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| <b>TENNESSEE PUBLIC CHARTER SCHOOL COMMISSION</b> |                 |  |
| <b>EMPLOYEE RIGHTS</b>                            |                 | <b>5104</b>                            |
| <b>ADOPTED:</b><br>February 5, 2021               | <b>REVISED:</b> | <b>MONITORING:</b><br>Review: Annually |

**Equal Opportunity Employment.** Each authorized charter school shall adopt policies that promote equal opportunities for employment, as well as continuation and advancement in employment, to members of all races, creeds, colors, genders, religions, ages, national origins, and individuals with disabilities or veteran status with regard only for qualifications for the positions involved.<sup>1</sup>

**Alcohol and Drug Use (Employees).** Each authorized charter school shall adopt a policy outlining when employees may be tested for drugs and alcohol. Testing for bus drivers is required if the charter school provides transportation.<sup>2</sup> Additionally, if an authorized charter school contracts with a transportation vendor that provides drivers, that vendor shall have an alcohol and drug testing policy compliant with the Omnibus Transportation Employee Testing Act and Commission’s transportation procedures.<sup>2</sup> It is the responsibility of the charter school to verify a vendor’s compliance.

**Employee-Related Complaints and Grievances.** Employees of authorized charter schools are not employees of the Commission or the State of Tennessee. All employee-related complaints and grievances shall be handled by each authorized charter school. Each authorized charter school shall adopt a policy to handle employee-related complaints and grievances in accordance with all federal and state laws, and a plan to regularly notify employees of their rights.

**Harassment of Employees.** Each authorized charter school shall adopt a policy to provide its employees a work environment free from sexual, racial, ethnic, disability, and religious discrimination/ harassment.<sup>3</sup> At a minimum, the policy shall prohibit any employee or any student from discrimination against or harassment of an employee through disparaging conduct or communication that is sexual, racial, ethnic, based on a disability, or religious in nature that:

- (1) Unreasonably interferes with the individual’s work performance; or
- (2) Creates an intimidating, hostile, or offensive work environment; or
- (3) Implies that submission to such conduct is made an explicit term of employment; or
- (4) Implies that submission to or rejection of such conduct will be used as a basis for an employment decision affecting the harassed employee.

The school’s policy shall encourage victims to report alleged act(s) immediately to the appropriate school personnel as designed by the school’s policy. Such complaints shall be fully and promptly investigated, in accordance with school policy. The school’s policy shall outline a detailed investigation procedure for resolving complaints of discrimination or harassment.

**Employee Whistleblower Protection.** Employees who report improper governmental activity involving any authorized charter school or the Commission are protected against retaliation, interference, intimidation, threats, or similar acts. No employee of any authorized charter school shall be discharged, terminated, or otherwise discriminated against with respect to compensation, terms, conditions, or privileges of employment solely for refusing to remain silent about illegal activities.<sup>4</sup> Illegal activities means activities that are in violation of criminal or civil laws, either state or federal, or any regulation intended to protect the public health, safety, or welfare. If an employee believes he/she is the subject of actual or attempted retaliation, interference, intimidation, threats, or similar acts for reporting improper governmental activity, he/she may file a written complaint in state court. A complaint must be filed within 12 months of the alleged act or threat of retaliation or similar acts.

Any employee terminated or discriminated against in violation of this policy shall have a cause of action against the employer and any other damages to which the employee may be entitled.

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Legal References:

<sup>1</sup> U.S. Constitution, Amendment XIV;  
Title VII, Civil Rights Act of 1964;  
Title VI, Civil Rights Act of 1964;  
Title IX, Education Amendments of 1972;  
Age Discrimination Act of 1967;  
Section 504 of the Rehabilitation Act of 1973;  
42 U.S.C. § 12101-12213  
<sup>2</sup> Omnibus Transportation Employee Testing Act;  
49 U.S.C. § 5331, 31306  
<sup>3</sup> Title VII, Civil Rights Act of 1964;  
Title VI, Civil Rights Act of 1964;  
Title IX, Education Amendments of 1972;  
Section 504 of the Rehabilitation Act of 1973;  
Tennessee Human Rights Act  
29 C.F.R. § 1604.11; T.C.A § 49-6-4503  
<sup>4</sup> T.C.A. § 50-1-304

Cross References:

Americans With Disabilities Act and Section  
504 Grievance Procedures 1802  
Transportation Procedures