

Adopted: January 22, 2014

Revised: October 28, 2015 (updated contact info), January 25, 2017, December 16, 2020

**BLUESKY CHARTER SCHOOL POLICY No. 4.5.1**  
**PROHIBITION AGAINST UNFAIR DISCRIMINATORY PRACTICES IN**  
**EMPLOYMENT AND GRIEVANCE PROCEDURES**

**I. PURPOSE**

The purpose of this policy is to establish definitions, reporting processes, grievance, and investigation procedures regarding claims of employment discrimination.

**II. POLICY STATEMENT**

It is the policy of BlueSky Charter School to fully comply with all state and federal laws prohibiting employment discrimination.

**III. PROHIBITIONS**

A. General statement of policy.

It shall be a violation of this policy for any BlueSky Charter School student or employee to discriminate against, or engage in unlawful discriminatory conduct with regard to a BlueSky Charter School employee, through conduct (e.g., physical, oral, graphic or written) that is based upon that employee's actual or perceived race, color, creed, national origin, religion, sex/gender, sexual orientation, disability, public assistance, or marital status or age [hereinafter referred to as "protected class"] as defined by this policy. For purposes of this policy, a BlueSky Charter School employee includes BlueSky Charter School board members, BlueSky Charter School school employees, BlueSky Charter School agents, BlueSky Charter School volunteers, BlueSky Charter School contractors, or persons subject to the supervision and control of BlueSky Charter School.

B. Hiring and employment.

Except when based on a bona fide occupational qualification, no agent of the Board of BlueSky Charter School shall, because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, familial status, membership or activity in a local commission, disability, sexual orientation, or age:

1. Refuse to hire or to maintain a system of employment which unreasonably excludes a person seeking employment; or
2. Discharge an employee; or

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3. Discriminate against a person with respect to hiring, tenure, compensation, terms, upgrading, conditions, facilities, or privileges of employment.

C. Actions prior to employment.

Except when based on a bona fide occupational qualification, no agent of the Board of BlueSky Charter School shall, before a person is employed by the Board:

1. Require or request the person to furnish information that pertains to race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, familial status, disability, sexual orientation, or age; or,
2. Subject to Minnesota Statutes section 363A.20, require or request a person to undergo physical examination; unless for the sole and exclusive purpose of national security, information pertaining to national origin is required by the United States, this state or a political subdivision or agency of the United States or this state, or for the sole and exclusive purpose of compliance with the Public Contracts Act or any rule, regulation, or laws of the United States or of this state requiring the information or examination.
3. Seek and obtain for purposes of making a job decision, information from any source that pertains to the person's race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, familial status, disability, sexual orientation, or age, unless for the sole and exclusive purpose of compliance with the Public Contracts Act or any rule, regulation, or laws of the United States or of this state requiring the information; or
4. Cause to be printed or published a notice or advertisement that relates to employment or membership and discloses a preference, limitation, specification, or discrimination based on race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, familial status, disability, sexual orientation, or age.

D. Fringe benefits.

Except when based on a bona fide occupational qualification, no agent of the Board of BlueSky Charter School shall, with respect to all employment related purposes, including receipt of benefits under fringe benefit programs, treat women affected by pregnancy, childbirth, or disabilities related to pregnancy or childbirth, differently from other persons who are not so affected but who are similar in their ability or inability to work. This includes a duty a duty to make reasonable accommodations as provided by section E below.

E. Reasonable accommodation.

[Note to user: this is only applicable if the number of part-time or full-time employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year is equal to or greater than 15):

Except when based on a bona fide occupational qualification, the Board of BlueSky Charter School shall make reasonable accommodations to a qualified disabled person or job applicant unless the accommodation would impose an undue hardship

F. Interference with age and pension rights.

For purposes of this policy, “discrimination on account of age” shall include acts which interfere with an employee's opportunity to acquire pension credits or pension benefits when the interference cannot be shown to have been based on just cause unrelated to the employee's status with regard to pension credits or pension benefits.

#### IV. DEFINITIONS

A. Disability. “Disability” means any condition or characteristic that renders a person a disabled person. A disabled person is any person who: (1) has a physical, sensory, or mental impairment which materially limits one or more major life activities; (2) has a record of such an impairment; or (3) is regarded as having such an impairment.

B. Discriminate. The term "discriminate" includes segregate or separate and, for purposes of discrimination based on sex, it includes sexual harassment. It also includes:

1. An “unfair discriminatory practice”, as described in Minn. Stat. §§363A.08, 363A.13, 363A.14, 363A.15 and 363A.19;
2. Any violation of federal laws prohibiting discrimination in employment (including but not limited to “Title II”; “Title VI”; Title “VII”; and the “Americans with Disabilities Act”).

C. National origin. “National origin” means the place of birth of an individual or of any of the individual's lineal ancestors.

D. Reasonable accommodation. “Reasonable accommodation” means steps which must be taken to accommodate the known physical or mental limitations of a qualified disabled person. Reasonable accommodation" may include but is not limited to, nor does it necessarily require:

1. Making facilities readily accessible to and usable by disabled persons; and
2. Job restructuring, modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, and the provision of aides on a temporary or periodic basis.

E. Sexual harassment. “Sexual harassment” includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact or other verbal or physical conduct or communication of a sexual nature when:

1. Submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining employment or education;
2. Submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment or education;

3. That conduct or communication has the purpose or effect of substantially interfering with an individual's employment or creating an intimidating, hostile, or offensive employment environment.
- F. Sexual orientation. "Sexual orientation" means having or being perceived as having an emotional, physical, or sexual attachment to another person without regard to the sex of that person or having or being perceived as having an orientation for such attachment, or having or being perceived as having a self-image or identity not traditionally associated with one's biological maleness or femaleness.

## **V. APPLICABILITY OF THIS POLICY**

- A. The anti-discrimination laws and this policy apply to all of the academic and nonacademic (e.g. athletic and extracurricular) programs of BlueSky Charter School, whether conducted in school facilities or elsewhere.
- B. For purposes of this policy, any employee who is discriminated against, including being subjected to violence, by students or BlueSky Charter School employees based upon that employee's actual or perceived membership in a protected class, may file a complaint as described more fully in section VI below.
- C. This policy also applies to alleged harassment/violence that is not directed at a particular person, but instead consists of harassing conduct (e.g. physical, oral, graphic, or written) that creates a hostile environment for employees based upon actual or perceived membership in a protected class.

## **VI. COMPLIANCE OFFICER DESIGNATIONS, REPORTING PROCEDURES**

- A. Title IX Coordinator. Pursuant to Title IX, BlueSky Charter School designates the Human Resource Specialist to coordinate its efforts to comply with and carry out its responsibilities under the regulations, including Title IX complaint investigation (Title IX Coordinator) and Section 504 compliance.
- B. Human Rights Officer Designation.
  1. The Board of BlueSky Charter School hereby designates the Human Resource Specialist as the school's human rights officer to receive reports or complaints of harassment or violence based upon actual or perceived sex/gender, sexual orientation, race, color, creed, national origin, religion, disability, receipt of public assistance, or marital status and age.
  2. If the complaint involves the designated human rights officer, the complaint will be filed directly with the Executive Director.
- C. Reporting Procedures. For purposes of meeting state and federal reporting requirements, the following reporting procedure will be made available for staff who wish to report an incident(s) that may involve discrimination or unlawful

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discriminatory conduct, based upon actual or perceived membership in a protected class.

An employee may make an oral or written report to his or her supervisor. If this supervisor is unavailable, or the employee believes that it would be inappropriate or uncomfortable to contact that person, an employee may immediately contact the human rights officer. These reporting procedures are not intended to prevent a person from reporting harassment or violence incident(s) to another school official.

- D. Any school official to whom a report is made must immediately notify the Executive Director, who must then submit the oral or written complaint/report to the human rights officer without screening or investigating the credibility of the report. If the Executive Director is not available on the date of the report, then the school official receiving the report must forward the oral or written report/complaint directly to the human rights officer.
  - 1. If the report was given orally, the Executive Director will personally reduce it to written form within 24 hours and forward it to the human rights officer.
  - 2. If the Executive Director fails to forward any harassment or violence report or complaint (written or oral) to the human rights officer within 24 hours, the Executive Director will be subject to disciplinary action.
- E. If the complaint involves the Executive Director, the complaint will be made or filed directly with the human rights officer, by the school official receiving the report, or by the reporting party or complainant.
- F. The human rights officer may request, but not insist, upon a written complaint. The BlueSky Charter School Board encourages the reporting party to complete the complaint form for written complaints. It is available from the Executive Director or the school office. Alternative means of filing a complaint, such as through a personal interview or by tape recording, will be made available upon request for qualified persons with a disability.
- G. BlueSky Charter School will conspicuously post the name of the human rights officer(s), Executive Director and Board members, including mailing addresses and telephone numbers as follows:
  - 1. The Human Rights Officer is: Leslie Egner
  - 2. Mailing address: 2051 Killebrew Drive, Suite 500, Bloomington, MN 55425
  - 3. Telephone number: 651-202-2004
  - 4. Email address: [leslie.egner@blueskyschool.org](mailto:leslie.egner@blueskyschool.org)
  - 5. The Executive Director is: Amy Larsen
  - 6. Mailing address: 2051 Killebrew Drive, Suite 500, Bloomington, MN 55425

7. Telephone number: 651-202-2010
8. Email address: amy.larsen@blueskyschool.org
9. The BlueSky Charter School Board Chair is: Jim Stocco
10. Mailing address: 2051 Killebrew Drive, Suite 500, Bloomington, MN 55425
11. Telephone number: 651-235-3853
12. Email address: jim.stocco@blueskyschool.org

## **VII. INVESTIGATION**

- A. The human rights officer upon receipt of a complaint alleging discrimination toward an employee will promptly undertake an investigation if deemed appropriate. Alternatively, the human rights officer may designate a neutral third party to do the investigation. The investigation will be completed as soon as is feasible under the circumstances.
- B. The investigation may consist of personal interviews with the complainant, the individual(s) against whom the complaint is filed, and others who may have knowledge of the alleged incident(s) or circumstances giving rise to the complaint. The investigation may also consist of any other methods and documents deemed pertinent by the investigator.
- C. In determining whether alleged conduct constitutes a violation of this policy, BlueSky Charter School will consider the facts and the surrounding circumstances, such as the nature of the behavior, past incidents or continuing patterns of behavior, the relationships between the parties involved, and the context in which the alleged incident occurred.
- D. BlueSky Charter School may take immediate steps to protect the parties involved in the complaint process, pending completion of an investigation of alleged unlawful discrimination of an employee.
- E. Upon completion of the preliminary investigation, a draft report will be made to the Executive Director. If the complaint involves the human rights officer or the Executive Director, the draft report must be filed directly with the BlueSky Charter School Board Chair. The draft report will include the facts, a determination of whether the allegations have been substantiated and whether a violation of this policy has occurred, as well as a description of any proposed resolution which may include alternate dispute resolution. The Executive Director, or Board Chair if the complaint is against the Executive Director, will make a final determination regarding whether or not the complaint is substantiated.
- F. Upon completion of the investigation and upon determination of substantiation by the Executive Director, the human rights officer will inform the complainant/reporter of his or her right to review the written report at the school building where the

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complainant/reporter is employed in accordance with state and federal law regarding data or records privacy.

- G. Upon completion of the investigation and upon determination of substantiation by the Executive Director or Board Chair, if the complainant/reporter is a student, the human rights officer will inform the parent/guardian of his or her right to review the written report at the school building where the student reporter is enrolled in accordance with state and federal law regarding data or records privacy.
- H. BlueSky Charter School will comply with federal and state law pertaining to retention of records.

## **VIII. APPEAL**

If the grievance has not been resolved to the satisfaction of the complainant/reporter, s/he may appeal to the full Board by submitting a request to the Board Chair within ten (10) school days of receipt of the findings of the investigation. The Board will conduct a review of the appeal and, within ten (10) school days of receipt of the appeal, will affirm, reverse, or modify the findings of the report. The decision of the Board is final, and action will occur as addressed in IX below.

## **IX. ACTION BASED ON FINDINGS**

- A. Upon conclusion of the investigation and receipt of the findings, the school will take appropriate and effective action. If it is determined that a violation of this policy has occurred, such action may include, but is not limited to, warning, suspension, exclusion, expulsion, transfer, remediation, termination or discharge. Actions may also include alternate dispute resolution, including restorative justice programs, school or district wide training, counseling, and class transfer. Any action taken for violation of this policy will be consistent with the requirements of applicable contracts, state and federal law, and school policies.
- B. The result of the school's investigation of each complaint filed under these procedures will be reported in writing to the complainant by the school in accordance with state and federal law regarding data or records privacy.

## **X. REPRISAL**

BlueSky Charter School will take appropriate action against any student, teacher, administrator or other school personnel who retaliates against any person who reports alleged unlawful discrimination toward an employee or any person who testifies, assists, participates in an investigation or hearing related to alleged unlawful discrimination covered by this policy. Reprisal also includes retaliation against a student or district employee who associates with a person or group or persons who are disabled or who are of different race, color, creed, religion, sexual orientation, or national origin. Retaliation includes, but is not limited to, any form of intimidation or harassment. Reprisal is also prohibited based upon a request for a religious or disability accommodation.

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## **XI. CONFLICT OF INTEREST**

If there is a conflict of interest with respect to any party affected by this policy, appropriate accommodations will be made, such as, but not limited to, appointing or contracting with a neutral third party investigator to conduct the investigation, or recusal from the process by the person for whom a conflict or potential conflict of interest exists.

## **XII. DISSEMINATION OF POLICY AND TRAINING**

- A. This policy will be conspicuously posted throughout each school building in areas accessible to students and staff members.
- B. This policy will be given to each BlueSky Charter School employee and independent contractor at the time of entering into the person's employment contract.
- C. This policy will be included in the employee handbook and the school's student handbook on school policies.
- D. The school has developed the following process for discussing the school's harassment and violence policy with students and school employees:
  - 1. This policy will be reviewed with employees at the time of their hiring and as part of any staff training regarding discrimination.
  - 2. This policy will be reviewed with students at the beginning of the school year or as needed with students who enroll after the start of the school year.
- E. The BlueSky Charter School Board will review this policy periodically for compliance with state and federal law.
- F. BlueSky Charter School will post this policy on its website and ensure that it is easily accessible to view and download.

## **XIII. RIGHT TO ALTERNATIVE COMPLAINT PROCEDURES**

These procedures do not deny the right of any individual to pursue other avenues of recourse which may include filing charges with the agencies below, filing a report with a law enforcement agency, or initiating action in state or federal court. For claims of unlawful discrimination/harassment:

Minnesota Department of Human Rights  
Freeman Building  
625 Robert Street North  
St. Paul, MN 55155  
toll free: 800.657.3704  
tty: 651.296.1283  
fax: 651.296.9042  
[www.humanrights.state.mn.us](http://www.humanrights.state.mn.us)

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U.S. Department of Education  
Office for Civil rights, Region V  
500 W. Madison Street- Suite 1475  
Chicago IL 60661  
Tel: 312.730.1560  
TDD: 312.730.1609

### **Employment Discrimination/Harassment**

Equal Employment Opportunity Commission (EEOC)  
330 South 2nd Ave., Room 430  
Minneapolis, MN 55401  
(612) 335-4040  
1-800-669-4000  
Fax: (612) 335-4044  
TTY: (612) 335-4045  
[www.eeoc.gov/minneapolis/index.html](http://www.eeoc.gov/minneapolis/index.html)

**Legal References:** Minn. Stat. §121A.03, Subd. 2 (Sexual, Religious and Racial Harassment and Violence Policy)  
Minn. Stat. §363A (Minnesota Human Rights Act)  
42 U.S.C. §2000e *et seq.* (Title VII of the Civil Rights Act)

**Cross References:** 20 U.S.C. §1701-1758 (Equal Educational Opportunity)  
Minn. Stat. §13.43 (Public and Private Personnel Data)