

# MICHIGAN VIRTUAL CHARTER ACADEMY ANTI-HARASSMENT POLICY

## ANTI-HARASSMENT POLICY

### **I. General Policy Statement**

It is the policy of the Board to maintain an education and work environment that is free from all forms of unlawful harassment, including sexual harassment. Harassment of students on the basis of their race, color, national origin, sex, disability, age, religion, or any other legally protected characteristic in its educational programs or activities is prohibited and will not be tolerated. Harassment of employees based on race, color, national origin, sex, disability, age, religion, height, weight, marital or veteran's status, genetic information, or any other legally protected characteristic is also prohibited, and will not be tolerated.

This prohibition applies to all Academy operations, programs, and activities. This policy applies to unlawful harassment occurring on school property, or at another location if such conduct occurs during an activity sponsored by the Board. This prohibition encompasses conduct by any person towards the Academy's students or employees, including conduct by employees, students, Board members, administrators, parents, guests, teachers, contractors, vendors, coaches, and volunteers.

### **II. Definitions**

The following definitions are provided for purposes of applying and enforcing this policy.

#### **A. Unlawful Sexual Harassment**

Pursuant to Title VII of the Civil Rights Act of 1964 and Title IX of the Educational Amendments of 1972, unlawful "sexual harassment" is defined as:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct *of a sexual nature*, when:

- A. Submission to such conduct is made either implicitly or explicitly a term or condition of an individual's employment, or status in a class, educational program, or activity.
- B. Submission or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individual.
- C. Such conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity.

MICHIGAN VIRTUAL CHARTER ACADEMY  
ANTI-HARASSMENT POLICY

Unlawful sexual harassment may involve the behavior of a person of either gender against a person of the same or opposite gender.

Prohibited acts that constitute unlawful sexual harassment may take a variety of forms. Examples of the kinds of conduct that may constitute unlawful sexual harassment include, but are not limited to:

- A. Unwelcome sexual propositions, invitations, solicitations, and flirtations.
- B. Unwanted physical and/or sexual contact.
- C. Threats or insinuations that a person's employment, wages, academic grade, promotion, classroom work or assignments, academic status, participation in athletics or extra-curricular programs or events, or other conditions of employment or education may be adversely affected by not submitting to sexual advances.
- D. Unwelcome verbal expressions of a sexual nature, including graphic sexual commentaries about a person's body, dress, appearance, or sexual activities; the unwelcome use of sexually degrading language, nicknames, jokes or innuendoes; unwelcome suggestive or insulting sounds or whistles; obscene and unwanted telephone calls, text messages, emails, or Internet or blog postings.
- E. Sexually suggestive objects, pictures, posters, videotapes, audio recordings or literature, placed in the work or educational environment, which may embarrass or offend individuals.
- F. Unwelcome and inappropriate touching, groping, patting, or pinching; rubbing or brushing up against another's body in a sexual way; and obscene gestures, of a sexual nature.
- G. A pattern of conduct, such as repeated unwanted social invitations, which can be subtle in nature, that has sexual overtones and is intended to create or has the effect of creating discomfort and/or humiliation to another based on sex.
- H. Remarks speculating about a person's sexual activities or sexual history, or remarks about one's own sexual activities or sexual history.
- I. In the context of employees, consensual sexual relationships where such relationship leads to favoritism of a subordinate employee with whom the supervisor is sexually involved and where such favoritism adversely affects other employees or otherwise creates a hostile work environment.

MICHIGAN VIRTUAL CHARTER ACADEMY  
ANTI-HARASSMENT POLICY

- J. Verbal, nonverbal or physical aggression, intimidation, or hostility based on sex or sex-stereotyping that does not involve conduct of a sexual nature.

Not all behavior with sexual connotations constitutes unlawful sexual harassment. To violate this policy, the conduct must be sex-based or of a sexual nature. Sex-based conduct must be sufficiently severe, pervasive, and persistent such that it adversely affects, limits, or denies an individual's employment or education, or creates a hostile or abusive employment or educational environment.

NOTE: Sexual conduct/relationships with students by Academy employees or any other adult member of the Academy community is prohibited, and any teacher, administrator, coach, or other school authority who engages in sexual conduct with a student may also be guilty of the criminal charge of "sexual battery". The issue of consent is irrelevant in regard to such criminal charge and/or with respect to the application of this policy to Academy employees or other adult members of the Academy community. This prohibition applies to any form of sexual contact as well as written, electronic or verbal communications to a student of a sexual nature.

**B. Other Types of Unlawful Harassment**

Other types of unlawful harassment occur when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's legally protected characteristic and the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity.

Such unlawful harassment may occur where conduct is directed at a person's legally protected characteristics, including but not limited to: slurs, epithets, nicknames implying negative stereotypes, negative references to racial or ethnic customs, religious traditions, clothing, surnames, disabling condition (such as negative comments about speech patterns, movement, physical impairments or defects/appearances, or the like), a person's genetic information, height, or weight.

**C. Complaint Procedure**

Any Academy employee or student who believes s/he has been or is the victim of unlawful harassment, regardless of whether it fits a particular definition, must immediately report the conduct to one of the following designated individuals who serve as "Anti-Harassment Compliance Officers" for the Academy. Initiating a complaint will not adversely affect the complaining individual's employment or participation in educational or extra-curricular programs. Any act of retaliation against a person who has made a report or filed a complaint alleging unlawful harassment, or who has participated as a witness in a harassment investigation is prohibited. Filing a malicious or knowingly false complaint of unlawful harassment is

MICHIGAN VIRTUAL CHARTER ACADEMY  
ANTI-HARASSMENT POLICY

prohibited. Retaliation against a complainant or participant in a harassment investigation, and the filing of a malicious or knowingly false harassment complaint will result in corrective action up to and including potential discharge from employment, or expulsion.

**ANTI-HARASSMENT COMPLIANCE OFFICERS**

Head of School  
678 Front Avenue, #190  
Grand Rapids, MI 49504  
877.794.9427

Dean of Students  
678 Front Avenue, #190  
Grand Rapids, MI 49504  
877.794.9427

While there are no time limits for initiating complaints of unlawful harassment under this policy, individuals should make every effort to file a complaint as soon as possible after the conduct occurs while the facts are known and potential witnesses are available. All complaints will be promptly investigated. In order to assist with the investigation process, a complaint should include the following information to the extent it is available: the identity of the individual believed to have engaged in, or be engaging in, unlawful harassment/retaliation; a detailed description of the facts upon which the complaint is based; a list of potential witnesses; any supporting documentation or other evidence (such as text messages or emails), and the resolution sought. The complainant may also be requested by the Compliance Officer to submit to an interview and/or provide a written statement in order to ensure that the complaint allegations and supporting evidence are fully understood by the Academy.

**D. Investigation**

During the course of its investigation, the Academy will respect the privacy of affected individuals and employ reasonable efforts to protect the rights of the complainant, the individual(s)

against whom the complaint is filed, and the witnesses as much as possible, consistent with the Academy's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations. All records generated under the terms of this policy shall be maintained as confidential to the extent permitted by law. Confidentiality, however, cannot be guaranteed. Individuals interviewed will be instructed on the importance of maintaining confidentiality of the investigation. Any individual who is interviewed as part of a harassment investigation is expected not to disclose any information that s/he learns or that s/he provides during the course of the investigation. In order to ensure an impartial and complete investigation the Academy reserves the right to utilize an investigator from outside the Academy, as necessary. Upon conclusion of the investigation, the Compliance Officer will discuss the evidence gathered with the Educational Service Provider. The Educational Service Provider shall then make a final determination on the merits of the complaint and promptly inform the complainant of the results. The Educational Service Provider's decision shall be final.

**E. Corrective Action**

The Academy shall vigorously enforce its prohibitions against unlawful harassment by taking appropriate action reasonably calculated to stop the unlawful harassment, prevent further such harassment, and remedy its effects. Individuals who are found to have engaged in unlawful

MICHIGAN VIRTUAL CHARTER ACADEMY  
ANTI-HARASSMENT POLICY

harassment will be subject to appropriate corrective action. While observing the principles of due process, a violation of this policy may result in corrective action up to and including the discharge of an employee or the suspension/expulsion of a student. All corrective action will be taken in accordance with applicable State law and the terms of any applicable collective bargaining agreement(s). When imposing discipline, the Academy shall consider the totality of the circumstances involved in the matter, including the ages and maturity levels of those involved. In those cases where unlawful harassment is not substantiated, the Academy may consider whether the alleged conduct nevertheless warrants discipline, or other corrective action in accordance with other Academy policies, consistent with the terms of any applicable collective bargaining agreement(s) or individual contracts.

Corrective action shall be reasonably calculated to eliminate such conduct in the future, prevent its recurrence, and remedy its effects.

The Academy will also take prompt action to correct individuals engaging in any of the following prohibited acts:

- A. Retaliating against a person who has made a report or filed a complaint alleging unlawful harassment, or who has participated as a witness in a harassment investigation.
- B. Filing a malicious or knowingly false report or complaint of unlawful harassment.
- C. Disregarding, failing to investigate adequately, or delaying investigation of allegations of unlawful harassment, when responsibility for reporting and/or investigating unlawful harassment charges comprises part of one's supervisory duties.

Such action shall be reasonably calculated to eliminate such conduct in the future, prevent its recurrence, and remedy its effects.

**F. Allegations Constituting Criminal Conduct: Child Abuse/Sexual Misconduct**

State law requires any school teacher, counselor, audiologist, psychologist, social worker, or administrator who knows or has reasonable cause to suspect abuse or neglect of a child under age (18) shall immediately report that knowledge or suspicion to the Family Independence Agency. The initial report is oral and within 72 hours must be followed by a written report as required by the Michigan Child Protection Law. If, during the course of a harassment investigation, the Compliance Officer or a designee has reasonable cause to believe or suspect that the alleged conduct reasonably indicates abuse or neglect of a student, a report of such knowledge must be made in accordance with State law and Board Policy.

Any reports made to the Family Independence Agency or to local law enforcement shall not terminate the Compliance Officer or a designee's obligation and responsibility to continue to investigate a complaint of harassment. While the Compliance Officer or a designee may work cooperatively with outside agencies to conduct concurrent investigations, in no event shall the

MICHIGAN VIRTUAL CHARTER ACADEMY  
ANTI-HARASSMENT POLICY

harassment investigation be inhibited by the involvement of outside agencies without good cause after consultation with the Educational Service Provider (such as law enforcement involvement).

**G. Notification**

This policy is not intended to create any legal rights or obligations for the Academy beyond those established by Federal, State, and Local Law. A copy of this policy shall be made available to the public. The Educational Service Provider or designee may adopt guidelines consistent with this policy.

Reference:

Titles VI and VII of the Civil Rights Act of 1964, 42 U.S.C. 2000d *et seq.*

42 U.S.C. 2000e *et seq.*

Title IV of the Educational Amendments of 1972, 20 U.S.C. 1681 *et seq.*

Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794

The American with Disabilities Act of 1990 and the Americans with Disabilities Amendments Act of 2008, 42 U.S.C. 12101 *et seq.*

The Persons with Disabilities Civil Rights Act, M.C.L.A. 37.1101 *et seq.*

The Elliott-Larsen Civil Rights Act, M.C.L.A. 37.2101 *et seq.*

The Vietnam Era Veterans' Readjustment Assistance Act of 1974, 38 U.S.C. 4212 *et seq.*

The Age Discrimination in Employment Act of 1967, 29 U.S.C. 621 *et seq.*

The Michigan Child Protection Law, M.C.L.A. 722.621 *et seq.*

Approved: May 18, 2015