programs available to employees in the community, if any.
4. Consequences on employment for violating <<School Name>>'s drug use and abuse prohibitions.

The employee shall be responsible for all fees or charges related to drug/alcohol counseling or rehabilitation, if any.

Sec. 64. TOBACCO USE

KI CHARTER further intends to provide a tobacco-free environment for employees and students. Smoking (including, but not limited to cigarettes, cigars, and pipes) and the use of tobacco by employees is prohibited on all <<School Name>>-owned property, in <<School Name>>-owned vehicles, and while supervising students during school-related events.

KI CHARTER also prohibits the use of any “vapor products”—meaning electronic cigarettes (e-cigarettes) or any other device that uses a mechanical heating element, battery, or electronic circuit to deliver vapor that may include nicotine to the individual inhaling from the device; any substance used to fill or refill the device-cigarette; inhalants; electronic cigarette devices; and/or other devices or paraphernalia used with vapor products, other inhalants, or chemicals—at all times on Ki Charter property, at any Ki Charter event or activity (whether or not on school property), or in Ki Charter vehicles.

An employee who violates this tobacco use policy is subject to disciplinary action, up to and including termination from employment.

A Ki Charter officer or employee shall not:

1. Recommend to a student or a parent that the student use a psychotropic drug;
2. Suggest any particular diagnosis; or
3. Exclude a student from attending a class or participating in a school-related activity because of the parent’s refusal to consent to the administration of a psychotropic drug to a student or to a psychiatric evaluation or examination of a student.

This policy does not prevent a Ki Charter officer or employee from:

1. Making an appropriate referral under Child Find;
2. Recommending that a child be evaluated by an appropriate medical practitioner, if the employee is a registered nurse, advanced nurse practitioner, physician, or certified or appropriately credentialed mental health professional; or
3. Discussing any aspect of a child’s behavior or academic progress with the child’s parent or other Ki Charter officer or employee, as appropriate.

Education Code 38.016.

PART I: REPORTING EDUCATOR MISCONDUCT

Sec. 4.11.64.1. MATTERS TO REPORT

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In addition to the reporting requirements under Family Code 261.101¹, the Superintendent shall notify the State Board for Educator Certification (the “SBEC”) if:

1. An educator employed by or seeking employment with Ki Charter has a reported criminal history and Ki Charter obtained information about the educator’s criminal record by a means other than the criminal history clearinghouse established by the Texas Department of Public Safety;
2. An educator’s employment with Ki Charter was terminated and there is evidence that the educator:
 - a. Abused or otherwise committed an unlawful act with a student or minor;
 - b. Was involved in a romantic relationship or solicited or engaged in sexual conduct with a student or minor;
 - c. Possessed, transferred, sold, or distributed a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. § 801 *et seq.*;
 - d. Illegally transferred, appropriated, or expended Ki Charter property or funds;
 - e. Attempted by fraudulent or unauthorized means to obtain or alter a professional certificate or license for purposes of promotion or additional compensation; or
 - f. Committed a crime or any part of a crime while on Ki Charter property or at a school-sponsored event.
3. The educator resigned and reasonable evidence supported a recommendation to terminate the individual because he or she engaged in misconduct described in paragraph 2 above; or
4. The educator engaged in conduct that violated the assessment instrument security procedures established by Education Code section 39.0301.

Education Code 21.006, 22.087; 19 TAC 243.14(d).

Sec. 4.11.64.2. REQUIREMENT TO COMPLETE INVESTIGATION

The Superintendent shall complete an investigation of an educator that involves evidence that the educator may have engaged in misconduct items 2(a) or (b) in Part I, Section 1 (Matters to Report) above, despite the educator’s resignation from employment before completion of the investigation. *Education Code 21.006(b-1).*

Sec. 4.11.64.3. DEADLINE FOR REPORTING TO SBEC

The Superintendent must notify the SBEC in writing not later than the seventh business day after the date the Superintendent receives a report under Part I, Section 6 (Report by Principal) or otherwise knew about an educator’s termination of employment or resignation following an alleged incident of misconduct or an employee’s criminal record. *Education Code 21.006(c).*

Sec. 4.11.64.4. CONTENTS OF REPORT

¹ During the 87th regular legislative session in 2021, the standard for reporting child abuse and neglect under Texas Family Code §261.101 was changed from “cause to believe” to “***reasonable cause to believe***.” A person having reasonable cause to believe abuse or neglect has occurred is required to make a report within 48 hours of when they first had reasonable cause to believe the abuse or neglect occurred.

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The report shall be in writing in a form prescribed by the SBEC, and may be filed through the Internet portal developed and maintained by the SBEC, and must include the name or names of any student or minor who is the victim of abuse or unlawful conduct by an educator. The report shall, at a minimum, describe in detail the factual circumstances requiring the report and identify the subject of the report by providing the following available information:

1. Name and any aliases;
2. Certificate number, if any, or social security number;
3. Last known mailing address and home and daytime phone numbers;
4. All available contact information for any alleged victim or victims;
5. Name or names and any available contact information of any relevant witnesses to the circumstances requiring the report;
6. Current employment status of the subject, including any information about proposed termination, notice of resignation, or pending employment actions; and
7. Involvement by a law enforcement or other agency, including the Texas Education Agency.

Education Code 21.006(c-1); 19 TAC 249.14(f).

The Superintendent shall include the name of a student or minor who is the victim of abuse or unlawful conduct by an educator, but the name of the student or minor is not public information under Government Code Chapter 552. *Education Code 21.006(h).*

Sec. 4.11.64.5. REPORT NOT REQUIRED

The Superintendent is not required to notify the SBEC or file a report if the Superintendent:

1. Completes an investigation into an alleged incident of misconduct for:
 - a. Abuse or unlawful act with a student or minor; or
 - b. Involvement in a romantic relationship with or solicitation or engagement in sexual contact with a student or minor; and
2. Determines the educator did not engage in the alleged incident of misconduct.

Education Code 21.006(c-2).

The Superintendent should seek legal counsel before making any such determination, and if there is any doubt or concern, err on the side of reporting to the SBEC.

Sec. 4.11.64.6. REPORT BY THE PRINCIPAL

The Principal of a Ki Charter campus must notify the Superintendent not later than the seventh business day after learning of an educator's termination of employment or resignation following an alleged incident of misconduct or the principal knew about an educator's criminal record, as described in Part I, Section 1 (Matters to Report) above. *Education Code 21.006(b-2).*

Sec. 4.11.64.7. NOTICE OF REPORT

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d) *Notice to the Board and Educator*

The Superintendent shall notify the Board and the educator of the filing of a report to the SBEC. The Superintendent shall notify the Board before filing the report. *Education Code 21.006(d); 19 TAC 249.14(d)(3)(B)*.

e) *Notice Prior to Accepting Educator's Resignation*

Before accepting an employee's resignation that requires filing a report, the Superintendent shall inform the educator in writing that a report will be filed and that sanctions against his or her certificate may result as a consequence. *19 TAC 249.14(d)(3)*.

f) *Notice to Parents*

The Superintendent or designee shall provide notice to the parent or guardian of a student if there is evidence that an educator:

1. Abused or otherwise committed an unlawful act with a student or minor; or
2. Was involved in a romantic relationship with or solicited or engaged in sexual contact with a student or minor.

The notice must inform the parent or guardian:

1. That the alleged misconduct occurred;
2. Whether the educator was terminated following an investigation of the alleged misconduct or resigned before completion of the investigation; and
3. Whether a report was submitted to the SBEC concerning the alleged misconduct.

The Superintendent or designee shall provide such notice as soon as feasible after Ki Charter becomes aware that alleged misconduct may have occurred.

Education Code 21.0061.

Sec. 4.11.64.8. IMMUNITY

The Superintendent, a director, or principal who in good faith and while acting in an official capacity files a report with the SBEC under this policy or communicates with another superintendent, director, or principal concerning an educator's criminal record or alleged incident of misconduct is immune from civil or criminal liability that might otherwise be incurred or imposed. *Education Code 21.006(e)*.

PART II: REPORTING EMPLOYEE (NON-EDUCATOR) MISCONDUCT

Sec. 1. APPLICABILITY

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Part II of this policy applies to a person who is employed by Ki Charter and who does not hold a certification or permit issued under Subchapter B, Chapter 21 of the Texas Education Code.

Sec. 2. TERMINATIONS OR RESIGNATIONS TO REPORT

In addition to the reporting requirement under Section 261.10, Family Code, the Superintendent shall notify the Commissioner of Education (the “Commissioner”) if:

1. An employee’s employment at Ki Charter was terminated and there is evidence that the employee:
 - a. Abused or otherwise committed an unlawful act with a student or minor; or
 - b. Was involved in a romantic relationship with or solicited or engaged in sexual contact with a student or minor; or
2. The employee resigned and there is evidence that the employee engaged in misconduct described in item 1 above.

Education Code 22.093(c).

Sec. 3. NOTICE BY THE PRINCIPAL

The Principal of any Ki Charter campus must notify the Superintendent not later than the seventh business day after the date of an employee’s termination of employment or resignation in the circumstances discussed in Part II, Section 2 (Terminations or Resignations to Report). *Education Code 22.093(e).*

Sec. 4. REQUIREMENT TO COMPLETE INVESTIGATION

The Superintendent shall complete an investigation of an employee that involves evidence that the employee may have engaged in misconduct described in Part II, Section 2 (Terminations or Resignations to Report), despite the employee’s resignation from employment before completion of the investigation. *Education Code 22.093(d).*

Sec. 5. DEADLINE TO REPORT TO THE COMMISSIONER

The Superintendent must notify the Commissioner by filing a report not later than the seventh business day after the date the Superintendent receives a report from a Principal or knew about an employee’s termination of employment or resignation following an alleged incident of misconduct described in Part II, Section 2 (Terminations or Resignations to Report).

The report must be in writing and in a form prescribed by the Commissioner.

Education Code 22.093(f).

Sec. 6. ADDITIONAL REPORTS

The Superintendent shall notify the Board and the employee of the filing of the report. *Education Code 22.093(g).*

Sec. 7. IMMUNITY

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The Superintendent, director, or Principal who in good faith and while acting in an official capacity files a report under this Sec. 4.3.2 is immune from civil or criminal liability that might otherwise be incurred or imposed. *Education Code 22.093(h)*.

PART I: REPORTING EDUCATOR MISCONDUCT

Sec. 4.11.64.9. MATTERS TO REPORT

In addition to the reporting requirements under Family Code 261.101², the Superintendent shall notify the State Board for Educator Certification (the “SBEC”) if:

5. An educator employed by or seeking employment with Ki Charter has a reported criminal history and Ki Charter obtained information about the educator’s criminal record by a means other than the criminal history clearinghouse established by the Texas Department of Public Safety;
6. An educator’s employment with Ki Charter was terminated and there is evidence that the educator:
 - a. Abused or otherwise committed an unlawful act with a student or minor;
 - b. Was involved in a romantic relationship or solicited or engaged in sexual conduct with a student or minor;
 - c. Possessed, transferred, sold, or distributed a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. § 801 *et seq.*;
 - d. Illegally transferred, appropriated, or expended Ki Charter property or funds;
 - e. Attempted by fraudulent or unauthorized means to obtain or alter a professional certificate or license for purposes of promotion or additional compensation; or
 - f. Committed a crime or any part of a crime while on Ki Charter property or at a school-sponsored event.
7. The educator resigned and reasonable evidence supported a recommendation to terminate the individual because he or she engaged in misconduct described in paragraph 2 above; or
8. The educator engaged in conduct that violated the assessment instrument security procedures established by Education Code section 39.0301.

Education Code 21.006, 22.087; 19 TAC 243.14(d).

Sec. 4.11.64.10. REQUIREMENT TO COMPLETE INVESTIGATION

The Superintendent shall complete an investigation of an educator that involves evidence that the educator may have engaged in misconduct items 2(a) or (b) in Part I, Section 1 (Matters to Report) above, despite the educator’s resignation from employment before completion of the investigation. *Education Code 21.006(b-1)*.

Sec. 4.11.64.11. DEADLINE FOR REPORTING TO SBEC

² During the 87th regular legislative session in 2021, the standard for reporting child abuse and neglect under Texas Family Code §261.101 was changed from “cause to believe” to “reasonable cause to believe.” A person having reasonable cause to believe abuse or neglect has occurred is required to make a report within 48 hours of when they first had reasonable cause to believe the abuse or neglect occurred.

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The Superintendent must notify the SBEC in writing not later than the seventh business day after the date the Superintendent receives a report under Part I, Section 6 (Report by Principal) or otherwise knew about an educator's termination of employment or resignation following an alleged incident of misconduct or an employee's criminal record. *Education Code 21.006(c)*.

Sec. 4.11.64.12. CONTENTS OF REPORT

The report shall be in writing in a form prescribed by the SBEC, and may be filed through the Internet portal developed and maintained by the SBEC, and must include the name or names of any student or minor who is the victim of abuse or unlawful conduct by an educator. The report shall, at a minimum, describe in detail the factual circumstances requiring the report and identify the subject of the report by providing the following available information:

8. Name and any aliases;
9. Certificate number, if any, or social security number;
10. Last known mailing address and home and daytime phone numbers;
11. All available contact information for any alleged victim or victims;
12. Name or names and any available contact information of any relevant witnesses to the circumstances requiring the report;
13. Current employment status of the subject, including any information about proposed termination, notice of resignation, or pending employment actions; and
14. Involvement by a law enforcement or other agency, including the Texas Education Agency.

Education Code 21.006(c-1); 19 TAC 249.14(f).

The Superintendent shall include the name of a student or minor who is the victim of abuse or unlawful conduct by an educator, but the name of the student or minor is not public information under Government Code Chapter 552. *Education Code 21.006(h)*.

Sec. 4.11.64.13. REPORT NOT REQUIRED

The Superintendent is not required to notify the SBEC or file a report if the Superintendent:

3. Completes an investigation into an alleged incident of misconduct for:
 - a. Abuse or unlawful act with a student or minor; or
 - b. Involvement in a romantic relationship with or solicitation or engagement in sexual contact with a student or minor; and
4. Determines the educator did not engage in the alleged incident of misconduct.

Education Code 21.006(c-2).

The Superintendent should seek legal counsel before making any such determination, and if there is any doubt or concern, err on the side of reporting to the SBEC.

Sec. 4.11.64.14. REPORT BY THE PRINCIPAL

The Principal of a Ki Charter campus must notify the Superintendent not later than the seventh business day after learning of an educator’s termination of employment or resignation following an alleged incident of misconduct or the principal knew about an educator’s criminal record, as described in Part I, Section 1 (Matters to Report) above. *Education Code 21.006(b-2)*.

Sec. 4.11.64.15. NOTICE OF REPORT

g) *Notice to the Board and Educator*

The Superintendent shall notify the Board and the educator of the filing of a report to the SBEC. The Superintendent shall notify the Board before filing the report. *Education Code 21.006(d); 19 TAC 249.14(d)(3)(B)*.

h) *Notice Prior to Accepting Educator’s Resignation*

Before accepting an employee’s resignation that requires filing a report, the Superintendent shall inform the educator in writing that a report will be filed and that sanctions against his or her certificate may result as a consequence. *19 TAC 249.14(d)(3)*.

i) *Notice to Parents*

The Superintendent or designee shall provide notice to the parent or guardian of a student if there is evidence that an educator:

3. Abused or otherwise committed an unlawful act with a student or minor; or
4. Was involved in a romantic relationship with or solicited or engaged in sexual contact with a student or minor.

The notice must inform the parent or guardian:

4. That the alleged misconduct occurred;
5. Whether the educator was terminated following an investigation of the alleged misconduct or resigned before completion of the investigation; and
6. Whether a report was submitted to the SBEC concerning the alleged misconduct.

The Superintendent or designee shall provide such notice as soon as feasible after Ki Charter becomes aware that alleged misconduct may have occurred.

Education Code 21.0061.

Sec. 4.11.64.16. IMMUNITY

The Superintendent, a director, or principal who in good faith and while acting in an official capacity files a report with the SBEC under this policy or communicates with another superintendent, director, or principal concerning an educator’s criminal record or alleged incident of misconduct is immune from civil or criminal liability that might otherwise be incurred or imposed. *Education Code 21.006(e)*.

PART II: REPORTING EMPLOYEE (NON-EDUCATOR) MISCONDUCT

Sec. 8. APPLICABILITY

Part II of this policy applies to a person who is employed by Ki Charter and who does not hold a certification or permit issued under Subchapter B, Chapter 21 of the Texas Education Code.

Sec. 9. TERMINATIONS OR RESIGNATIONS TO REPORT

In addition to the reporting requirement under Section 261.10, Family Code, the Superintendent shall notify the Commissioner of Education (the “Commissioner”) if:

3. An employee’s employment at Ki Charter was terminated and there is evidence that the employee:
 - a. Abused or otherwise committed an unlawful act with a student or minor; or
 - b. Was involved in a romantic relationship with or solicited or engaged in sexual contact with a student or minor; or
4. The employee resigned and there is evidence that the employee engaged in misconduct described in item 1 above.

Education Code 22.093(c).

Sec. 10. NOTICE BY THE PRINCIPAL

The Principal of any Ki Charter campus must notify the Superintendent not later than the seventh business day after the date of an employee’s termination of employment or resignation in the circumstances discussed in Part II, Section 2 (Terminations or Resignations to Report). *Education Code 22.093(e)*.

Sec. 11. REQUIREMENT TO COMPLETE INVESTIGATION

The Superintendent shall complete an investigation of an employee that involves evidence that the employee may have engaged in misconduct described in Part II, Section 2 (Terminations or Resignations to Report), despite the employee’s resignation from employment before completion of the investigation. *Education Code 22.093(d)*.

Sec. 12. DEADLINE TO REPORT TO THE COMMISSIONER

The Superintendent must notify the Commissioner by filing a report not later than the seventh business day after the date the Superintendent receives a report from a Principal or knew about an employee’s termination of

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employment or resignation following an alleged incident of misconduct described in Part II, Section 2 (Terminations or Resignations to Report).

The report must be in writing and in a form prescribed by the Commissioner.

Education Code 22.093(f).

Sec. 13. ADDITIONAL REPORTS

The Superintendent shall notify the Board and the employee of the filing of the report. *Education Code 22.093(g).*

Sec. 14. IMMUNITY

The Superintendent, director, or Principal who in good faith and while acting in an official capacity files a report under this Sec. 4.3.2 is immune from civil or criminal liability that might otherwise be incurred or imposed. *Education Code 22.093(h).*

Sec. 65. REPORTING CHILD ABUSE OR NEGLECT

Any Ki Charter officer, director, employee, agent, volunteer or contractor having reasonable cause to believe that a child's physical or mental health or welfare has been adversely affected by abuse, maltreatment or neglect by any person shall **immediately** make a report (within 48 hours or less) to at least one of the following authorities after learning of facts giving rise to the reasonable cause to believe:

1. A local or state law enforcement agency;
2. The Texas Department of Family and Protective Services (“DFPS”), Child Protective Services Division;
3. A local office of Child Protective Services, where available; or
4. The state agency that operates, licenses, or registers the facility in which the alleged child abuse or neglect occurred.

If a professional has reasonable cause to believe that a child has been abused, maltreated or neglected or may be abused, maltreated or neglected, or that a child is a victim of an offense under Penal Code 21.11 (Indecency with a Child), and the professional has reasonable cause to believe that the child has been abused as defined by law, the professional shall make a report **not later than the 48th hour** after the hour the professional first has reasonable cause to believe that the child has been or may be abused or neglected or is a victim of an offense under Penal Code 21.11. A professional **may not delegate to or rely on** another person to make the report. For purposes of this policy, “professional” means an individual who is licensed or certified by the state or who is an employee of a facility licensed, certified, or operated by the state and who, in the normal course of official duties or duties for which a license or certification is required, has direct contact with children.

A report should reflect the reporter's belief that a child has been or may be abused or neglected or has died of abuse or neglect. The person making the report shall identify, if known:

1. The name and address of the child;
2. The name and address of the person responsible for the care, custody, or welfare of the child; and

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3. Any other pertinent information concerning the alleged or suspected abuse or neglect.

If the suspected abuse or neglect involves a person responsible for the custody, care or welfare of the child, the report must generally be made to the DFPS. All other reports should be made to any local or state law enforcement agency, the DFPS, the Texas Education Agency (if abuse or neglect occurred at school), another state agency where the abuse or neglect occurred, or an agency designated by a court responsible for protection of children.

Texas Family Code, Chapter 261; 19 TAC 100.1211.

Sec. 66. TRAINING

The Superintendent or designee shall ensure that training on child abuse and neglect is provided as required by law.

Training concerning prevention techniques for, and recognition of, sexual abuse, trafficking, and all other maltreatment of children, including the sexual abuse, trafficking, and other maltreatment of children with significant cognitive disabilities, must be provided as a part of new employee orientation to all new Ki Charter employees. The training must include:

1. Factors indicating a child is at risk for sexual abuse, trafficking, or other maltreatment;
2. Warning signs indicating a child may be a victim of sexual abuse, trafficking, or other maltreatment;
3. Internal procedures for seeking assistance for a child who is at risk for sexual abuse, trafficking, or other maltreatment, including referral to a school counselor, a social worker, or another mental health professional;
4. Techniques for reducing a child's risk for sexual abuse, trafficking, or other maltreatment; and
5. Information on community organizations that have relevant research-based programs that are able to provide training or other education for Ki Charter staff, students, and parents.

Ki Charter must maintain records that include the district or charter school staff members who participated in the training.

Sec. 67. RETALIATION PROHIBITED

Ki Charter may not suspend or terminate the employment of, discriminate against, or take any other adverse employment action against a person who is a professional, as that term is defined by Texas Family Code 261.101(b), and who in good faith:

1. Reports child abuse or neglect to:
 - a. The person's supervisor;
 - b. An administrator of the facility where the person is employed;
 - c. A state regulatory agency; or
 - d. A law enforcement agency; or
2. Initiates or cooperates with an investigation or proceeding by a governmental entity relating to an allegation of child abuse or neglect.

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“Adverse employment action” means an action that affects an employee’s compensation, promotion, transfer, work assignment, or performance evaluation, or any other employment action that would dissuade a reasonable employee from making or supporting a report of abuse or neglect.

Texas Family Code 261.110.

Sec. 68. POSTING INFORMATION

Using a format and language that is clear, simple, and understandable to students, Ki Charter shall post, in English and in Spanish:

1. The current toll-free DFPS Abuse Hotline telephone number;
2. Instructions to call 911 for emergencies; and
3. Directions for accessing the DFPS website (www.txabusehotline.org) for more information on reporting abuse, neglect, and exploitation.

This information shall be posted at each Ki Charter campus in at least one high-traffic, highly and clearly visible public area that is readily accessible to and widely used by students. The information must be on a poster (11.17 inches or larger) in large print and placed at eye-level to the student for easy viewing. The current toll-free DFPS Abuse Hotline telephone number should be in bold print.

Sec. 69. ANNUAL REVIEW

The Board shall annually review policies for reporting child abuse and neglect. *19 Tex. Admin. Code § 61.1051(b).*

Sec. 70. COMPUTER TECHNICIAN REPORTS OF CHILD PORNOGRAPHY

Any computer technician employed by Ki Charter who, in the course and scope of employment or business with Ki Charter, views an image on a computer that is or appears to be child pornography must immediately report the discovery to a local or state law enforcement agency or the Cyber Tipline at the National Center for Missing and Exploited Children. The report must include the name and address of the owner or person claiming a right to possession of the computer, if known, and as permitted by federal law.

Except in a case of willful or wanton misconduct, a computer technician may not be civilly liable for reporting or failing to report the discovery of an image. A computer technician who intentionally fails to report an image may be subject to criminal prosecution. *Business & Commerce Code 110.002.*

Sec. 71. REPORTING CHILD ABUSE OR NEGLECT

Any Ki Charter officer, director, employee, agent, volunteer or contractor having **reasonable** cause to believe that a child’s physical or mental health or welfare has been adversely affected by abuse, maltreatment or neglect by any person shall **immediately** make a report (within 48 hours or less) to at least one of the following authorities after learning of facts giving rise to the **reasonable** cause to believe:

5. A local or state law enforcement agency;

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6. The Texas Department of Family and Protective Services (“DFPS”), Child Protective Services Division;
7. A local office of Child Protective Services, where available; or
8. The state agency that operates, licenses, or registers the facility in which the alleged child abuse or neglect occurred.

If a professional has reasonable cause to believe that a child has been abused, maltreated or neglected or may be abused, maltreated or neglected, or that a child is a victim of an offense under Penal Code 21.11 (Indecency with a Child), and the professional has reasonable cause to believe that the child has been abused as defined by law, the professional shall make a report **not later than the 48th hour** after the hour the professional first suspects has reasonable cause to believe that the child has been or may be abused or neglected or is a victim of an offense under Penal Code 21.11. A professional **may not delegate to or rely on** another person to make the report. For purposes of this policy, “professional” means an individual who is licensed or certified by the state or who is an employee of a facility licensed, certified, or operated by the state and who, in the normal course of official duties or duties for which a license or certification is required, has direct contact with children.

A report should reflect the reporter’s belief that a child has been or may be abused or neglected or has died of abuse or neglect. The person making the report shall identify, if known:

4. The name and address of the child;
5. The name and address of the person responsible for the care, custody, or welfare of the child; and
6. Any other pertinent information concerning the alleged or suspected abuse or neglect.

If the suspected abuse or neglect involves a person responsible for the custody, care or welfare of the child, the report must generally be made to the DFPS. All other reports should be made to any local or state law enforcement agency, the DFPS, the Texas Education Agency (if abuse or neglect occurred at school), another state agency where the abuse or neglect occurred, or an agency designated by a court responsible for protection of children.

Texas Family Code, Chapter 261; 19 TAC 100.1211.

Sec. 72. TRAINING

The Superintendent or designee shall ensure that training on child abuse and neglect is provided as required by law.

Training concerning prevention techniques for, and recognition of, sexual abuse, trafficking, and all other maltreatment of children, including the sexual abuse, trafficking, and other maltreatment of children with significant cognitive disabilities, must be provided as a part of new employee orientation to all new Ki Charter employees ~~and to existing <<School Name>> employees not previously trained as required by Texas Education Code § 38.0041.~~ The training must include:

6. Factors indicating a child is at risk for sexual abuse, trafficking, or other maltreatment;
7. Warning signs indicating a child may be a victim of sexual abuse, trafficking, or other maltreatment;
8. Internal procedures for seeking assistance for a child who is at risk for sexual abuse, trafficking, or other maltreatment, including referral to a school counselor, a social worker, or another mental health professional;

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9. Techniques for reducing a child’s risk for sexual abuse, trafficking, or other maltreatment; and
10. Information on community organizations that have relevant research-based programs that are able to provide training or other education for Ki Charter staff, students, and parents.

Ki Charter must maintain records that include ~~the name of each staff member who participated in training~~ the district or charter school staff members who participated in the training.

Sec. 73. RETALIATION PROHIBITED

Ki Charter may not suspend or terminate the employment of, discriminate against, or take any other adverse employment action against a person who is a professional, as that term is defined by Texas Family Code 261.101(b), and who in good faith:

3. Reports child abuse or neglect to:
 - a. The person’s supervisor;
 - b. An administrator of the facility where the person is employed;
 - c. A state regulatory agency; or
 - d. A law enforcement agency; or
4. Initiates or cooperates with an investigation or proceeding by a governmental entity relating to an allegation of child abuse or neglect.

“Adverse employment action” means an action that affects an employee’s compensation, promotion, transfer, work assignment, or performance evaluation, or any other employment action that would dissuade a reasonable employee from making or supporting a report of abuse or neglect.

Texas Family Code 261.110.

Sec. 74. POSTING INFORMATION

Using a format and language that is clear, simple, and understandable to students, Ki Charter shall post, in English and in Spanish:

4. The current toll-free DFPS Abuse Hotline telephone number;
5. Instructions to call 911 for emergencies; and
6. Directions for accessing the DFPS website (www.txabusehotline.org) for more information on reporting abuse, neglect, and exploitation.

This information shall be posted at each Ki Charter campus in at least one high-traffic, highly and clearly visible public area that is readily accessible to and widely used by students. The information must be on a poster (11.17 inches or larger) in large print and placed at eye-level to the student for easy viewing. The current toll-free DFPS Abuse Hotline telephone number should be in bold print.

The above is repeated verbatim from Sec. 68 and should be deleted

Sec. 75. ANNUAL REVIEW

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The Board shall annually review policies for reporting child abuse and neglect. *19 Tex. Admin. Code § 61.1051(b)*.

Sec. 76. COMPUTER TECHNICIAN REPORTS OF CHILD PORNOGRAPHY

Any computer technician employed by Ki Charter who, in the course and scope of employment or business with Ki Charter, views an image on a computer that is or appears to be child pornography must immediately report the discovery to a local or state law enforcement agency or the Cyber Tipline at the National Center for Missing and Exploited Children. The report must include the name and address of the owner or person claiming a right to possession of the computer, if known, and as permitted by federal law.

Except in a case of willful or wanton misconduct, a computer technician may not be civilly liable for reporting or failing to report the discovery of an image. A computer technician who intentionally fails to report an image may be subject to criminal prosecution. *Business & Commerce Code 110.002*.

Sec. 77. EMPLOYEE SEARCHES

Ki Charter reserves the right to conduct searches to monitor compliance with rules concerning safety of employees, security of Ki Charter and individual property, drugs and alcohol, and possession of other prohibited items.

“Prohibited items” include illegal drugs, alcoholic beverages, prescription drugs or medications not used or possessed in compliance with a current valid prescription, weapons, any items of an obscene, harassing, demeaning, or violent nature, and any property in the possession or control of an employee who does not have authorization from the owner of such property to possess or control the property.

“Control” means knowing where a particular item is, having placed an item where it is currently located, or having any influence over its continued placement.

In addition to Ki Charter premises, Ki Charter may search employees, their work areas, lockers, personal vehicles if driven or parked on Ki Charter property, and other personal items such as bags, purses, briefcases, backpacks, lunch boxes, and any and all other containers.

Sec. 78. NO EXPECTATION OF PRIVACY

There is no general or specific expectation of privacy in the Ki Charter workplace, either on Ki Charter property or while on duty. In general, employees should assume that what they do while on duty or on Ki Charter property is not private. All employees and all of the areas listed above are subject to search at any time. The areas in question may be searched at any time, with or without the employee being present. As a general rule, with the exception of items relating to personal hygiene or health, no employee should ever bring anything to work or store anything at work that he or she would not be prepared to show and possibly turn over to Ki Charter officials and/or law enforcement authorities.

Sec. 79. LOCKERS AND OTHER STORAGE AREAS

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If an employee uses a locker or other storage area at work, including a locking desk drawer or locking cabinet, Ki Charter will either furnish the lock and keep a copy of the key or combination, or else allow the employee to furnish a personal lock. If the employee uses a personal lock, he or she must provide a copy of the key or combination to Ki Charter.

Sec. 80. APPLICABILITY OF POLICY

All Ki Charter employees are subject to this policy. However, any given search may be restricted to one or more specific individuals, depending upon the situation. Searches may be done on a random basis, or based upon reasonable suspicion. “Reasonable suspicion” means circumstances suggesting to a reasonable person that there is a possibility that one or more individuals may be in possession of a prohibited item, as defined above.

Any search under this policy will be done in a manner protecting employee privacy, confidentiality, and personal dignity to the greatest extent possible. Ki Charter will respond severely to any unauthorized release of information concerning individual employees.

No employee will ever be physically forced to submit to a search. However, an employee who refuses to submit to a search request by Ki Charter will face disciplinary action, up to and possibly including immediate termination of employment.

Sec. 81. VIDEO SURVEILLANCE

In order to promote the safety of Ki Charter employees, students, and visitors, as well as the security of its facilities, Ki Charter may conduct video surveillance of any portion of its premises at any time. The only areas excepted from video surveillance are private areas of restrooms, showers, and dressing rooms. All video cameras will be positioned in appropriate places in and around Ki Charter buildings and used to promote the safety and security of people and property.

Sec. 82. FAIR LABOR STANDARDS ACT

t) *Classification of Positions*

The Superintendent or designee shall determine the classification of positions or employees as “exempt” or “nonexempt” for purposes of payment of overtime in compliance with the Fair Labor Standards Act (FLSA).

u) *Exempt*

Ki Charter shall pay employees who are exempt from the overtime pay requirements of the FLSA on a salary basis. The salaries of these employees are intended to cover all hours worked, and Ki Charter shall not make deductions that are prohibited under the FLSA or state law.

Exempt employees (excluding teachers) are paid on a salaried basis, and their salary is not reduced for absences of less than one full day.

An employee who believes deductions have been made from his or her salary in violation of this policy should bring the matter to <<School Name>>’s attention, through the Ki Charter complaint process. If improper

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deductions are confirmed, Ki Charter will reimburse the employee and take steps to ensure future compliance with the FLSA.

The Superintendent or designee may assign noncontractual supplemental duties to personnel exempt under the FLSA, as needed. The employee may be compensated for these assignments according to <<School Name>>'s compensation plans.

v) *Nonexempt*

Nonexempt employees may be compensated on an hourly basis or on a salary basis. Employees who are paid on an hourly basis shall be compensated for all hours worked. Employees who are paid on a salary basis are paid for a 40-hour workweek and do not earn additional pay unless the employee works more than 40 hours.

A nonexempt employee shall have the approval of his or her supervisor before working overtime. An employee who works overtime without prior approval is subject to discipline, up to and including termination, but shall be compensated in accordance with the FLSA.

w) *Minimum Wage and Overtime*

Unless an exemption applies, Ki Charter shall pay each of its employees not less than minimum wage for all hours worked and for exempt employees, in accordance with the minimum salary basis requirements (except for instructional employees as defined in the FLSA).

Unless an exemption applies, Ki Charter shall pay a non-exempt employee not less than one and one-half times the employee's regular rate of pay for all actual hours worked in excess of forty in any workweek.

x) *Workweek Defined*

For purposes of FLSA compliance, the workweek for school employees shall be <<workweek start time, e.g. 12:00 a.m. Saturday>> until <<workweek end time, e.g. 11:59 p.m. Friday>>.

Sec. 83. WAGE AND HOUR RECORDS

Ki Charter shall maintain and preserve payroll or other records for nonexempt employees containing the information required by the regulations under the FLSA. Records shall also be kept in accordance with applicable State record retention schedules.

Sec. 84. COMPLIANCE WITH FEDERAL AND STATE WAGE AND HOUR LAWS

Ki Charter shall take all reasonable steps to ensure that employees receive the correct amount of pay in each paycheck and that employees are paid promptly on the scheduled paydays and in accordance with Federal and State Wage and Hour Laws including the FLSA and the Texas Payday Act. The Superintendent or designee shall adopt procedures to ensure that Ki Charter complies with applicable Federal and State Wage and Hour Laws.

As permitted by state law, Ki Charter provides workers' compensation benefits to employees who suffer a work-related illness or personal injury due to accidents arising out of their employment with Ki Charter. These benefits are paid for entirely by Ki Charter and help pay for medical treatment and make up for part of the income lost while recovering. All work-related illnesses, accidents, or injuries should be reported immediately to the employee's supervisor and the Superintendent or designee.

Employees who suffer a work-related injury or illness, and who must be off work due to such injury or illness, shall be governed by applicable provisions of the Workers' Compensation Act (the "WCA") and the federal Family and Medical Leave Act where applicable.

The Superintendent shall develop procedures to implement <<School Name>>'s Workers Compensation program, including procedures for requesting and use of leave benefits, injury reporting requirements, return to work and reinstatement procedures, absence control procedures, and any other procedure necessary to effectuate the WCA as required by law

Sec. 85. MANDATORY REQUIREMENTS

Workers' Compensation Insurance covers all employees during the time they are on the job.

1. Covered injuries and illnesses may be physical or mental and specific or cumulative.
2. An injury is considered job-related when it arises out of and in the course and scope of employment.
3. The activity that caused the injury must also be an activity that is in the course and scope of employment.

Sec. 86. DENIAL OF WORKERS' COMPENSATION INSURANCE BENEFITS

Except as otherwise required by state law, injuries not covered by Workers' Compensation Insurance include those where the employee:

1. Was intoxicated on alcohol or drugs.
2. Was in the process of committing a felony (and has been convicted).
3. Was participating in a social or recreational activity off-duty that was not directly related to his or her work.
4. Was commuting to or from work unless doing so under the direct control/orders of Ki Charter on school-related business.
5. Caused the injury intentionally, or committed suicide.
6. Was "horsing around" or fighting on the job.
7. Violated a school safety policy or procedure.

If Ki Charter denies a Workers' Compensation Insurance claim:

1. The employee may contest the decision in accordance with the provisions of the Workers' Compensation laws of the State of Texas.
2. All costs incurred by the employee in contesting a denial of the claim shall be the sole responsibility of the employee.

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3. Ki Charter is not obligated to make any commitments or statements pertaining to its liability concerning an employee's injury or illness.

Sec. 87. FRAUDULENT CLAIMS FOR WORKERS' COMPENSATION

Filing a false or fraudulent claim is a violation of law and <<School Name>>'s policy, and can result in disciplinary employment actions, including termination of employment.

Sec. 88. PROHIBITED DISCRIMINATION

Ki Charter may not discharge or in any other manner discriminate against an employee because the employee has:

1. Filed a workers' compensation claim in good faith.
2. Hired a lawyer to represent the employee in a claim.
3. Instituted or caused to be instituted in good faith a proceeding under the WCA.
4. Testified or is about to testify in a proceeding under the WCA.

Labor Code 451.001.

Sec. 89. ATTENDANCE

KI CHARTER expects all employees to conduct themselves in a professional manner during their employment. This includes practicing good attendance habits. All employees should regard coming to work on time, working their shift as scheduled, and arriving and leaving at the scheduled time as essential functions of their jobs.

KI CHARTER has established the following policies for employee attendance:

1. Employees should arrive to work and be at their assigned duty station no later than their scheduled start time.
2. Employees should remain at their duty station unless the needs of the job require being elsewhere or as authorized by their supervisor, except during authorized breaks.
3. Employees should take only the time normally allowed for breaks as authorized by their supervisor.
4. Non-salaried/non-exempt employees should leave promptly at the end of their scheduled workday, unless given permission by their supervisor to work past that time.
5. Employees should call in and personally notify a supervisor if they will be absent or tardy, unless a verifiable emergency makes it impossible to do so.
6. In addition to any time clock or time-recording system Ki Charter may implement, time keeping for non-exempt employees must be done weekly and manually using <<School Name>>'s approved time sheets.

Sec. 90. NOTICE OF ABSENCE OR TARDINESS

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Absence or tardiness may be excused under exceptional circumstances, but generally only if an employee provides prior written notice of the need to be absent or tardy. Such advance notice is necessary so that other arrangements can be made to cover the employee's responsibilities, if necessary.

The Superintendent or designee and <<Human Resources Department>> shall develop procedures concerning employee absence and tardiness. These procedures shall be distributed to all employees; this distribution may be through the Ki Charter Employee Handbook.

Sec. 91. EMPLOYEE WORK SCHEDULES

The Superintendent or designee and <<Human Resources Department>> shall see that work schedules are developed and distributed for each position with Ki Charter.

Sec. 92. JOB ABANDONMENT

An employee who is absent without notice for <<three>> or more consecutive days shall be considered as having abandoned his or her job; Ki Charter shall process the employee's work separation as a voluntary resignation without good cause related to the work.

An employee's dress and grooming shall be clean, neat, in a manner appropriate for his or her assignment, and in accordance with any additional standards established by the employee's supervisor and/or the Superintendent or designee.

Sec. 93. ELECTRONIC AND SOCIAL MEDIA

Electronic media includes all forms of social media, such as text messaging, instant messaging, electronic mail (e-mail), web logs (blogs), electronic forums (chat rooms), video-sharing web sites, editorial comments posted on the Internet, and social network sites. Electronic media also includes all forms of telecommunication, such as land lines, cell phones, and web-based applications.

Sec. 94. ELECTRONIC COMMUNICATIONS WITH STUDENTS

y) Introduction

In this policy, "electronic communication" means any communication facilitated by the use of any electronic device, including a telephone, cellular telephone, computer, computer network, personal data assistant, or pager. The term includes e-mails, text messages, instant messages, and any communications made through an Internet website, including a social media website or a social networking website.

z) Electronic Communications with Students

Ki Charter employees may engage in electronic communications with students who are currently enrolled in Ki Charter for academic purposes only. All other employees are prohibited from communicating electronically with a student who is enrolled in Ki Charter unless express authorization is provided by the Superintendent or designee. An employee is not subject to these provisions to the extent he or she has a social or family relationship with a student.

i. *Inappropriate Communications*

Ki Charter employees are prohibited from using electronic communications in a manner that constitutes prohibited harassment or abuse of a Ki Charter student; adversely affects a student’s learning, mental health, or safety; includes threats of violence against a student; reveals confidential information about a student; or constitutes an inappropriate communication with a student.

Factors that may be considered in assessing whether the communication is inappropriate include, but are not limited to:

- The nature, purpose, timing, and amount of the communication;
- The subject matter of the communication;
- Whether the communication was made openly or the educator attempted to conceal the communication;
- Whether the communication could be reasonably interpreted as soliciting sexual contact or a romantic relationship ;
- Whether the communication was sexually explicit; and
- Whether the communication involved discussion(s) of the physical or sexual attractiveness or the sexual history, activities, preferences, or fantasies of either the educator or the student.

ii. *No Expectation of Privacy*

Ki Charter have no expectation of privacy in electronic communications with students. Employees shall comply with <<School Name>>’s requirements for record retention and destruction to the extent those requirements apply to electronic communications with students.

aa) *Incident Notification*

A Ki Charter employee shall report to the Principal any incident in which a student engages in improper communications with the employee. Such reports should include a summary of the student’s communication, as well as the time, date, and method of communication.

bb) *Disclosing Personal Telephone Number or E-mail Address*

A Ki Charter employee may elect not to disclose to students the employee’s personal telephone number or e-mail address.

Sec. 95. PERSONAL USE

Employees shall be held to the same professional standards in their public use of electronic media as they are for any other public conduct. If an employee’s use of electronic media violates state or federal law or Ki Charter policy, or interferes with the employee’s ability to effectively perform his or her job duties, the employee is subject to disciplinary action, up to and including termination of employment.

Sec. 96. TECHNOLOGY RESOURCES DEFINED

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For purposes of this policy, the term “technology resources” means electronic communication systems and electronic equipment belonging to Ki Charter.

Sec. 97. ACCESS TO TECHNOLOGY RESOURCES

<<School Name>>’s technology resources, including its network and access to the Internet, are made available to employees primarily for administrative and instructional purposes or as otherwise allowed by administrative regulation.

Limited personal use of <<School Name>>’s technology resources is permitted if the use:

- 1) Does not result in any direct cost paid with State funds, or if Ki Charter is reimbursed for any direct costs involved;
- 2) Does not relate to private commercial purposes;
- 3) Involves only incidental amounts of employee time, comparable to reasonable coffee breaks during the day; and
- 4) Does not have an adverse impact on an employee’s job performance.

Employees may only access the Internet through <<School Name>>’s approved Internet firewall.

All technology resources are Ki Charter property, and any information located in or on technology resources is also <<School Name>>property and will be subject to inspection by Ki Charter.

Sec. 98. E-MAIL AND VOICE MAIL SYSTEMS

All messages sent, received, composed and/or stored on Ki Charter e-mail and/or voice mail systems are the property of Ki Charter. E-mail transmissions and other use of <<School Name>>’s electronic communications systems are not confidential and can be monitored at any time to ensure appropriate use.

Sec. 99. CONFIDENTIALITY

Employees shall not use a password, access a file, or retrieve any stored information unless authorized to do so. Employees may not attempt to gain access to another employee’s files/messages.

Additionally, access to student records accessible through technology resources is restricted to those employees with a legitimate educational interest in such records in accordance with the Family Educational Rights and Privacy Act (“FERPA”). An employee has a legitimate educational interest in student records if:

1. The information is necessary for the employee to perform appropriate tasks that are specified in his or her position;
 2. The information is to be used within the context of official school business and not for purposes extraneous to the employee’s areas of responsibility;
 3. The information is relevant to the accomplishment of some task or to a determination about the student;
- or

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4. The information is to be used consistently with the purpose for which student records are maintained.

Having access to student records through technology resources does not constitute authority to share this information with anyone without authority or permission to view student records.

Sec. 100. PRIVACY AND MONITORED USE

All files and messages on <<School Name>>'s technology resources are Ki Charter property. They are not the property of any employee, even if created by an employee. Anything created on the Internet may, and likely will, be reviewed by others. If necessary, employees shall take steps to help protect the security of documents. Ki Charter has the right, but not the duty, to monitor any and all aspects of its technology resources, including, but not limited to, monitoring sites employees visit on the Internet. Employees have no expectation of privacy in anything they create, store, send, or receive on <<School Name>>'s technology resources.

Sec. 101. RESTRICTIONS

- 1) Employees are not allowed to use <<School Name>>'s technology resources for any reason other than official school business, except as allowed under Section 2 (Access to Technology Resources) above.
- 2) Employees may not use e-mail or the Internet to send or receive materials, proprietary financial information, or other similar materials that violate copyright law.
- 3) <<School Name>>'s e-mail system may not be used to create any offensive or disruptive messages. Among those which are considered offensive are any messages that contain sexual implications, racial or gender-specific slurs, or any other comment that offensively addresses an individual's age, sexual orientation, religious or political beliefs, national origin, disability, or anything that could be construed as harassment or disparaging of others.
- 4) Employees should refrain from sending non-business-related e-mails to other Ki Charter employees or persons outside the Ki Charter system.
- 5) Ki Charter is responsible for maintaining records of software licensing agreements for Ki Charter. In order to ensure compliance with copyright laws and software licensing agreements, and help prevent computer viruses from being transmitted through the system, employees are not permitted to install or download any software or content, such as music, videos, or non-work related "zipped" files onto <<School Name>>'s computer system without prior approval from the Principal or designee.
- 6) Unauthorized duplication of software, often referred to as "piracy," is a federal crime. Employees are not permitted to make, acquire, or use unauthorized copies of computer software.

Employees who are authorized to use <<School Name>>'s technology resources are required to abide by the provisions of this policy and any related administrative procedures. Failure to do so can result in suspension or termination of privileges and may lead to disciplinary action, up to and including termination of employment. Employees should notify their immediate supervisor(s) or the <<Information Systems Department>> upon learning of violations of this policy.

Sec. 102. ACCEPTABLE USE POLICY

The Superintendent or designee shall develop and implement administrative regulations and guidelines for acceptable use of <<School Name>>'s technology resources. Such regulations and guidelines shall be provided

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annually to employees as part of the Employee Handbook, or in another method deemed appropriate by the Superintendent.

Access to <<School Name>>'s technology resources is a privilege, not a right. All employee users will be required to acknowledge receipt and understanding of <<School Name>>'s acceptable use regulations and guidelines, and shall agree in writing to allow monitoring of their use and to comply with such regulations and guidelines. Noncompliance with <<School Name>>'s acceptable use policy may result in disciplinary action, up to and including termination, as allowed by Ki Charter policy. Violations of law may result in referral to criminal authorities, as well as disciplinary action by Ki Charter.

Sec. 103. DISCLAIMER OF LIABILITY

Ki Charter will not be liable for an employee's inappropriate use of technology resources, violations of copyright restrictions or other laws, users' mistakes or negligence, and costs incurred by users. Ki Charter is not responsible for ensuring the availability of technology resources or the accuracy, age appropriateness, or usability of any information accessed through the Internet.

Sec. 104. ACCESS TO CELLULAR AND/OR WIRELESS TELEPHONE EQUIPMENT AND ACCOUNTS

Access to cellular and/or wireless telephone equipment and accounts belonging to Ki Charter is made available exclusively for instructional and administrative purposes in accordance with guidelines and regulations developed by Ki Charter. Access to this equipment is a privilege, not a right, and can be revoked at any time.

The Superintendent or designee shall develop and define guidelines for the responsible and ethical use of <<School Name>>-supplied telephone equipment and accounts. Such guidelines shall be distributed to all Ki Charter employees.

a) *Consequences for Violations*

Violations of <<School Name>>'s guidelines for access to cellular and/or wireless telephone equipment and accounts will be treated like other allegations of wrongdoing. Allegations of misconduct will be adjudicated according to established procedures. Sanctions for violations of these guidelines may include, but are not limited to, one or more of the following:

1. Temporary or permanent revocation of access to some or all cellular or wireless telephone resources.
2. Disciplinary action, up to and including termination.
3. Legal action according to applicable laws and contractual agreements.

Sec. 105. RECORD RETENTION

Ki Charter employees shall retain electronic records pertaining to Ki Charter business, whether created or maintained using <<School Name>>'s technology resources or using personal technology resources, in accordance with <<School Name>>'s record management program.

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Ki Charter employees seeking to schedule use of Ki Charter buildings and facilities must submit a request for such use to the <<Principal, Superintendent, or other designee>>.

Sec. 106. PROHIBITION ON SOLICITATION AND DISTRIBUTION OF PROMOTIONAL MATERIALS

Ki Charter prohibits solicitation of employees by salespersons or other employees on Ki Charter property.

Ki Charter further prohibits the distribution of promotional or sales literature on Ki Charter property by salespersons or employees at all times.

Commercial advertisements or sales for personal profit are also prohibited.

Sec. 107. PROHIBITION ON DIETARY SUPPLEMENTS

Employees of Ki Charter may not:

1. Knowingly sell, market, or distribute a dietary supplement that contains performance enhancing compounds to a primary or secondary education student with whom the employee has contact as part of the employee's school duties; or
2. Knowingly endorse or suggest the ingestion, intranasal application, or inhalation of a dietary supplement that contains performance enhancing compounds by a primary or secondary education student with whom the employee has contact as part of the employee's school duties.

However, Ki Charter employees are not prohibited from:

1. Providing or endorsing a dietary supplement that contains performance enhancing compounds to, or suggesting the ingestion, intranasal application, or inhalation of a dietary supplement that contains performance enhancing compounds by, the employee's child; or
2. Selling, marketing, or distributing a dietary supplement that contains performance enhancing compounds to, or endorsing or suggesting the ingestion, intranasal application, or inhalation of a dietary supplement that contains performance enhancing compounds by, a primary or secondary education student as part of activities that:
 - a. Do not occur on Ki Charter property or at a school-related function;
 - b. Are entirely separate from any aspect of the employee's employment with <<School Name>>; and
 - c. Do not in any way involve information about or contacts with students that the employee has had access to, directly or indirectly, through any aspect of the employee's employment with Ki Charter.

For purposes of this policy:

1. "Dietary supplement" means a product (other than tobacco) intended to supplement the diet that bears or contains one or more of the following dietary ingredients:
 - a. A vitamin;
 - b. A mineral;
 - c. An herb or other botanical;
 - d. An amino acid;
 - e. A dietary substance for use by man to supplement the diet by increasing the total dietary intake; or

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- f. A concentrate, metabolite, constituent, extract, or combination of any ingredient described in items (a)-(e).
2. “Performance enhancing compound” means a manufactured product for oral ingestion, intranasal application, or inhalation that:
 - a. Contains a stimulant, amino acid, hormone precursor, herb or other botanical, or any other substance other than an essential vitamin or mineral; and
 - b. Is intended to increase athletic or intellectual performance, promote muscle growth, or increase an individual’s endurance or capacity for exercise.

Education Code 38.011.