

Code: GBEA  
Adopted: July 2020

## **Workplace Harassment \***

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

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

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

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

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

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

Muddy Creek Charter School may not require or coerce a MCCS employee to enter into a nondisclosure<sup>2</sup> or nondisparagement<sup>3</sup> agreement.

Muddy Creek Charter School may not enter into an agreement with an employee or prospective employee, as a condition of employment, continued employment, promotion, compensation, or the receipt of benefits,

<sup>1</sup> “Sexual assault” means unwanted conduct of a sexual nature that is inflicted upon a person or compelled through the use of physical force, manipulation, threat or intimidation.

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

<sup>3</sup> A “nondisparagement” agreement or provision prevents either party from making disparaging statements about the other party.

that contains a nondisclosure provision, a nondisparagement provision or any other provision that has the purpose or effect of preventing the employee from disclosing or discussing workplace harassment that occurred between M CCS employees or between a public charter school employee and the M CCS, in the workplace or at a work-related event that is off M CCS premises and coordinated by or through M CCS, or between a M CCS employee and employer off M CCS premises.

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

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

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

Muddy Creek Charter School shall make this policy available to all M CCS employees and shall be made a part of M CCS orientation materials provided and copied to new M CCS employees at the time of hire.

The Executive Director will establish a process of reporting incidents of workplace harassment and the prompt investigation.

END OF POLICY

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**Legal Reference(s):**

[ORS 338.115](#)

[ORS 659A.001](#)

[ORS 659A.003](#)

[ORS 659A.006](#)

[ORS 659A.029](#)

[ORS 659A.030](#)

[ORS 659A.082](#)

[ORS 659A.112](#)

[ORS 659A.820](#)

[ORS 659A.875](#)

[ORS 659A.885](#)

[OAR 584-020-0040](#)

[OAR 584-020-0041](#)

Senate Bill 479 (2019)

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

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

Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-1683 (2018); Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 34 C.F.R. Part 106 (2019).

Bartsch v. Elkton School District, FDA-13-011 (March 27, 2014).