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CONFIDENTIALITY OF MEDICAL INFORMATION

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PRIORITY CHARTER SCHOOLS (“PCS”) shall strive to protect the privacy of employees’ medical information to the greatest extent possible.

“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;
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.

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.

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

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also be subject to both civil and criminal action in a court of law under state and federal law.

Notice to Parents – Qualifications

The Superintendent or designee shall provide to the parent or guardian of each student enrolled in PRIORITY CHARTER SCHOOLS (“PCS”) written notice of the qualifications of each teacher employed by PCS.

Additionally, the Superintendent or designee shall, at the beginning of each school year, notify the parents of each student attending PCS that the parents may request, and PCS shall provide the parents on request (and in a timely manner), information regarding the professional qualifications of the student’s classroom teachers, including, at a minimum, the following:

1. Whether the teacher has met state qualification and licensing criteria for the grade levels and subject areas in which the teacher provides instruction.
2. Whether the teacher is teaching under emergency or other provisional status through which state qualification or licensing criteria have been waived.
3. The baccalaureate degree major of the teacher and any other graduate certification or degree held by the teacher, and the field of discipline of the certification or degree.
4. Whether the child is provided services by paraprofessionals and, if so, their qualifications.

PCS shall also provide to each individual parent timely notice that the parent’s child has been assigned, or has been taught for four or more consecutive weeks by, a teacher who is not highly qualified.

Highly Qualified Status

Pursuant to the No Child Left Behind Act of 2001, PCS shall ensure that all teachers teaching in a program supported with funds under Title I are highly qualified as required by applicable law.

Paraprofessional Employees

Title I Program

PCS shall ensure that all paraprofessionals working in a program supported with Title I assistance shall:

Duties

1. Be assigned only duties consistent with the following:

- a. Providing one-on-one tutoring for eligible students, if the tutoring is scheduled at a time when a student would not otherwise receive instruction from a teacher;
- b. Assisting with classroom management, such as organizing instructional and other materials;
- c. Providing assistance in a computer laboratory;
- d. Conducting parental involvement activities;
- e. Providing support in a library or media center;
- f. Acting as a translator; or
- g. Providing instructional services to students, so long as the paraprofessional is:
 - i. Working under the direct supervision of a teacher; and
 - ii. Assuming limited duties that are assigned to similar personnel who are not working in a program supported with Title I funds, including duties beyond classroom instruction or that do not benefit participating children, so long as the amount of time spent on such duties is the same proportion of total work time as prevails with respect to similar personnel at PCS.

High School Diploma

2. Have earned a secondary school diploma or its recognized equivalent.

Higher Education or Competency Test

3. If hired after January 8, 2002, have one of the following credentials:
 - a. Completed at least 2 years of study at an institution of higher education;
 - b. Obtained an associate's (or higher) degree; or
 - c. Met a rigorous standard of quality and can demonstrate, through a formal state or local academic assessment:
 - i. Knowledge of, and the ability to assist in instructing, reading, writing, and mathematics; or
 - ii. Knowledge of, and the ability to assist in instructing, reading readiness, writing readiness, and mathematics readiness, as appropriate.

A high school diploma does not satisfy the formal academic assessment requirement.

Exceptions

The Higher Education or Competency Test requirements above shall not apply to a paraprofessional:

1. Who is proficient in English and a language other than English and who provides services primarily to enhance the participation of children in programs under Title I, Part A by acting as a translator; or
2. Whose duties consist solely of conducting parental involvement activities.

20 U.S.C. 6319

Access to Employee Records

Custodians of personnel records shall adhere to the requirements of the Texas Public Information law.

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

A PCS employee shall choose whether to allow public access to information in PCS' custody that relates to the employee's home address, home telephone number, or 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.

Employee Right of Access

All information in the personnel file of a PCS employee shall be made available to that employee or the employee's designated representative as public information is made available under the Public Information Law. 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 PCS that relates to the employee and that is protected from public disclosure by laws intended to protect the accessing employee's privacy interests. PCS may assert as grounds for denial of access other provisions of the Public Information Law or other laws that are not intended to protect the accessing employee's privacy interests.

Personnel Duties

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

Posting Vacancies

The Superintendent or designee shall establish guidelines for advertising employment opportunities and posting notices of vacancies, which shall advance the commitment of PRIORITY CHARTER SCHOOLS (“PCS”) to equal opportunity employment and to recruit well-qualified candidates. Current PCS employees may apply for any vacancy for which they qualify.

Applications

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

New Hires

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.

PCS 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 PCS 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.

PCS 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 PCS 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 CFR 274a.2.

New Hire Reporting

PCS 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 PCS' name, address, and employer identification number.

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

PCS 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 PCS and in a format acceptable to the attorney general.

Deadline

New hire reports are due:

1. Not later than 20 calendar days after the date PCS hires the employee; or
2. In the case of PCS 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. Family Code 234.101–.105; 1 TAC 55, Subch. I.

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 PCS.

Social Security Numbers

It shall be unlawful for PCS 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.

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 PCS 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 PCS' jurisdiction.

Statement of Uses

Upon disclosing an employee's social security number, PCS 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.

Nondiscrimination in General

PRIORITY CHARTER SCHOOLS (“PCS”) 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); Labor Code Chapter 21 (Texas Commission on Human Rights Act); Labor Code Chapter 21, Subchapter H (genetic information).

Job Qualification

PCS 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.

Employment Postings

PCS 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.

Harassment of Employees

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

Retaliation

PCS 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)

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(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.

Notices

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.

Section 504 Notice

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

The notice shall state:

1. That PCS does not discriminate in employment in its programs and activities; and
2. The identity of PCS' 504 coordinator.

Methods of notification may include:

1. Posting of notices;
2. Publication in newspapers and magazines;
3. Placing notices in School publications; and
4. Distributing memoranda or other written communications.

If PCS 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.

Age Discrimination

PCS 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.

Sex Discrimination

Gender Stereotypes

PCS 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).

Pregnancy

PCS 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.

Equal Pay

PCS 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.

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 PCS demonstrates that it is unable to reasonably accommodate an employee's or prospective employee's religious observance or practice without undue hardship to PCS' 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.

PCS 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.

Disability Discrimination

PCS 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

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).

PCS 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).

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.

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 (which do not include ordinary eyeglasses or contact lenses), prosthetics, hearing aids, mobility devices, oxygen therapy, assistive technology, or learned behavioral or adaptive neurological modifications.

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.

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.

Other Definitions

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, 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.

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).

Reasonable Accommodations

PCS shall make reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability, unless PCS can demonstrate that the accommodation would impose an undue hardship on the operation of PCS. 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 PCS, and other factors set out in law. 42 U.S.C. 12111(10); 29 CFR 1630.2(p); 34 CFR 104.12(c).

Discrimination Based on Relationship

PCS 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.

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 PCS acts on the basis of such use.

Drug Testing

PCS 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).

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).

Qualification Standards

Direct Threat to Health or Safety

As a qualification standard, PCS 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).

Vision Standards and Tests

PCS 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 PCS, 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).

Communicable Diseases

PCS 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).

Military Service

PCS 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. PCS shall not take adverse 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.

Grievance Policies

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

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.

Americans with Disabilities Act

Providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by the Americans with Disabilities Act. 28 CFR 35.107, 35.140.

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).

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Compliance Coordinator

PCS 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).

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.

“Genetic test” means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites that detects genotypes, mutations, or chromosomal changes. Genetic tests include, for example:

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:

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.

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.

Prohibited Practices

Discrimination

PRIORITY CHARTER SCHOOLS (“PCS”) 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.

Retaliation

PCS 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.

Acquisition

Except as set forth below or otherwise provided in the GINA regulations, PCS shall not request, require, or purchase genetic information of an individual or family member of the individual.

“Request” includes:

1. Conducting an Internet search on an individual in a way that is likely to result in PCS’ 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
3. Making requests for information about an individual’s current health status in a way that is likely to result in PCS’ obtaining genetic information.

Disclosure

Except as set forth in the GINA regulations, PCS shall not disclose the genetic information of an employee, regardless of how PCS obtained the information.

Manifested Condition

PCS 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.

“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.

Inadvertent Acquisition

The general prohibition against requesting, requiring, or purchasing genetic information does not apply where PCS inadvertently requests or requires genetic information of the individual or family member of the individual. This exception applies in 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).

Requests for Medical Information

If PCS acquires genetic information in response to a lawful request for medical information, the acquisition of genetic information will not generally be considered inadvertent unless PCS directs the individual and/or health-care provider from whom it requested medical information not to provide genetic information.

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;
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 Americans with Disabilities Act (ADA) and other laws limiting PCS' access to medical information.

SAFE HARBOR

Any receipt of genetic information in response to a request for medical information shall be deemed inadvertent if PCS 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.”

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

Employment Examinations

The prohibition on acquisition of genetic information applies to medical examinations related to employment. PCS 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.

Remedial Measures

PCS 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.

Health or Genetic Services

The general prohibition against requesting, requiring, or purchasing genetic information does not apply where PCS 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.

PCS 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. PCS 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.

PCS 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, PCS 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.

Leave Requests

The general prohibition against requesting, requiring, or purchasing genetic information does not apply where PCS 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.

Publicly Available Information

The general prohibition against requesting, requiring, or purchasing genetic information does not apply where PCS 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 PCS can show that access is routinely granted to all who request it;
3. Genetic information obtained through commercially and publicly available sources if PCS 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 PCS 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.

Workplace Monitoring

The general prohibition against requesting, requiring, or purchasing genetic information does not apply where PCS 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).

Inquiries Made of Family Members

PCS 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 PCS or who is receiving health or genetic services on a voluntary basis. For example, PCS does not violate the GINA regulations by asking someone whose sister also works for PCS to take a post-offer medical examination that does not include requests for genetic information.

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. PCS must treat such information as a confidential medical record. PCS 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. PCS will not be liable under the GINA regulations for the mere existence of the information in the file. However, the 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 PCS receives orally need not be reduced to writing but may not be disclosed, except as permitted by 29 CFR part 1635.

Genetic information that PCS 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.

Disclosure Permitted

PCS 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. PCS 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, PCS 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.

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).

Personal Leave

PRIORITY CHARTER SCHOOLS (“PCS”) does not participate in the State Personal Leave Program or provide or recognize “State Days”; therefore, accumulated state personal leave days from other Texas School Districts or public schools cannot be transferred in or out of the PCS system.

Local Leave

PCS grants all employees one-half local leave days per month based off the employee’s work schedule. 10 month employees (187 day) will have five local leave days while 12 month employees (236 day) will have six local leave days per year. The Superintendent shall adopt procedures to implement and control Local Leave benefits.

Medical Certification

Any employee who is absent more than three days because of a personal or family illness must submit a medical certification from a qualified health care provider confirming the specific dates of the illness, the reason for the illness, and – in the case of personal illness – the employee’s fitness to return to work.

Forfeiture of Leave

Local Leave does not accumulate or roll forward from year to year, and is forfeited upon resignation, retirement, or termination from employment.

Availability

PCS shall make paid leave for the current year available for use at the beginning of the school year. Any absences beyond available paid leave shall result in deductions from the employee’s pay.

Earning Leave

An employee shall not earn leave when he or she is in unpaid status. An employee using full or proportionate paid leave shall be considered to be in paid status. When an employee has used more leave than he or she has earned, the school shall deduct the cost of unearned leave days from the employee’s final paycheck for the year or from the last paycheck after the employee ceases to be employed by the PCS.

Catastrophic Leave

PCS shall also provide all employees who have worked for PCS for at least one-full year 20 calendar days of catastrophic leave. This leave may only be used if an employee has exhausted his or her earned Local Leave benefits and only for the employee’s personal illness or disability, including pregnancy-related disability, or the

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personal illness or disability of an immediate family member. For purpose of this policy immediate family member is a husband, wife, child (including a biological, adopted, stepchild, a child for whom the employee stands in loco parentis, or foster child), father, mother, brother, sister, grandfather, grandmother, grandchildren, or any person who may be residing in the employee's household at the time of illness or death.

Catastrophic leave is to be used for single, long-term illnesses or conditions. "Single" is defined as one illness or condition; "long-term" is defined as an absence of ten or more consecutive days. An employee is eligible for catastrophic leave once every three years.

A doctor's written statement confirming the need for catastrophic leave shall be required before leave is granted, and periodically thereafter as determined by PCS. Catastrophic leave will stop on the date the doctor releases the employee or when all catastrophic leave has been exhausted, whichever comes first.

The daily rate of a substitute shall be deducted from an employee's daily pay during a period of catastrophic leave, even if a substitute is not used. The Superintendent shall adopt procedures to implement and control Catastrophic leave benefits.

Emergency Leave

Employees may be granted up to two days of emergency leave without loss of pay or accumulated Local Leave for destruction of their home or domicile due to flood, fire, or storm, other natural disasters or force majeure. Such leave is subject to the approval of the Superintendent or designee. Any further leave granted will result in a deduction of accumulated Local Leave, a deduction of the daily rate of pay, or unpaid leave, unless otherwise provided by PCS.

Bereavement Leave

PCS employees may be absent, without loss of pay, in the event of the death of one of the following relatives of the employee or his or her spouse: husband, wife, child (including a biological, adopted, stepchild, a child for whom the employee stands in loco parentis, or foster child), father, mother, brother, sister, grandfather, grandmother, grandchildren, or any person who may be residing in the employee's household at the time of illness or death. No more than five paid local leave days will be used for this purpose in any one school year unless otherwise approved by the Superintendent or designee.

Religious Observances

An employee requesting to attend a religious observance on a regularly scheduled

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school day may use Personal Leave. In the event that all Personal Leave has been used, deductions from the employee's salary shall be made on the basis of the employee's daily rate of pay.

Jury Duty and Other Court Appearances

PCS will pay a non-exempt employee his or her normal daily compensation for each regularly scheduled workday on which the employee serves in any phase of jury service. Any employee selected for jury duty must notify his or her supervisor within 48 hours of the court's notice. The employee must also present documentation of jury service to his or her supervisor.

Employees will be paid while on leave to comply with a valid subpoena to appear in a civil, criminal, legislative, or administrative proceeding. Absences for court appearances related to an employee's personal business must be taken as local leave or leave without pay (if no local leave is available). Employees may be required to submit documentation of their need for leave for court appearances.

Voting Leave

Any employee who does not have two consecutive non-work hours while the polls are open on election day will be given up to two hours off with pay in order to vote, unless more time is required by state law. The employee should notify the appropriate supervisor before Election Day if time off is needed, so that the timing of the employee's absence can be pre-arranged.

SECTION I: GENERAL PROVISIONS

Family and Medical Leave

The Family and Medical Leave Act (FMLA) provides eligible employees with unpaid leave for certain family and medical reasons during a 12-month period. During this leave, employees are entitled to continue group health plan coverage as if they had continued to work. At the conclusion of the leave, subject to some exceptions, employees generally have the right to return to the same or an equivalent position, equivalent pay, benefits and working conditions.

Employment Eligibility Criteria

An “eligible employee” is one who:

1. Has been employed by PRIORITY CHARTER SCHOOLS (“PCS”) for at least 12 months (which need not be consecutive);
2. Has been employed by PCS for at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave; and
3. Works at a PCS’ facility where at least 50 employees are employed within 75 miles.

Events Entitling Employees to FMLA Leave

An eligible employee shall be entitled to FMLA leave for one or more of the following:

1. For the birth of a son or daughter of the employee and to care for the newborn child.
2. For placement of a son or daughter with the employee for adoption or foster care.
3. To care for the employee’s spouse, son or daughter, or parent with a serious health condition.
4. Because of a serious health condition that makes the employee unable to perform the functions of his or her position.
5. Because of any Qualified Exigency (defined below) arising out of the fact that the employee’s spouse, son or daughter, or parent is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation.
6. To care for a covered servicemember with a serious injury or illness incurred in the line of duty if the employee is the spouse, son, daughter, parent, or next of kin of the servicemember.

Qualifying Exigency FMLA Leave

An eligible employee may take FMLA leave for one or more of the following qualifying exigencies:

1. Short-notice deployment.
2. Military events and related activities.
3. Childcare and school activities.
4. Financial and legal arrangements.
5. Counseling.
6. Rest and recuperation.
7. Post-deployment activities.
8. Parental care.
9. Additional activities, provided that PCS and the employee agree that the leave shall qualify as an exigency and agree to both the timing and duration.

Pregnancy or Birth

Both parents are entitled to FMLA leave to be with a healthy newborn child (i.e., bonding time) during the 12-month period beginning on the date of birth. In addition, the expectant mother is entitled to FMLA leave for incapacity due to pregnancy, for prenatal care, or for her own serious health condition following the birth of the child. The expectant mother is entitled to leave for incapacity due to pregnancy even though she does not receive treatment from a health-care provider during the absence and even if the absence does not last for more than three consecutive calendar days. A spouse is entitled to FMLA leave if needed to care for a pregnant spouse who is incapacitated, during her prenatal care, or following the birth of a child if the spouse has a serious health condition.

SECTION II: LEAVE ENTITLEMENT AND USE

Maximum Amount of FMLA Leave Within a 12-Month Period

Except in the case of military caregiver leave, an eligible employee's FMLA leave entitlement is limited to a total of 12 workweeks of leave during a 12-month period for any one or more of the qualifying reasons.

Spouses who are employed by PCS may be limited to a combined total of 12 workweeks of leave during any 12-month period if the leave is taken for birth of a son or daughter, the placement of a child for adoption or foster care, or to care for a parent with a serious health condition. Each spouse may be entitled to additional FMLA leave for other FMLA-qualifying reasons, but not more than a total of 12 workweeks per person.

Determining the 12-Month Period

Except with respect to military caregiver leave, PCS utilizes as fixed 12-month “leave year” beginning on the first calendar day of the school year.

Military Caregiver Leave

In the case of military caregiver leave, an eligible employee’s FMLA leave entitlement is limited to a total of 26 workweeks of leave during a “single 12-month period.” The “single 12-month period” is measured forward from the date an employee’s first FMLA leave to care for the covered servicemember begins, regardless of the method used by PCS to determine the 12-month period for other FMLA leaves. During the “single 12-month period,” an eligible employee’s FMLA leave entitlement is limited to a combined total of 26 workweeks of FMLA leave for any qualifying reason.

Spouses who are employed by PCS may be limited to a combined total of 26 weeks of FMLA leave during the “single 12-month period” if leave is taken as military caregiver leave, for the birth of a son or daughter, for the placement of a child for adoption or foster care, or to care for a parent with a serious health condition.

Summer Vacation and Other Extended Breaks

If PCS’ activity temporarily ceases and employees generally are not expected to report for work for one or more weeks – e.g., a school closing for Spring Break or for the Christmas/New Year holiday – those days do not count against an employee’s FMLA leave entitlement. Similarly, the time during summer vacation when the employee is not required to report to work does not count against the employee’s FMLA leave entitlement.

Intermittent or Reduced Work Schedule Leave

FMLA leave may be taken intermittently or on a reduced leave schedule under certain circumstances. “Intermittent leave” is FMLA leave taken in separate blocks of time due to a single qualifying reason. A “reduced leave schedule” is a leave schedule that reduces an employee’s usual number of working hours per workweek, or hours per workday.

For leave taken because of the employee’s own serious health condition, to care for a parent, son, or daughter with a serious health condition, or military caregiver leave, there must be a medical need for leave, and it must be that such medical need can be best accommodated through an intermittent or reduced leave schedule. Leave due to a qualifying exigency may also be taken on an intermittent or reduced schedule basis.

When leave is taken after the birth of a healthy child or placement of a healthy child for adoption or foster care, an employee may take leave intermittently, or on a reduced leave schedule, only if PCS agrees.

Transfer to an Alternative Position

If an employee requests intermittent or reduced schedule leave that is foreseeable based on planned medical treatment, PCS may require the employee to transfer temporarily to an available alternative position for which the employee is qualified, and which better accommodates recurring periods of leave than does the employee’s regular position.

Calculating Leave Use

When an employee takes leave on an intermittent or reduced schedule, only the amount of leave actually taken may be counted toward the employee's leave entitlement. PCS must account for intermittent or reduced schedule leave using an increment no greater than the shortest period of time that PCS uses to account for use of other forms of leave, provided the increment is not greater than one hour.

Special Rules for Instructional Employees

Special rules affect leave taken intermittently or on a reduced schedule, or taken near the end of an academic term (semester) by instructional employees.

“Instructional employees” are those whose principal function is to teach and instruct students in a class, a small group, or an individual setting. This term includes not only teachers, but also athletic coaches, driving instructors, and special education assistants such as signers for the hearing impaired. It does not include teacher assistants or aides who do not have as their principal job actual teaching or instructing, nor does it include auxiliary personnel such as counselors, psychologists, or curriculum specialists. It also does not include cafeteria workers, maintenance workers, or bus drivers.

Failure to Provide Notice of Foreseeable Leave

If an instructional employee does not give required notice of foreseeable leave to be taken intermittently or on a reduced schedule, PCS may require the employee to take leave of a particular duration or to transfer temporarily to an alternative position. Alternatively, PCS may require the employee to delay the taking of leave until the notice provision is met.

Twenty Percent Rule

If an eligible instructional employee needs intermittent leave or leave on a reduced leave schedule to care for a family member with a serious health

condition, to care for a covered servicemember, or for the employee's own serious health condition; the leave is foreseeable based on planned medical treatment; and the employee would be on leave for more than 20% of the total number of working days over the period the leave would extend, PCS may require the employee to choose:

1. To take leave for a period or periods of a particular duration, not greater than the duration of the planned treatment; or
2. To transfer temporarily to an available alternative position for which the employee is qualified, which has equivalent pay and benefits and which better accommodates recurring periods of leave than does the employee's regular position.

"Periods of a particular duration" means a block or blocks of time beginning no earlier than the first day for which leave is needed and ending no later than the last day on which leave is needed, and may include one uninterrupted period of leave. If an employee chooses to take leave for "periods of a particular duration" in the case of intermittent or reduced schedule leave, the entire period of leave taken will count as FMLA leave.

Leave at the End of a Semester

As a rule, PCS may not require an employee to take more FMLA leave than the employee needs. The FMLA recognizes exceptions where instructional employees begin leave near the end of a semester. As set forth below, PCS may in certain cases require the employee to take leave until the end of the semester.

The school semester, or "academic term," typically ends near the end of the calendar year and the end of spring each school year. In no case may PCS have more than two academic terms or semesters each year for purposes of the FMLA.

If PCS requires the employee to take leave until the end of the semester, only the period of leave until the employee is ready and able to return to work shall be charged against the employee's FMLA leave entitlement. Any additional leave required by PCS to the end of the semester is not counted as FMLA leave; however, PCS shall maintain the employee's group health insurance and restore the employee to the same or equivalent job, including other benefits, at the end of the leave.

More than Five Weeks Before the End of the Semester

PCS may require an instructional employee to continue taking leave until the end of the semester if:

1. The employee begins leave more than five weeks before the end of the semester;
2. The leave will last at least three weeks; and
3. The employee would return to work during the three-week period before the end of the semester.

During the Last Five Weeks of the Semester

PCS may require an instructional employee to continue taking leave until the end of the semester if:

1. The employee begins leave during the last five weeks of the semester for any reason other than the employee's own serious health condition or a qualifying exigency;
2. The leave will last more than two weeks; and
3. The employee would return to work during the two-week period before the end of the semester.

During Last Three Weeks of the Semester

PCS may require an instructional employee to continue taking leave until the end of the semester if the employee begins leave during the three-week period before the end of the semester for any reason other than the employee's own serious health condition or a qualifying exigency.

Substitution of Paid Leave Time

Generally, FMLA leave is unpaid leave. However, an employee may choose to substitute accrued paid leave for unpaid FMLA leave. If an employee does not choose to substitute accrued paid leave, PCS may require the employee to do so. The term "substitute" means that the paid leave provided by PCS, and accrued pursuant to established policies of PCS, will run concurrently with the unpaid FMLA leave. An employee's ability to substitute accrued paid leave is determined by the terms and conditions of PCS normal leave policy.

FMLA and Workers' Compensation

A serious health condition may result from injury to the employee "on or off" the job. If PCS designates the leave as FMLA leave, the leave counts against the employee's FMLA leave entitlement. Because the workers' compensation absence is not unpaid, neither the employee nor PCS may require the substitution of paid leave. However,

PCS and an employee may agree, where state law permits, to have paid leave supplement workers' compensation benefits.

If the health-care provider treating the employee for the workers' compensation injury certifies that the employee is able to return to a "light duty job" but is unable to return to the same or equivalent job, the employee may decline PCS' offer of a "light duty job." As a result, the employee may lose workers' compensation payments, but is entitled to remain on unpaid FMLA leave until the employee's FMLA leave entitlement is exhausted. As of the date workers' compensation benefits cease, the substitution provision becomes applicable and either the employee may elect or PCS may require the use of accrued paid leave.

Maintenance of Health Benefits

During any FMLA leave, PCS must maintain the employee's coverage under any group health plan on the same conditions as coverage would have been provided if the employee had been continuously employed during the entire leave period.

An employee may choose not to retain group health plan coverage during FMLA leave. However, when the employee returns from leave, the employee is entitled to be reinstated on the same terms as before taking leave without any qualifying period, physical examination, exclusion of pre-existing conditions, and the like.

Payment of Premiums

During FMLA leave, the employee must continue to pay his or her share of group health plan premiums. If premiums are raised or lowered, the employee would be required to pay the new premium rates.

Failure to Pay Premiums

Unless PCS has an established policy providing a longer grace period, PCS obligations to maintain health insurance coverage cease if an employee's premium payment is more than 30 days late. In order to terminate the employee's coverage, PCS must provide written notice to the employee that the payment has not been received. Such notice must be mailed to the employee at least 15 days before coverage is to cease, advising that coverage will be dropped on a specified date at least 15 days after the date of the letter unless the payment has been received by that date. Coverage for the employee may be terminated at the end of the 30-day grace period, if the required 15-day notice has been provided.

Upon the employee's return from FMLA leave, PCS must still restore the employee to coverage/benefits equivalent to those the employee would have had if leave had not been taken and the premium payment(s) had not been missed. The employee

may not be required to meet any qualification requirements imposed by the plan, including any new preexisting condition waiting period, to wait for an open season, or to pass a medical examination to obtain reinstatement of coverage.

Recovery of Benefit Cost

If an employee fails to return to work after FMLA leave has been exhausted or expires, PCS may recover from the employee its share of health plan premiums during the employee's unpaid FMLA leave, unless the employee's failure to return is due to one of the reasons set forth in the regulations. PCS may not recover its share of health insurance premiums for any period of FMLA leave covered by paid leave.

Right to Reinstatement

On return from FMLA leave, an employee is entitled to be returned to the same position the employee held when leave began, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. An employee is entitled to reinstatement even if the employee has been replaced or his or her position has been restructured to accommodate the employee's absence. However, an employee has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the FMLA leave period.

Moonlighting During FMLA Leave

The Superintendent and/or designee may develop a uniformly applied policy governing outside or supplemental employment during FMLA leave. If the Superintendent/and or designee does not develop such a policy, PCS may not deny FMLA benefits on the basis of outside or supplemental employment unless the FMLA leave was fraudulently obtained.

Reinstatement of PCS Employees

The Superintendent and/or designee shall develop a policy governing the determination of how an employee is to be restored to "an equivalent position" upon return from FMLA leave. Such a policy must be in writing, must be made known to the employee before the taking of FMLA leave, must clearly explain the employee's restoration rights upon return from leave, and must provide substantially the same protections as provided in the FMLA.

Pay Increases and Bonuses

An employee is entitled to any unconditional pay increases that may have occurred during the FMLA leave period, such as cost of living increases. Pay increases conditioned upon seniority, length of service, or work performed must be granted in accordance with PCS policy or practice with respect to other employees on an equivalent leave status for a reason that does not qualify as FMLA leave.

Equivalent pay includes any bonus or payment, whether it is discretionary or non-discretionary. However, if a bonus or other payment is based on the achievement of a specified goal such as hours worked, products sold, or perfect attendance, and the employee has not met the goal due to FMLA leave, then the payment may be denied, unless otherwise paid to employees on an equivalent leave status for a reason that does not qualify as FMLA leave. For example, if an employee who used paid vacation leave for a non-FMLA purpose would receive the payment, then an employee who used paid vacation leave for an FMLA-protected purpose also must receive the payment.

Key Employees

PCS may deny job restoration to a key employee, as that term is defined in law, if such denial is necessary to prevent substantial and grievous economic injury to the operations of PCS.

SECTION III: NOTICES AND MEDICAL CERTIFICATION

Required Notices

The Superintendent shall insure that a notice explaining the FMLA and containing information regarding the procedures for filing complaints with the Department of Labor's Wage and Hour Division is posted prominently at each campus where it is readily visible to employees and applicants for employment. The Superintendent shall also insure that such notice is included in PCS' Employee Handbook and distributed to each new employee upon hiring.

If a significant portion of PCS' workforce is not literate in English, the Superintendent shall provide the general notice in a language in which the employees are literate.

The Superintendent may use Department of Labor form WHD 1420 or another form of notice, so long as the notice includes, at a minimum, all of the information contained in form WHD 1420.

Eligibility Notice

When an employee requests FMLA leave, or when PCS learns that an employee's leave may be for an FMLA-qualifying reason, the employee's immediate supervisor shall notify the employee of his or her eligibility to take FMLA leave. For purposes of this policy, the immediate supervisor of a teacher and assistant principal shall be the Principal. If the employee is not eligible for FMLA leave, the notice must explain why the employee is not eligible.

The employee's immediate supervisor shall provide the eligibility notice within five business days, absent extenuating circumstances. PCS shall translate the notice in any situation in which it is required to translate the general notice.

Rights and Responsibilities Notice

PCS shall provide a written notice of rights and responsibilities each time an eligibility notice is provided to an employee. This notice must include the information required by 29 CFR 825.300(c)(1). The notice may be distributed electronically if it meets the other requirements of this section. PCS shall translate the notice in any situation in which it is required to translate the general notice.

Designation Notice

When PCS has enough information to determine whether leave is being taken for an FMLA-qualifying reason, PCS must notify the employee whether the leave will be designated as FMLA leave. If PCS determines that the leave will not be designated as FMLA-qualifying, PCS must notify the employee of that determination. Absent extenuating circumstances, the designation notice must be provided within five business days. The notice must include the information required by 29 CFR 825.300(d)(1), (d)(3), and (d)(6). PCS shall translate the notice in any situation in which it is required to translate the general notice.

Retroactive Designation

PCS may retroactively designate leave as FMLA leave, with appropriate notice to the employee, if PCS' failure to timely designate leave does not cause harm or injury to the employee. PCS and an employee may also agree that leave will retroactively be designated as FMLA leave.

Requests for FMLA Leave

An employee giving notice of the need for FMLA leave must state a qualifying reason for the leave and otherwise satisfy the requirements for notice of foreseeable and unforeseeable leave, as described below. The employee need not expressly assert rights under the Act or even mention the FMLA.

Employees should request FMLA leave by notifying the Director of Human Resources or designee, and must complete the Department of Labor's form WH-380-E (or WH-380-F as appropriate) made available from the Department of Labor or School Administration offices. Completed forms should be returned to the Director of Human Resources.

Foreseeable Leave

An employee must provide his or her immediate supervisor at least 30 days' advance notice before FMLA leave is to begin if the need for the leave is foreseeable based on an expected birth, placement for adoption or foster care, planned medical treatment for a serious health condition of the employee or of a family member, or the planned medical treatment for a serious injury or illness of a covered service member. If 30 days' notice is not practicable, the employee must give notice as soon as practicable, generally on the same day as or next business day after the reason for the leave is known. For leave due to a qualifying exigency, the employee must provide notice as soon as practicable regardless of how far in advance the leave is foreseeable.

When planning medical treatment, the employee must consult with his or her immediate supervisor and make a reasonable effort to schedule the treatment so as not to disrupt unduly PCS operations, subject to the approval of the health-care provider.

Unforeseeable Leave

When the approximate timing of leave is not foreseeable, an employee must provide notice to his or her immediate supervisor as soon as practicable under the facts and circumstances of the particular case. If an employee does not comply with usual notice and procedural requirements, and no unusual circumstances justify the failure to comply, FMLA leave may be delayed or denied.

Compliance with PCS Requirements

PCS may require an employee to comply with its usual and customary notice and procedural requirements for requesting leave, absent unusual circumstances. If an employee does not comply with usual notice and procedural requirements, and no unusual circumstances justify the failure to comply, FMLA leave may be delayed or denied.

Certification of Leave

PCS may require that an employee's FMLA leave be supported by certification, as described below. PCS shall give notice of a requirement for certification each time certification is required. At the time PCS requests certification, PCS must advise the employee of the consequences of failure to provide adequate certification.

Timing

In most cases, the employee's immediate supervisor will request certification at the time the employee gives notice of the need for leave or within five business days thereafter or, in the case of unforeseen leave, within five business days after the leave commences. PCS may request certification at a later date if PCS later has

reason to question the appropriateness of the leave or its duration. The employee must provide the requested certification to his or her immediate supervisor within 15 calendar days after PCS' request, unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.

Incomplete or Insufficient Certification

PCS shall advise an employee if it finds a certification incomplete or insufficient and shall state in writing what additional information is necessary to make the certification complete and sufficient. PCS must provide the employee with seven calendar days (unless not practicable under the particular circumstances despite the employee's diligent, good faith efforts) to cure any such deficiency.

A certification is “incomplete” if one or more of the applicable entries have not been completed. A certification is “insufficient” if it is complete, but the information provided is vague, ambiguous, or non-responsive. A certification that is not returned to PCS is not considered incomplete or insufficient, but constitutes a failure to provide certification.

Medical Certification of Serious Health Condition

When leave is taken because of an employee's own serious health condition, or the serious health condition of a family member, PCS may require the employee to obtain medical certification from a health-care provider. PCS may use DOL optional form WH-380-E when the employee needs leave due to the employee's own serious health condition and optional form WH-380-F when the employee needs leave to care for a family member with a serious health condition. PCS may not require information beyond that specified in the FMLA regulations.

An employee may choose to comply with the certification requirement by providing PCS with an authorization, release, or waiver allowing PCS to communicate directly with the health-care provider.

For the definition of “health-care provider,” see 29 CFR 825.125.

Genetic Information

When requesting medical certification, PCS shall comply with all requirements for requesting medical information under the Genetic Information Nondiscrimination Act (GINA) as contained in 29 CFR 1635.8(b)(1)(i)(A).

Authentication and Clarification

If an employee submits a complete and sufficient certification signed by the health-care provider, PCS may not request additional information from the health-care

provider. However, PCS may contact the health-care provider for purposes of clarification and authentication of the certification after PCS has given the employee an opportunity to cure any deficiencies, as set forth above. To make such contact, PCS must use a health-care provider, a human resources professional, a leave administrator, or a management official. Under no circumstances may the employee's direct supervisor contact the employee's health-care provider.

“Authentication” means providing the health-care provider with a copy of the certification and requesting verification that the information on the form was completed and/or authorized by the health-care provider who signed the document; no additional medical information may be requested.

“Clarification” means contacting the health-care provider to understand the handwriting on the certification or to understand the meaning of a response. PCS may not ask the health-care provider for additional information beyond that required by the certification form. The requirements of the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule must be satisfied when individually identifiable health information of an employee is shared with PCS by a HIPAA-covered health-care provider.

Second and Third Opinions

If PCS has reason to doubt the validity of a medical certification, PCS may require the employee to obtain a second opinion at PCS' expense. If the opinions of the employee's and PCS' designated health-care providers differ, PCS may require the employee to obtain certification from a third health-care provider, again at PCS' expense.

Foreign Medical Certification

If the employee or a family member is visiting another country, or a family member resides in another country, and a serious health condition develops, PCS shall accept medical certification as well as second and third opinions from a health-care provider who practices in that country. If the certification is in a language other than English, the employee must provide PCS with a written translation of the certification upon request.

Recertification

PCS may request recertification no more often than every 30 days and only in connection with an absence by the employee, except as set forth in the FMLA regulations. PCS must allow at least 15 calendar days for the employee to provide recertification.

As part of the recertification for leave taken because of a serious health condition, PCS may provide the health-care provider with a record of the employee's absence pattern and ask the health-care provider if the serious health condition and need for leave is consistent with such a pattern.

Certification—Qualifying Exigency Leave

The first time an employee requests leave because of a qualifying exigency, PCS may require the employee to provide a copy of the covered military member's active duty orders or other documentation issued by the military which indicates that the covered military member is on active duty or call to active duty status in support of a contingency operation, and the dates of the covered military member's active duty service.

PCS may also require that the leave be supported by a certification that addresses the information at 29 CFR 825.309(b). PCS may use DOL optional form WH-384, or another form containing the same basic information, for this certification. PCS may not require information beyond that specified in the regulations.

Certification—Military Caregiver Leave

When an employee takes military caregiver leave, PCS may require the employee to obtain a certification completed by an authorized health-care provider of the covered servicemember. In addition, PCS may request that the employee and/or covered servicemember address in the certification the information at 29 CFR 825.310(c). PCS may also require the employee to provide confirmation of a covered family relationship to the seriously injured or ill servicemember.

PCS may use DOL optional form WH-385, or another form containing the same basic information, for this certification. PCS may not require information beyond that specified in the regulations. PCS must accept as sufficient certification “invitational travel orders” (“ITOs”) or “invitational travel authorizations” (“ITAs”) issued to any family member to join an injured or ill servicemember at his or her bedside.

PCS may seek authentication and/or clarification of the certification under the procedures described above. Second and third opinions, and recertifications, are not permitted for leave to care for a covered servicemember.

Intent to Return to Work

The Superintendent may develop a uniformly applied policy or practice that requires an employee on FMLA leave to report periodically on the employee's status and intent to return to work. Such a policy may not be discriminatory and must take into account all of

the relevant facts and circumstances related to the individual employee's leave situation.

Fitness for Duty Certification

The Superintendent may develop a uniformly applied policy or practice that requires all similarly situated employees (i.e., same occupation, same serious health condition) who take leave for such conditions to obtain and present certification from the employee's health-care provider that the employee is able to resume work. The Superintendent may require that the certification specifically address the employee's ability to perform the essential functions of the employee's job.

Failure to Provide Certification

If the employee fails to provide PCS a complete and sufficient certification, despite the opportunity to cure, or fails to provide any certification, PCS may deny the taking of FMLA leave. This provision applies in any case where PCS requests a certification, including any clarifications necessary to determine if certifications are authentic and sufficient.

SECTION IV: MISCELLANEOUS PROVISIONS

Record Maintenance

The Superintendent and/or designee shall make, keep, and preserve records pertaining to its obligations under the FMLA in accordance with the recordkeeping requirements of the Fair Labor Standards Act (FLSA) and the FMLA regulations. PCS shall keep these records for no less than three years and make them available for inspection, copying, and transcription by representatives of the Department of Labor upon request. Such records may be kept in computer form, so long as they are made available for transcription or copying.

If the Genetic Information Nondiscrimination Act (GINA) is applicable, records and documents created for purposes of FMLA leave that contain family medical history or genetic information shall be maintained in accordance with the confidentiality requirements of GINA, which permit such information to be disclosed consistent with the requirements of the FMLA. If the Americans with Disabilities Act (ADA) is also applicable, such records shall be maintained in conformance with ADA confidentiality requirements, except as excepted by the FMLA.

Prohibition Against Discrimination and Retaliation

PCS shall not interfere with an employee's rights under the FMLA, or with legal proceedings or inquiries relating to an employee's rights. Specifically, PCS shall not:

1. Interfere with, restrain, or deny the exercise of (or attempts to exercise) any rights provided by the FMLA.
2. Discharge or in any other way discriminate against any person (whether or not an employee) for opposing or complaining about any unlawful practice under the FMLA.
3. Discharge or in any other way discriminate against any person (whether or not an employee) because that person has:
 - a. Filed any charge, or has instituted (or caused to be institute) any proceeding under or related to the FMLA;
 - b. Given, or is about to give, any information in connection with an inquiry or proceeding relating to a right under the FMLA; and/or
 - c. Testified, or is about to testify, in any inquiry or proceeding relating to a right under the FMLA.

Federal Military Leave

Any PRIORITY CHARTER SCHOOLS (“PCS”) employee who is absent from employment due to voluntary or involuntary service in the uniformed services is entitled to certain rights and benefits under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) if:

1. The employee (or an appropriate officer of the uniformed service in which the employee serves) has provided written or verbal notice of such military notice to PCS (unless notice cannot be given because of military necessity or is unreasonable or impossible to provide);
2. The cumulative length of the absence and all previous absences from employment with PCS does not exceed five years; and
3. The employee reports to or submits an application for reemployment to PCS and applies with all other applicable requirements.

For purposes of leave under USERRA, “uniformed service” means the Armed Forces; the Army National Guard, and the Air National Guard when an individual is engaged in active duty for training, inactive duty training, or full-time National Guard duty; the commissioned corps of the Public Health Services; and any other category of persons designated by the President in time of war or emergency.

A person who is reemployed by PCS under USERRA is entitled to the seniority and other rights and benefits that he or she held on the date that uniformed service commenced, plus the additional seniority, rights, and benefits that would have been attained had he or she remained continuously employed.

Exception

PCS is not required to reemploy an employee if:

1. Circumstances at PCS have changed so as to make reemployment impossible or unreasonable;
2. The reemployment of the employee would cause undue hardship for PCS; or
3. The employment with PCS from which the employee leaves to perform uniformed service is for a brief, nonrecurrent period and there is no reasonable expectation that employment with PCS will continue indefinitely or for a significant period.

38 U.S.C. 4301, et. seq.

Service in State Military Services

PCS shall not terminate the employment of a permanent employee who is a member of the state military forces of this state or any other state because the employee is ordered to authorized training or duty by proper authority. Such an employee is entitled to return to the same employment held when ordered to training or duty and shall not be subjected to loss of time, efficiency rating, vacation time, or any benefit or employment during or because of the absence. Gov't Code 431.006(a).

Called to Duty

An employee who is a member of the state military forces that is ordered to active state duty by the governor or by other proper authority under the law of this state is entitled to the same benefits and protections provided to persons performing service in the uniformed services under USERRA and to persons in the military service of the United States under the Servicemembers Civil Relief Act under 50 App. U.S.C. 501-536, 560, and 580–594, as those laws existed on April 1, 2003. Gov't Code 431.017.

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FREEDOM FROM DISCRIMINATION, HARASSMENT, AND
RETALIATION

PG-4.14.1

Notice of Nondiscrimination

PRIORITY CHARTER SCHOOLS (“PCS”) 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 PCS policy.

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

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.

Harassment

Prohibited harassment of an employee is defined as physical, verbal, or nonverbal conduct based on his or her race, color, religion, gender, national origin, age, disability, genetic information or any other basis prohibited by law, when the conduct 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. Adversely affects the employee’s performance, environment or employment in some other manner.

Sexual Harassment

PCS will not tolerate sexual harassment, and has developed a separate policy covering that topic. See Board Policy PG-4.14.2 (Sexual Harassment Prohibition).

Retaliation

PCS 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.

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.

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PG-4.14.1

Reporting Prohibited Conduct

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 retaliation, even if the behavior does not rise to the level of unlawful conduct.

Title IX Coordinator

Reports of prohibited conduct based on gender, including sexual harassment, may be directed to the Title IX Coordinator:

Name: Robin Osburn
Position: Assistant Superintendent
Address: 275 FM 2483, Morgans Point Resort, TX 76513-5547
Telephone: (254) 654-2825

ADA/Section 504 Coordinator

Reports of prohibited conduct based on disability may be directed to the ADA/Section 504 Coordinator:

Name: Robin Osburn
Position: Assistant Superintendent
Address: 275 FM 2483, Morgans Point Resort, TX 76513-5547
Telephone: (254) 654-2825

Title VII/Age Coordinator

Reports of prohibited conduct based on age and/or civil rights complaints, including sexual misconduct, may be directed to the Title VII/Age Coordinator:

Name: Robin Osburn
Position: Assistant Superintendent
Address: 275 FM 2483, Morgans Point Resort, TX 76513-5547
Telephone: (254) 654-2825

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.

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Reports concerning prohibited conduct against the Superintendent may be directed to the Board.

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 PCS official identified above.

Investigating Reports of Prohibited Conduct

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

After receiving a report or notice of a report, the appropriate PCS official shall determine if the allegations, if proven, would constitute prohibited conduct under this policy. If so, the PCS official 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 PCS official or designee, or by a third party authorized by PCS, 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, PCS shall take prompt action to prevent prohibited conduct from occurring during the course of the investigation.

Concluding the Investigation

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 PCS official overseeing the investigation.

School Action

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

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

Confidentiality

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

Appeal

A complainant who is dissatisfied with the outcome of an investigation may appeal through Board Policy PG-4.6 (Employee Complaints and Grievances – General).

Records Retention

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

Distribution of Policy

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

Liability for Harassment

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

PCS 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, PCS reserves the right not to provide a defense or pay damages assessed against employees for conduct in violation of this policy.

Sexual Harassment Prohibited

PRIORITY CHARTER SCHOOLS (“PCS”) will not tolerate sexual harassment, nor will it tolerate reprisals against any employee who makes a sexual harassment complaint. All employees, Principals/Supervisors and others who violate this policy are subject to disciplinary action, including discharge.

Sexual Harassment Defined

Sexual harassment constitutes discrimination and is illegal under federal, state, and local laws. For purposes of this policy, sexual harassment is defined by the Equal Employment Opportunity Commission Guidelines as unwelcome verbal, visual or physical conduct, including sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when, for example:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions; or
3. Such conduct has the purpose of affecting or unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.
4. Sexual harassment may include a range of subtle and not so subtle behaviors, and may involve individuals of the same or different gender. Depending on the circumstances, these behaviors may include, but are not limited to, unwanted sexual advances or request for sexual favors, sexual jokes and innuendo, verbal abuse of a sexual nature, commentary about an individual's body, sexual prowess or sexual deficiencies, leering, catcalls, touching, insulting or obscene comments or gestures, display or circulation in the workplace of sexually suggestive objects or pictures (including through e-mail); and other physical, verbal or visual conduct of a sexual nature. Sex-based harassment – that is harassment not involving sexual activity or language (example: male manager hollers only at female employees and not males) – may also constitute discrimination if it is severe or pervasive and directed at employees because of their sex.

Sexual Harassment of Students

Sexual harassment of a student constitutes discrimination and is illegal under federal, state, and local laws. For purposes of this policy, sexual harassment of a student is defined by the U. S. Department of Education Office for Civil Rights Revised Sexual Harassment Guidance as unwelcome conduct of a sexual nature, including unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual harassment of a student occurs when, for example:

1. A teacher or other employee conditions an educational decision or benefit on the student's submission to unwelcome sexual conduct.
2. A teacher or employee engages in sexually-oriented conversations for purposes of personal sexual gratification.
3. A teacher employee contacts students at home or elsewhere to solicit inappropriate social relationships.
4. A teacher or other employee engages in physical contact that would reasonably be construed as sexual in nature.
5. A teacher or other employee engages in conduct that is sufficiently serious to limit or deny a student's ability to participate in or benefit from the school's program(s) based on sex.

Complaint Procedures

PCS takes allegations of sexual harassment very seriously and intends to investigate all official complaints. PCS will take appropriate actions against all substantiated allegations. Employees who believe they are being sexually harassed are requested to take the following actions:

- In the event an employee believes he or she is a victim of sexual harassment, the employee should contact his or her Principal immediately. In the event the Principal is the alleged harasser, the employee should contact the next level of management immediately.
- Any employee who is uncomfortable with face-to-face interaction may write down his or her complaint and submit it to the Principal or PCS' Title IX Coordinator. See Board Policy 4.14.1 (Freedom from Discrimination, Harassment, and Retaliation).
- Principals are expected to contact the Title IX Coordinator immediately upon receiving a complaint of sexual harassment. Principals are not to try and handle the situation alone. All complaints of harassment must be turned over to the Title IX Coordinator.
- All complaints will be handled in a timely manner. The complaint will be handled as confidential to the extent possible. Under no circumstances will information concerning any employee's complaint be released by PCS to any third person or to anyone within PCS who is not involved in the investigation.

The purpose of this provision is to maintain impartiality and confidentiality. Both the complaining individual and the alleged harasser have equal privacy rights under the law.

Retaliation Prohibited

Retaliation against any person who in good faith reports or complains about sexual harassment is illegal and will not be tolerated. Employees who take part in any retaliatory action will be terminated immediately. Retaliation may include, but is not limited to:

- Demotion;
- Poor performance appraisals;
- Transfers;
- Assignment of demeaning tasks; or
- Taking any kind of adverse action against a person who complains of sexual harassment.

In addition to using PCS' complaint process, an employee may file a formal complaint with the United States Equal Employment Opportunity Commission (EEOC).

Conducting the Investigation

PCS recognizes all official complaints as a serious matter and will follow through with an investigation of the allegations. All complaints must be investigated. At no time will an employee who files a complaint be required or allowed to handle the problem himself or herself.

All investigations into sexual harassment will follow these guidelines:

- The complainant will be asked for specifics about what happened, where it happened, when it happened and why.
- Co-workers can often be questioned, as they themselves may often be victims or may have witnessed the harassment.
- The accused harasser will be questioned. He or she will be informed of who is complaining and be warned not to retaliate or to discuss the matter with the complainant. Failure to abide by this by the accused harasser will be grounds for disciplinary action, up to and including, termination.

Any Principal/Supervisor who receives a complaint of sexual harassment and fails to take corrective action pursuant to this policy shall also be subject to disciplinary action, including immediate termination.

Corrective Action

PCS will take prompt, effective action to end the any harassment and to deter future harassment.

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After all the circumstances of the complaint, including responses of the alleged perpetrator and witnesses, have been documented in detail, a determination will be made as to whether or not a sexual harassment has occurred.

The complainant and other directly involved persons will be served notice of PCS' disposition in the matter.

Prompt corrective action, if warranted, will follow immediately. This may include discipline or termination of the perpetrator or the complainant in the case that a falsified complaint or contributory behavior was discovered.

Whenever any disciplinary action is taken against an accused harasser, the victim will be informed only that "corrective action was taken."

It shall be an ongoing policy of PCS that all prior complainants be contacted by authorized employees of PCS, on a periodic basis, to be certain they are currently working in an environment free from all forms of sexual harassment or intimidation.

Either the complaining employee or the alleged harasser has the right to appeal the determination of the investigation through Board Policy PG-4.6 (Employee Complaints and Grievances – General).

Liability for Harassment

PCS accepts no liability for harassment of any student or employee by another employee. Any PCS employee, whether a co-worker or Principal, who is found to have engaged in prohibited harassment is subject to disciplinary action, up to and including termination.

PCS 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, PCS reserves the right not to provide a defense or pay damages assessed against employees for conduct in violation of this policy.

Hazard Communication Act Compliance

PRIORITY CHARTER SCHOOLS (“PCS”) 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:

- Post and maintain the notice promulgated by the Texas Department of State Health Services (TDSHS) in the workplace.
- Provide an education and training program for employees using or handling hazardous chemicals under normal operating conditions or foreseeable emergencies.
- 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.
- 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.
- 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.
- 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.
- 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.
- Provide employees with appropriate personal protective equipment.

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

- 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.
- Providing the official Structural Pest Control Service Consumer Information Sheet to any individual working in the building, on request.

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, PCS shall provide, at no cost to employees, appropriate personal protective equipment. 29 C.F.R. 1910.1030.

Pre-Employment Inquiries and Employment Entrance Examinations

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

PCS 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).

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).

Examination During Employment

PCS 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).

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.

PCS may designate the physician to perform the examination. If PCS designates the physician, PCS shall pay the cost of the examination. PCS 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.

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.

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.

A PRIORITY CHARTER SCHOOLS (“PCS”) 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 PCS 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 PCS officer or employee, as appropriate.

Reporting Child Abuse or Neglect

1. Any PRIORITY CHARTER SCHOOLS (“PCS”) officer, employee, or volunteer having 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 as required by law.
2. If a professional has 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 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 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.
3. 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:
 - A. The name and address of the child;
 - B. The name and address of the person responsible for the care, custody, or welfare of the child; and
 - C. Any other pertinent information concerning the alleged or suspected abuse or neglect.
4. 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 Texas Department of Family and Protective Services (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.

Training

PCS shall ensure that employees, volunteers and parents receive training on child abuse and neglect as required by law.

Computer Technician Reports of Child Pornography

Any computer technician employed by PCS who, in the course and scope of employment or business with PCS, 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.

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SCHOOL VISITORS

PG-4.18.1

Notices shall be posted at each PRIORITY CHARTER SCHOOLS (“PCS”) campus requiring all visitors to first report to the campus administrative office. This policy shall apply to parents, board members, volunteers, social service workers, invited speakers, maintenance and repair persons not employed by PCS, vendors, representatives of the news media, former students, and any other campus visitors.

A visit by visitors to individual classrooms during instructional time requires prior approval of both the campus Principal and teacher whose class is to be visited. Such visits may not be approved or may be terminated where their duration or frequency interferes with the delivery of instruction or in any other way disrupts the educational environment.

PCS or the Principal may:

1. Require a visitor requesting entry onto a campus to show a driver’s license or other form of identification issued by a governmental entity displaying the visitor’s photograph.
2. Establish an electronic or paper database for storing campus visitor information. Information stored in the campus databases may be used only for purposes of PCS security, and may not be sold or otherwise disseminated to third parties.
3. Verify whether the visitor is a registered sex offender as identified in the computerized central database maintained by the Department of Public Safety, or in any other database accessible by PCS.

The Superintendent or designee, in conjunction with campus administrators, shall develop and implement procedures addressing campus visitors identified as registered sex offenders. These procedures shall include but are not limited to provisions dealing with:

1. Parental rights to visit;
2. Escorts by PCS personnel;
3. Access to common areas of the campus;
4. Access to classrooms;
5. Drop off and release of students; and
6. Eligibility to serve as volunteers.

PRIORITY CHARTER SCHOOLS BOARD POLICY MANUAL
POLICY GROUP 4 – PERSONNEL
CIVILITY AND COMPORMENT

PG-4.18.2

PRIORITY CHARTER SCHOOLS (“PCS”) invites and welcomes parents and other members of the public to its schools. PCS is committed to treating parents and other community members with respect and expects the same in return. To that end, PCS must keep schools and administrative offices free from disruptions and prevent unauthorized persons from entering the schools and school grounds.

Accordingly, this policy promotes mutual respect, civility, and orderly conduct among PCS employees, parents, students, volunteers and the public. PCS seeks to maintain to the extent possible and reasonable, a safe, harassment-free workplace for students and staff. In the interest of presenting teachers and other employees as positive role models, PCS encourages positive communication and discourages volatile, hostile, or aggressive actions. PCS seeks and encourages patrons to cooperate with this endeavor.

PCS recognizes the importance of employees, students, and parents engaging, collaborating, and sharing in digital environments. Accordingly, the use of technology on PCS property and at school-sponsored events shall be appropriate, not disruptive to the educational environment, and not detrimental to the safety of employees and students. It must also be in compliance with other applicable PCS policies.

An individual engaging in disruptive behavior shall be required to leave PCS property. Any individual who disrupts or threatens to disrupt school or office operations, threatens the health and safety of students or staff, willfully causes property damage, uses loud and/or offensive language that could provoke a violent reaction, or who has otherwise established a pattern of unauthorized entry on PCS property shall be directed to leave PCS property by the school’s principal or other chief administrative officer. In certain circumstances, a criminal trespass warning may also be issued or law enforcement contacted.

Fair Labor Standards Act

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).

Exempt

PRIORITY CHARTER SCHOOLS (“PCS”) 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 PCS 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 PCS’ attention, through the PCS complaint process. If improper deductions are confirmed, PCS 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 PCS’ compensation plans.

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.

Minimum Wage and Overtime

Unless an exemption applies, PCS 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). 29 U.S.C. 206(a)(1).

Unless an exemption applies, PCS 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. 29 U.S.C. 207(a)(1); 29 CFR pt. 778.

Workweek Defined

For purposes of FLSA compliance, the workweek for school employees shall be 12:00 a.m. Saturday until 11:59 p.m. Friday.

Wage and Hour Records

PCS shall maintain and preserve payroll or other records for nonexempt employees containing the information required by the regulations under the Fair Labor Standards Act. 29 CFR 516.2(a). Records shall also be kept in accordance with applicable State record retention schedules.

Compliance with Federal and State Wage and Hour Laws

PCS 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 Fair Labor Standards Act (FLSA) and the Texas Payday Act. The Superintendent shall adopt procedures to ensure that PCS complies with applicable Federal and State Wage and Hour Laws.

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” (CHRI) means information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, information, and other formal criminal charges and their dispositions. 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 (FBI) under Government Code 411.087. Education Code 22.081(2).

Certified Persons

The State Board for Educator Certification (SBEC) shall review the NCHRI of a person who is an applicant for or holder of a certificate and who is employed by or is an applicant for employment by PRIORITY CHARTER SCHOOLS (“PCS”). Education Code 22.0831(c).

Noncertified Employees

Applicability

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

1. PCS; 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 PCS or a shared services arrangement hired before January 1, 2008, see ALL OTHER EMPLOYEES, below.]

Information to DPS and TEA

Before or immediately after employing or securing the services of a person subject to this section, PCS shall send or ensure that the person sends to DPS information

that DPS requires for obtaining NCHRI, which may include fingerprints and photographs.

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

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 PCS and by the TEA. If PCS or TEA makes a determination that the employee or applicant is ineligible for employment, the employee must be terminated.

Criminal History

PCS 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. PCS may require the person to pay any fees related to obtaining the CHRI. Education Code 22.0833; 19 TAC 153.1109(d).

Substitute Teachers

This section applies to a person who is a substitute teacher for PCS or a shared services arrangement.

Applicability

For purposes of the CHRI review requirements, 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.

Information to DPS and TEA

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

PCS shall provide TEA with the name of a person to whom this section applies. TEA shall examine the CHRI and certification records of the person and notify PCS 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.

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 PCS and by the TEA. If PCS or TEA makes a determination that the employee or applicant is ineligible for employment, the employee must be terminated.

Criminal History

PCS shall obtain all CHRI that relates to a person to whom this section applies through the Clearinghouse. PCS 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).

Student Teachers and Volunteers

Applicability

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 PCS.

Criminal History

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

1. The student teacher or volunteer has provided to PCS 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. PCS has obtained from DPS all CHRI that relates to the student teacher or volunteer. PCS 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.

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

Exception

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

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PG-4.2.1

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

Education Code 22.0835.

Coordination of Efforts

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

All Other Employees

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

1. PCS; 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.

PCS may obtain the CHRI from:

1. 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.

Confidentiality of Records

CHRI that PCS obtains from DPS, including any identification information that could reveal the identity of a person about whom 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 PCS; and
2. May be disclosed or used by PCS 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 DPS, but to the information

contained, wholly or partly, in a document's original form or any subsequent form or use.

PCS 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 PCS, 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, TEA, or SBEC, or by court order. The CHRI is not subject to disclosure under Government Code Chapter 552 (Public Information Act).

A PCS employee may request from the Human Resources Department a copy of any CHRI related to that employee that PCS has obtained from DPS. PCS 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).

Destruction of CHRI

PCS shall destroy CHRI obtained from 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).

Confidentiality of Information Obtained from Applicant or Employee

PCS 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). PCS shall destroy the information not later than the first anniversary of the date the information is received. Education Code 22.08391.

SBEC Notification

The Superintendent or designee shall promptly notify 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 SBEC has a reported criminal history and PCS obtained information about the educator's criminal record by a means other than by the Texas Department of Public Safety.

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

Discharge of Convicted Employees

PCS shall discharge or refuse to hire an employee or applicant for employment if PCS obtains information through a CHRI review that the employee or applicant has been convicted of:

1. Any felony offense or a misdemeanor involving moral turpitude;
2. An offense listed in Education Code section 37.007(a); or
3. An offense requiring registration as a sex offender under Code of Criminal Procedure Chapter 62.

Exception

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

Certification to TEA

Each school year, the Superintendent or designee shall certify to the Commissioner that PCS has complied with the above provisions.

Sanctions

SBEC may impose a sanction on an educator who does not discharge an employee or refuse to hire an applicant if the educator knows or should have known, through a criminal history record information review, that the employee or applicant has been convicted of an offense described above.

Optional Termination

PCS 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 SBEC or PCS.

Consumer Credit Reports

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

Obtaining Reports

PCS may not procure a consumer report for employment purposes unless:

1. PCS 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.

Adverse Action

Before taking any adverse action based on the consumer report, PCS 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).

Address Discrepancies

The Superintendent shall develop and implement reasonable policies and procedures designed to enable PCS, 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 shall also develop and implement reasonable policies and procedures for furnishing an

address for the consumer, which PCS has reasonably confirmed is accurate, to the consumer reporting agency. 16 CFR 641.1.

Disposal of Records

PCS 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.

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PROHIBITED EMPLOYMENT FOR INDIVIDUALS CONVICTED OF CERTAIN OFFENSES

PG-4.2.2

Disqualification from Employment

In accordance with Texas Education Code section 12.120 and 19 Administrative Code section 100.1151, an individual may not be employed by PRIORITY CHARTER SCHOOLS (“PCS”) 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).

Additionally, in accordance with Texas Education Code section 22.085, PCS shall discharge or refuse to hire an employee or applicant if the individual’s criminal history information shows that:

1. The employee or applicant has been convicted of:
 - a) A felony offense under Title 5, Penal Code;
 - b) An offense on conviction of which the employee or applicant is required to register as a sex offender under Chapter 62, Code of Criminal Procedure; or
 - c) An offense under the laws of another state that is equivalent to an offense under paragraphs (a) or (b) above; and
2. At the time the offense occurred, the victim of the offense was under 18 years of age or enrolled in a public school.

However, PCS 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 PCS as of that date; or
 - b) The date the person’s employment will begin, in the case of a person applying for employment with PCS after June 15, 2007; and
2. The employee or applicant for employment satisfied all terms of the court order entered on conviction.

PCS may discharge an employee if it obtains information of the employee’s conviction of any felony or a misdemeanor involving moral turpitude that the employee did not disclose to PCS or the State Board of Educator Certification (“SBEC”).

Discrimination Based on Criminal History

Except as required by state or federal law, PCS 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. PCS does not prohibit employment or

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PROHIBITED EMPLOYMENT FOR INDIVIDUALS CONVICTED OF CERTAIN OFFENSES

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refuse to consider an application for employment based solely on the grounds that the applicant/employee has been arrested. In accordance with Title VII of the Civil Rights Act of 1964, it is the policy of PCS, 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, PCS 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 PCS:

- 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.

Upon consideration of the above factors, the Superintendent or designee shall inform the applicant/employee that he or she may be excluded because of prior criminal conduct and provide the individual an opportunity to demonstrate that the exclusion does not properly apply to him or her and the position in question. PCS 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 PCS 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.

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REPORTING EDUCATOR MISCONDUCT

PG-4.2.3

The Superintendent shall promptly notify the State Board of Educator Certification (SBEC) by filing a written report (within seven days of first learning about an alleged incident of misconduct) with the Texas Education Agency upon obtaining knowledge or information indicating any of the following circumstances:

1. An educator employed by or seeking employment with PRIORITY CHARTER SCHOOLS (“PCS”) has a criminal record;
2. An educator’s employment with PCS was terminated based on evidence that the educator:
 - a. Sexually or physically abusing or otherwise committing 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;
 - d. Illegally transferred, appropriated, or expended PCS 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 PCS 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.

In accordance with Education Code section 21.006, the Superintendent must complete an investigation based on reasonable cause that the educator may be engaged in abuse or otherwise committing an unlawful act with a student or minor.

The report include all information required by Texas Education Code section 21.006 and 19 Administrative Code 249.14.

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POLICY GROUP 4 – PERSONNEL

COMPENSATION AND BENEFITS: WAGES

PG-4.20

PRIORITY CHARTER SCHOOLS (“PCS”) 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 Fair Labor Standards Act (FLSA) and the Texas Payday Act. The Superintendent shall adopt procedures to ensure that PCS complies with applicable Federal and State Wage and Hour Laws.

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POLICY GROUP 4 - PERSONNEL

COMPENSATION AND BENEFITS: WORKERS' COMPENSATION PG-4.21

As permitted by state law, PRIORITY CHARTER SCHOOLS ("PCS") provides workers' compensation benefits to employees who suffer a work-related illness or personal injury due to accidents arising out of their employment with PCS. These benefits are paid for entirely by PCS 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.

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 (the "FMLA") where applicable.

The Superintendent shall develop procedures to implement PCS' 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

Mandatory Requirements

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

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

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:

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

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- Violated a school safety policy or procedure.

If PCS denies a Workers' Compensation Insurance claim:

- The employee may contest the decision in accordance with the provisions of the Workers' Compensation laws of the State of Texas.
- All costs incurred by the employee in contesting a denial of the claim shall be the sole responsibility of the employee.
- PCS is not obligated to make any commitments or statements pertaining to its liability concerning an employee's injury or illness.

Fraudulent Claims for Workers' Compensation

Filing a false or fraudulent claim is a violation of law and PCS' policy, and can result in disciplinary employment actions, including termination of employment.

Copyrighted Material

United States Copyright Law (Copyright Law) establishes copyright protection in original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. Works of authorship include the following categories:

1. Literary works;
2. Musical works, including any accompanying words;
3. Dramatic works, including any accompanying music;
4. Pantomimes and choreographic works;
5. Pictorial, graphic, and sculptural works;
6. Motion pictures and other audiovisual works;
7. Sound recordings; and
8. Architectural works.

In no case does copyright protection for an original work of authorship extend to any idea, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such work.

Ownership of Copyright

Copyright in a work protected under Copyright Law vests initially in the author or authors of the work. The authors of a joint work are co-owners of copyright in the work.

Work for Hire

In the case of a work made for hire, the employer or other person for whom the work was prepared is considered the author under Copyright Law and, unless the parties have expressly agreed otherwise in a written instrument signed by them, owns all of the rights comprised in the copyright.

A “work made for hire” is:

1. A work prepared by an employee within the scope of his or her employment;
or
2. A work specially ordered or commissioned for use as a contribution to a collective work, as a part of a motion picture or other audiovisual work, as a translation, as a supplementary work, as a compilation, as an instructional text, as a test, as answer material for a test, or as an atlas, if the parties expressly agree in a written instrument signed by them that the work shall be considered a work made for hire.

A “supplementary work” is a work prepared for publication as a secondary adjunct to a work by another author for the purpose of introducing, concluding, illustrating, explaining, revising, commentating upon, or assisting in the use of the other work, such as forewords, afterwards, pictorial illustrations, maps, charts, tables, editorial notes, musical arrangements, answer material for tests, bibliographies, appendixes, and indexes.

An “instructional text” is a literary, pictorial, or graphic work prepared for publication and with the purpose of use in systematic instructional activities.

Exclusive Rights

Under Copyright Law, the owner of a copyright has the exclusive rights:

1. To reproduce the copyrighted work in copies or phonorecords;
2. To prepare derivative works based upon the copyrighted work;
3. To distribute copies or phonorecords of the copyrighted work to the public by sale or other transfer of ownership, or by rental, lease, or lending;
4. In the case of literary, musical, dramatic, and choreographic works, pantomimes, and motion pictures and other audiovisual works, to perform the copyrighted work publicly;
5. In the case of literary, musical, dramatic, and choreographic works, pantomimes, and pictorial, graphic, or sculptural works, including the individual images of a motion picture or other audiovisual work, to display the copyrighted work publicly; and
6. In the case of sound recordings, to perform the copyrighted work publicly by means of a digital audio transmission.

Fair Use

An exception to the exclusive rights enjoyed by copyright owners is the doctrine of fair use. The fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by Copyright Law, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. The following factors shall be considered in determining fair use:

1. The purpose and character of the use, including whether the use is of a commercial nature or for nonprofit educational purposes.
2. The nature of the copyrighted work.
3. The amount and importance of the portion used in relation to the copyrighted work as a whole.

4. The effect of the use upon the potential market for or value of the copyrighted work.

Performances and Displays

Additional exceptions related to performances and displays include performance or display of a work by instructors or pupils in the course of face-to-face teaching activities of a nonprofit educational institution, in a classroom or similar place devoted to instruction, unless, in the case of a motion picture or other audiovisual work, the performance, or the display of individual images, is given by means of a copy that was not lawfully made under Copyright Law, and that the person responsible for the performance knew or had reason to believe was not lawfully made.

Guidelines

Employees of PRIORITY CHARTER SCHOOLS (“PCS”) who wish to use copyrighted print material and sheet music shall follow the guidelines set forth in the “Agreement on Guidelines for Classroom Copying in Not-for-Profit Educational Institutions” and “Guidelines for Educational Uses of Music.” Those guidelines establish a minimum guaranteed fair use, not a maximum. Any use that falls within those guidelines is a fair use; any use that exceeds these guidelines shall be judged by the four factors stated above and may be subject to challenge. Any determination regarding whether a use that exceeds the guidelines is a fair use shall rest with an appropriate court of law.

Prohibitions

Notwithstanding the fair use guidelines, the following shall be prohibited:

1. Copying of print materials and sheet music to create or replace or substitute for anthologies, compilations, or collective works. This prohibition against replacement or substitution applies whether copies of various works or excerpts are accumulated, or reproduced and used separately.
2. Copying of or from works intended to be “consumable” in the course of study or teaching. These works include workbooks, exercises, standardized tests, test booklets, answer sheets, and like consumable material.

Copying shall not substitute for the purchase of books, publishers’ reprints, or periodicals; be directed by higher authority; or be repeated with respect to the same item by the same teacher from term to term.

No charge shall be made to the student beyond the actual cost of the photocopying.

Additional prohibitions regarding the use of music are:

1. Copying for the purpose of performance, except as permitted under the "Guidelines for Educational Use of Music."
2. Copying for the purpose of substituting for the purchase of music, except as permitted under the "Guidelines for Educational Use of Music."
3. Copying without inclusion of the copyright notice that appears on the printed copy.

Broadcast Programs

Broadcast programs, including commercial and public television and radio, shall not be videotaped or tape-recorded for reuse without permission, except within the following guidelines:

1. A broadcast program may be recorded off-air simultaneously with broadcast transmission (including simultaneous cable re-transmission) and retained by PCS for a period not to exceed the first 45 consecutive calendar days after date of recording. At the end of that retention period, off-air recordings shall be erased or destroyed.
2. Off-air recordings may be used once by individual teachers in the course of relevant teaching activities and repeated once only when instructional reinforcement is necessary during the first ten consecutive school days within the 45-calendar-day retention period. "School days" are actual days of instruction, excluding examination periods.
3. Off-air recordings shall be made at the request of and used by individual teachers and shall not be regularly recorded in anticipation of requests. No broadcast program shall be recorded off-air more than once at the request of the same teacher, regardless of the number of times the program is broadcast.
4. A limited number of copies may be reproduced from each off-air recording to meet the legitimate needs of teachers under these guidelines. Each such additional copy shall be subject to all provisions governing the original recording. All copies of off-air recordings shall include the copyright notice on the broadcast program as recorded.
5. After the first ten consecutive school days, off-air recordings may be used up to the end of the 45-calendar-day retention period only to determine whether or not to include the broadcast program in the teaching curriculum and shall not be used in PCS for student exhibition or any other nonevaluative purpose without authorization.
6. Off-air recordings need not be used in their entirety, but the recorded programs shall not be altered from their original content. Off-air recordings shall not be

physically or electronically combined or merged to constitute teaching anthologies or compilations.

Copyright Infringement

Anyone who violates any of the exclusive rights of the copyright owner or of the author is an infringer of the copyright or right of the author. The legal or beneficial owner of an exclusive right under a copyright is entitled, subject to the requirements of Copyright Law, to institute an action for any infringement of that particular right committed while he or she is the owner of it.

Online Copyright Infringement

Limitation of Liability

To the extent that PCS is a “service provider” (regarding online services) under Copyright Law, PCS shall not be liable for infringement of copyright by reason of the intermediate and temporary storage of material on a system or network controlled or operated by or for PCS in a case which:

1. The material is made available online by a person other than PCS;
2. The material is transmitted from the person, other than PCS, making the material available online to another person at the direction of the person making the material available online; and
3. The storage is carried out through an automatic technical process for the purpose of making the material available to users of the system or network who, after the material is transmitted, request access to the material from the person making the material available online.

Eligibility for Limitations on Liability

The limitations on liability referenced above shall apply to PCS only if PCS:

1. Has adopted and reasonably implemented, and informs subscribers and account holders of PCS’ system or network of, a policy that provides for the termination in appropriate circumstances of subscribers and account holders of the service provider’s system or network who are repeat infringers; and
2. Accommodates and does not interfere with standard technical measures. The term “standard technical measures” means technical measures that are used by copyright owners to identify or protect copyrighted works and:
 - a. Have been developed pursuant to a broad consensus of copyright owners and service providers in an open, fair, voluntary, multi-industry standards process;

- b. Are available to any person on reasonable and nondiscriminatory terms; and
- c. Do not impose substantial costs on service providers or substantial burdens on their systems or networks.

Trademarked Material

The term “trademark” includes any word, name, symbol, or device, or any combination thereof, used by a person or which a person has a bona fide intention to use in commerce and applies to register on the principal register to identify and distinguish his or her goods, including a unique product, from those manufactured or sold by others and to indicate the source of the goods, even if that source is unknown.

Service Mark

The term “service mark” means any word, name, symbol, or device, or any combination thereof, used by a person or which a person has a bona fide intention to use in commerce and applies to register on the principal register to identify and distinguish the services of one person, including a unique service, from the services of others and to indicate the source of the services, even if that source is unknown. Titles, character names, and other distinctive features of radio or television programs may be registered as service marks notwithstanding that they, or the programs, may advertise the goods of the sponsor.

Certification Mark

The term “certification mark” means any word, name, symbol, or device, or any combination thereof, used by a person other than its owner or which its owner has a bona fide intention to permit a person other than the owner to use in commerce and files an application to register on the principal register to certify regional or other origin, material, mode of manufacture, quality, accuracy, or other characteristics of such person’s goods or services or that the work or labor on the goods or services was performed by members of a union or other organization.

Collective Mark

The term “collective mark” means a trademark or service mark used by the members of a cooperative, an association, or other collective group or organization or which such cooperative, association, or other collective group or organization has a bona fide intention to use in commerce and applies to register on the principal register and includes marks indicating membership in a union, an association, or other organization.

Liability

A person may be liable in a civil action by the registrant for the remedies provided in law if the person, without the consent of the registrant:

1. Uses in commerce any reproduction, counterfeit, copy, or colorable imitation of a registered mark in connection with the sale, offering for sale, distribution, or advertising of any goods or services on or in connection with which such use is likely to cause confusion, or to cause mistake, or to deceive; or
2. Reproduces, counterfeits, copies or colorably imitates a registered mark and applies such reproduction, counterfeit, copy or colorable imitation to labels, signs, prints, packages, wrappers, receptacles or advertisements intended to be used in commerce upon or in connection with the sale, offering for sale, distribution, or advertising of goods or services on or in connection with which such use is likely to cause confusion, or to cause mistake, or to deceive.

Patent Infringement

Except as otherwise provided in applicable law, whoever without authority makes, uses, offers to sell, or sells any patented invention, within the United States, or imports into the United States any patented invention during the term of the patent, infringes the patent.

Whoever actively induces infringement of a patent shall be liable as an infringer.

Whoever offers to sell or sells within the United States or imports into the United States a component of a patented machine, manufacture, combination, or composition, or a material or apparatus for use in practicing a patented process, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial non-infringing use, shall be liable as a contributory infringer.

Prohibition on Solicitation and Distribution of Promotional Materials

PRIORITY CHARTER SCHOOLS (“PCS”) prohibits solicitation of employees by salespersons or other employees on PCS property.

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

Commercial advertisements or sales for personal profit are also prohibited.

Prohibition on Dietary Supplements

Employees of PRIORITY CHARTER SCHOOLS (“PCS”) 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.

PCS 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 PCS property or at a school-related function;
 - b. Are entirely separate from any aspect of the employee’s employment with PCS; 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 PCS.

Definitions

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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DIETARY SUPPLEMENTS

PG-4.24

- 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.

Computers

PRIORITY CHARTER SCHOOLS (“PCS”) electronic communications systems, including its network and access to the Internet, are primarily for administrative and instructional purposes. Limited personal use of the system is permitted if the use:

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

Some employees are given access to the Internet to assist them in the performance of their jobs. Employees may only access the Internet through PCS’ approved Internet firewall.

All PCS computer resources are PCS property, and any information located in or on computers and e-mail/voice mail systems is also PCS property and will be subject to inspection by PCS.

E-mail and Voice Mail Systems

All messages sent, received, composed and/or stored on these systems are the property of PCS. E-mail transmissions and other use of PCS’ electronic communications systems are not confidential and can be monitored at any time to ensure appropriate use.

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.

Privacy

All files and messages on PCS computers are PCS property. They are not the property of any employee, even if created by an employee. Anything created on the computer or Internet may, and likely will, be reviewed by others. If necessary, employees shall take steps to help protect the security of documents. PCS has the right, but not the duty, to monitor any and all aspects of its computer system, 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 their workplace computer, the PCS network, or Internet resources.

Restrictions

- 1) Employees are not allowed to use PCS computer resource for any reason other than official school business.
- 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) The 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 PCS employees or persons outside the PCS system.
- 5) PCS is responsible for maintaining records of software licensing agreements for PCS. 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 PCS' 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 PCS' electronic communications systems 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.

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POLICY GROUP 4 – PERSONNEL
EMPLOYEE DRESS AND GROOMING STANDARDS

PG-4.26

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 Superintendent or designee.

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POLICY GROUP 4 – PERSONNEL
USE OF BUILDINGS AND FACILITIES

PG-4.27

Employees of PRIORITY CHARTER SCHOOLS (“PCS”) seeking to schedule use of PCS buildings and facilities must submit to the Principal and Superintendent a request for such use.

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POLICY GROUP 4 – PERSONNEL
TEXTBOOKS AND INSTRUCTIONAL SUPPLIES

PG-4.28

Title and Custody

Each instructional material purchased by PRIORITY CHARTER SCHOOLS (“PCS”) is the property of PCS. This section applies to electronic instructional material only to the extent of any applicable licensing agreement.

Distribution

The Superintendent or designee shall distribute printed instructional materials to students in the manner that the Board determines is most effective and economical.

Requests for Supplies

Employees should initiate requests for instructional supplies through the Principal.

Electronic 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.

Use with Students

The Superintendent or designee shall issue guidelines under which a certified or licensed employee—or any other employee designated in writing by the Superintendent or designee—may use electronic media to communicate with currently enrolled students about matters within the scope of the employee’s professional responsibilities. All other employees are prohibited from using electronic media to communicate directly with students who are currently enrolled in PRIORITY CHARTER SCHOOLS (“PCS”).

The guidelines developed by the Superintendent or designee shall address:

1. Exceptions for family and social relationships;
2. The circumstances under which employees may use text messaging to communicate with students; and
3. Other matters deemed appropriate by the Superintendent or designee.

PCS employees shall comply with PCS’ requirements for records retention and destruction to the extent those requirements apply to electronic media.

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 PCS 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.

Drug-Free Workplace

PRIORITY CHARTER SCHOOLS (“PCS”) expressly prohibits:

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

Drug and Alcohol Testing

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

School Drivers

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

Random Testing

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

For-Cause Testing

PCS may direct an employee to submit to a drug and/or alcohol test at any time PCS 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.

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.

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 the School.

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. PCS’ 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 PCS’ drug use and abuse prohibitions.

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POLICY GROUP 4 – PERSONNEL
DRUG-FREE WORKPLACE

PG-4.3

Employee Responsibility

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

Tobacco Use

Smoking (including, but not limited to cigarettes, electronic cigarettes, cigars, and pipes) and the use of tobacco by employees is prohibited on all PCS-owned property, in PCS-owned vehicles, and while supervising students during school-related events. An employee who violates this provision is subject to disciplinary action, up to and including termination from employment.

Rationale

Employees of PRIORITY CHARTER SCHOOLS (“PCS”) are expected to avoid apparent or actual conflicts of interest, favoritism, or bias in their workplace relationships. Consensual romantic relationships can give rise to such realities or perceptions and are thus potentially exploitative, especially when they involve supervisor/subordinate relationships. In addition, such relationships can and often do create an uncomfortable work or educational environment for students and staff.

Definition of Romantic Relationships

A “romantic relationships” is one that involves or is a prelude to sexual intimacy. A romantic relationship may be manifest through, but is not limited to, one or more of the following workplace behaviors: a pattern of exclusivity between two persons; consensual physical touching that implies a romantic intention or desire; the sharing of personal information appropriate for a romantic relationship but beyond the boundaries of a professional workplace relationship; actual physical intimacy; written communications or other actions that demonstrate or imply a romantic interest.

Relationships between Employees and Students

Employees shall never form romantic relationships with students. Any sexual relationship between a student and an employee is prohibited and unlawful, even if consensual.

Reportable Romantic Relationships between Employees

Romantic relationships are generally discouraged between a PCS employee and that employee’s immediate or distant supervisor. The power differential makes such relationships open to abuse and to charges of sexual harassment or unprofessional conduct.

This policy is not intended to prohibit romantic or outside relationships among peers or colleagues; however, employees involved in such relationships are cautioned to avoid situations that may contribute to an uncomfortable work or educational environment for other employees or students.

Reporting Requirements

In the event that consensual romantic relationships exist or begin to develop between an employee and supervisor, the supervisor is charged with the responsibility of notifying his or her immediate supervisor of the relationship. The reporting supervisor shall cooperate in making appropriate workplace arrangements and adjustments, which may include but are not limited to reassignments of duties, departments and/or locations.

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CONSENSUAL ROMANTIC RELATIONSHIPS

PG-4.30

Failure to Report or Cooperate

Employees in positions of authority who fail to report a romantic relationship with a subordinate or fail to cooperate in efforts to reduce the potential for workplace conflicts as directed will be subject to disciplinary action, up to and including termination.

Introduction

It is the policy of PRIORITY CHARTER SCHOOLS (“PCS”) to:

- (a) prevent user access over its computer network to, or transmission of, inappropriate material via Internet, electronic mail, or other forms of direct electronic communications;
- (b) prevent unauthorized access and other unlawful online activity;
- (c) prevent unauthorized online disclosure, use, or dissemination of personal identification information of minors; and
- (d) comply with the Children’s Internet Protection Act (“CIPA”), the Neighborhood Children’s Internet Protection Act (“NCIPA”), and the Protecting Children in the 21st Century Act, to the extent such laws are applicable to PCS.

It is the goal of this policy not only to prevent and protect, but also to educate employees, students, parents and the PCS community in Internet safety. The CIPA guidelines for an Internet Safety Policy have also been incorporated by PCS into its Acceptable Use Policy and/or Acceptable Use Agreement(s). All limitations and penalties set forth in the Acceptable Use Policy and/or Acceptable Use Agreement(s) are deemed to be incorporated into this policy. Terms used in this policy and that also appear in CIPA have the meanings defined in CIPA.

Compliance with the Requirements of CIPA

Technology Protection Measures

A Technology Protection Measure is a specific technology that blocks or filters Internet access.¹ It must protect against access by adults and minors to visual depictions that

¹ As defined by CIPA, the term “technology protection measure” means a specific technology that blocks or filters Internet access to visual depictions that are:

1. Obscene, as that term is defined in section 1460 of title 18, United States Code;
2. Child Pornography, as that term is defined in section 2256 of title 18, United States Code; or
3. Harmful to minors.

The term “harmful to minors” means any picture, image, graphic image file, or other visual depiction that:

1. Taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion;
2. Depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and
3. Taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors.

The terms “sexual act” and “sexual contact” have the meanings given such terms in section 2256 of title 18, United States Code.

are obscene, involve child pornography, or are harmful to minors. PCS utilizes a sophisticated content filtering system that is compliant with CIPA and NCIPA on all computers that access the Internet.

Access to Inappropriate Material

To the extent practical, Technology Protection Measures (or “Internet filters”) shall be used to block or filter Internet, or other forms of electronic communication, access to inappropriate information. Specifically, as required by CIPA, blocking shall be applied to visual and textual depictions of material deemed obscene or child pornography, or to any material deemed harmful to minors. Subject to administrative approval, technology protection measures may be disabled or, in the case of minors, minimalized only for bona fide research or other lawful purposes.

Any attempt to bypass, defeat, or circumvent the Technology Prevention Measures is punishable as a violating of this policy and of the Acceptable Use Policies.

Inappropriate Network Usage

To the extent practical, steps shall be taken to promote the safety and security of users of PCS’ online computer network when using electronic mail, chat rooms, blogging, instant messaging, online discussions and other forms of direct electronic communications. Without limiting the foregoing, access to such means of communication is strictly limited by the Acceptable Use Policies.

Specifically, as required by CIPA, prevention of inappropriate network usage includes:

- (a) unauthorized access, including so-called “hacking” and other unlawful activities;
and
- (b) unauthorized disclosure, use, and dissemination of personal identification information regarding minors.

Supervision and Monitoring

It shall be the responsibility of all professional employees (pedagogical and administrative staff) to supervise and monitor usage of PCS’ computers, computer network and access to the Internet in accordance with this policy, the Acceptable Use Policies, and CIPA. Procedures for the disabling or otherwise modifying any technology protection measures shall be the responsibility of each Principal or designee.

Education

PCS will advocate and education employees, students, parents and PCS community on Internet safety and “cyber-bullying.” Education will be provided through such means as professional development training and materials to employees, PTO/PTA presentations, and the PCS website.

Additionally, the Principal or designee will provide age-appropriate training for students who use PCS’ Internet facilities. The training provided will be designed to promote PCS’ commitment to:

- (a) The standards and acceptable use of Internet services as set forth in the Acceptable Use Policies.
- (b) Student safety with regard to:
 - 1. safety on the Internet;
 - 2. appropriate behavior while online, on social networking Web sites, and in chat rooms; and
 - 3. cyberbullying awareness and response.
- (c) Compliance with the E-rate requirements of CIPA.

Following receipt of this training, the student will acknowledge that he/she has received the training, understood it, and will follow the provisions of the Acceptable Use Policy and/or Acceptable Use Agreement(s).

Cyber-Bullying

The Acceptable Use Policies include provisions intended to prohibit and establish penalties for inappropriate and oppressive conduct, including cyber-bullying.

PCS is a place of tolerance and good manners. Students may not use the network or any PCS computer facilities for hate mail, defamatory statements, statements intended to injure or humiliate others by disclosure of personal information (whether true or false), personal attacks on others, and statements expressing animus towards any person or group by reason of race, color, religion, national origin, gender, sexual orientation or disability.

Network users may not use vulgar, derogatory, or obscene language. Network users also may not post inappropriate anonymous messages or forge e-mail or other messages.

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INTERNET SAFETY

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Furthermore, PCS computers and network facilities may not be used for any activity, or to transmit any material, that violates United States, State of Texas, or local laws. This includes, but is not limited to, any threat or act of intimidation or harassment against another person.

With the use of technology, including the Internet, Intranet, hardware and software, PRIORITY CHARTER SCHOOLS (“PCS”) is expanding learning access for students, staff, and parents. With this opportunity comes the responsibility for appropriate use. The PCS Acceptable Use Policy explains and defines responsible and ethical use of educational and administrative technology for all employees. All rules embodied herein are designed to guide employees in appropriate and acceptable use of PCS technology, and are designed to protect both the employee and PCS. This policy also governs the use of the electronic mail accounts issued by PCS, and PCS and employee-owned personal electronic devices, including laptops, portable and handheld computing devices, and cellular telephones.

Computers

PCS’ electronic communications systems, including its network and access to the Internet, are primarily for administrative and instructional purposes. Limited personal use of the system is permitted if the use:

- 1) Does not result in any direct cost paid with State funds, or if the PCS charter holder is reimbursed for any direct costs involved;
- 2) Does not relate to private commercial purposes; and
- 3) Involves only incidental amounts of employee time, comparable to reasonable coffee breaks during the day.

Electronic Network Use Guidelines and Safety Policy

The operation of technology in the PCS system relies heavily on the proper conduct of users. Every PCS user has the responsibility to respect and protect the rights of every other user. PCS users are expected to act in a responsible, ethical and legal manner, in accordance with the missions and purposes of the school.

PCS’ computer systems are for use by authorized individuals only. Any unauthorized access to these systems is prohibited and is subject to criminal and civil penalties. Use of any network or computing resources must be consistent with the rules appropriate to that network.

All network users are expected to use moral and ethical guidelines in making appropriate decisions regarding network use. Use of the PCS network is a privilege, not a right, and inappropriate use will result in cancellation of that privilege, disciplinary action, and/or prosecution. Prior to participation, a potential network user will receive information pertaining to the proper use of the network and sign a user agreement. PCS administrators will decide what constitutes inappropriate use of the network; their decision is final. Violations will be dealt with in accordance with the PCS Student Code of Conduct or Employee Handbook, or local, state, or federal law.

Unacceptable conduct on the PCS network includes, but is not limited to:

- Using the network for any illegal activity including, but not limited to, “hacking,” copyright infringement, obscenity, libel, slander, fraud, defamation, plagiarism, intimidation, forgery, impersonation, illegal gambling, soliciting for illegal pyramid schemes, and computer tampering.
- Transmitting material in violation of any federal, state, or local law or PCS policy.
- Using PCS technology for financial or commercial or personal gain.
- Degrading or disrupting equipment or system performance.
- Vandalizing hardware.
- Viewing, copying, altering, or destroying data, software, documentation, or data communications belonging to PCS or another individual without authorized permission.
- Unauthorized use of PCS resources, including hardware (*i.e.*, digital camera, projector, etc.) and printers for reasons other than job-related duties or school business.
- Adding personal computers, printers, and software to the PCS network.
- Gaining unauthorized access to resources or entities.
- Invading the privacy of individuals.
- Using another individual’s user-name and password.
- Disclosing a system password to another employee or student, or attempting to disclose another employee’s or student’s password.
- Placing of unlawful information on a system.
- Using the PCS network for political lobbying.
- Intentionally accessing pornographic, inappropriate, or unauthorized material either directly or in proxy.
- Intentionally bypassing PCS’ network systems and/or policies.
- Intentionally transmitting viruses or making changes that may result in the loss of an individual’s work or access to the PCS network.
- Chain letters of any type that would cause congestion of the PCS network or otherwise interfere with the work of others.
- Installing software onto computers without appropriate approval.
- Paying access fees or committing PCS financial resources without formal authorization.

Security – Security is a high priority due to the number of users. Computer security cannot be made perfect, and it is likely that a determined user could access computer resources for inappropriate purposes or that an inquisitive user could encounter unacceptable material. Identified security problems should be reported to a system

administrator or appropriate supervisor immediately and not shared with other users. Attempts to log on as another user may result in cancellation of user privileges. Any user identified as a security risk will be denied access to the system.

Vandalism – Vandalism is defined as any deliberate attempt to harm or destroy data or property of PCS or another network user, the Internet/Intranet, or other networks. This includes the creation of or uploading of computer viruses to the Internet/Intranet or host site and destruction of hardware. Vandalism will result in cancellation of user privileges.

Online Harassment – Online harassment is defined as using the name or persona of another individual to create a web page on or to post one or more messages on a commercial networking site without obtaining the other individual's consent with the intent to harm, defraud, intimidate, or threaten any person. Online harassment also includes sending an electronic mail, instant message, text message, or similar communication that references a name, domain address, phone number, or other item of identifying information belonging to any individual without obtaining the individual's consent with the intent to harm or defraud any person and to cause the recipient of the communication to reasonably believe that the other individual authorized or transmitted the intention.

Cyber-Bullying – Cyber-bullying is defined as a situation where a child, preteen, or teen is tormented, threatened, harassed, humiliated, embarrassed, or otherwise targeted by another individual using the Internet, interactive and digital technologies, or mobile phones. Users of the PCS network are expected to refrain from such conduct.

Installing Software – Use of computer software is governed by copyright laws and network configurations. Care must be taken to avoid copyright violations and disruptions of the network related to incompatible or corrupted software; therefore, installation of any program or application onto any computer with access to PCS' electronic network must be approved by the Principal or designee.

Monitoring – All computers are the property of PCS and are subject to searches or removal at any time. There is no privacy on the PCS network. PCS will monitor any e-mail, network, and Internet activity occurring on PCS equipment or accounts. Anyone using the PCS network expressly consents to such monitoring. PCS currently employs filtering software to limit access to sites on the Internet. If PCS discovers activities that do not comply with applicable law or school policy, prosecution and/or termination of user privileges will occur without warning.

E-mail Retention – Employees are required by law to retain certain e-mails, including communications referring to students made to parents, administrators, or law enforcement officials. Employees are responsible for archiving such communications.

Internet Safety – It shall be the responsibility of all PCS staff to educate, supervise, and monitor appropriate usage of the PCS network and access to the Internet in accordance with this policy, the Children’s Internet Protection Act, the Neighborhood Children’s Internet Protection Act, and the Protecting Children in the 21st Century Act.

Use of the Internet and other telecommunication activities must be in support of education and research that is consistent with the educational goals, objectives, and policies of PCS.

In the classroom, student access to and use of the Internet will be under teacher direction and will be monitored as any other classroom activity. However, it is impossible to control all materials on a global network and users may encounter inappropriate or objectionable information. Even with filtering, PCS cannot prevent the possibility that some users may access material that is not consistent with the educational mission, goals, and policies of the school.

Each PCS computer with Internet access shall have a filtering device or software that blocks access to visual depictions that are obscene, child pornography, inappropriate for students, or to any material deemed harmful to minors as defined by the Children’s Internet Protection Act and as determined by the Principal or designee.

The PCS Electronic Mail System

Electronic mail is a critical mechanism for communications at PCS. However, use of the PCS network, Internet, and electronic mails systems and services are a privilege, not a right, and therefore must be used with respect and in accordance with the goals of PCS.

The objectives of this policy are to outline appropriate and inappropriate use of PCS’ electronic mail systems and services in order to minimize disruptions to services and activities, as well as to comply with applicable policies and laws.

Electronic mail access at PCS is controlled through individual accounts and passwords. Each user of PCS’ electronic mail system is required to read and sign a copy of the Acceptable Use Policy prior to receiving an electronic mail account and password. Employees are responsible for protecting the confidentiality of their account and password information.

Electronic mail access will be terminated when the employee or third party terminates their association with PCS, unless other arrangements are made. PCS is under no obligation to store or forward the contents of an individual's electronic mail inbox/outbox after the term of his or her employment has ceased.

Important official communications are often delivered via electronic mail. As a result, PCS employees with electronic mail accounts are expected to check their accounts in a consistent and timely manner so that they are aware of important announcements and updates, as well as for fulfilling business and role-oriented tasks. Employees are responsible for mailbox management, including organization and cleaning. Employees are also expected to comply with normal standards of professional and personal courtesy and conduct.

PCS' electronic mail systems and services are not to be used for purposes that could be reasonably expected to cause excessive strain on systems. Individual use must not interfere with others' use and enjoyment of PCS' electronic mail system and services. Employees will comply with all applicable laws, PCS policies, and PCS contracts.

The following activities are deemed inappropriate uses of PCS' electronic mail systems and are prohibited:

- Use of electronic mail for illegal or unlawful purposes, including copyright infringement, obscenity, libel, slander, fraud, defamation, plagiarism, harassment, intimidation, forgery, impersonation, soliciting for illegal pyramid schemes, and computer tampering (e.g., spreading of computer viruses).
- Use of electronic mail in any way that violates PCS policies, rules, or administrative orders.
- Viewing, copying, altering, or deletion of electronic mail accounts or files belonging to PCS or another individual without authorized permission.
- Sending of unreasonably large electronic mail attachments. The total size of an individual electronic mail message sent (including attachment) should be 100MB or less.
- Opening electronic mail attachments from unknown or unsigned sources. Attachments are the primary source of computer viruses and should be treated with utmost caution.
- Sharing electronic mail account passwords with another person, or attempting to obtain another person's password. Accounts are to be used only by the registered user.
- Excessive personal use of PCS' electronic mail resources. PCS allows limited personal use for communication with family and friends, independent learning, and public services so long as it does not interfere with staff productivity, preempt

any business activity, or consume more than a trivial amount of resources. PCS prohibits personal use of its electronic mail systems and services for unsolicited mass mailings, non-PCS commercial activity, political campaigning, dissemination of chain letters, and use by non-employees.

Usage of Personal Electronic Devices

Employees are restricted in their usage of employee-owned personal electronic devices on PCS property and at school-sponsored events. Personal electronic devices include but are not limited to employee-owned desktop, laptop, tablet, and handheld computing devices (whether wired or wireless), USB drives, and cellular telephones.

The following activities are regulated by the Acceptable Use Policy:

- Employees are prohibited from using a camera phone (a cellular phone including a camera capable of capturing and transmitting still or full motion images) in any way that violates PCS policies, including illicit and illegal use.
- Employees may not use personal electronic devices or media including but not limited to CD/DVD burners and USB drives to illegally duplicate and/or distribute copyrighted materials.
- Employees may not load a bootable, alternate operating system on any PCS-owned computer from any employee-owned source or media.
- Employees are prohibited from using any portable wired, USB IP-telephone devices or wireless Wi-Fi IP telephone devices (such as Vonage, V-phone, or MagicJack) that can make or place calls to or from a private phone number on PCS networks at any time.
- Employees may not acquire, through wired or wireless connection, PCS-provided network or Internet access from any employee-owned computing device without the prior permission of the Principal.

Disclaimer

PCS shall not be liable for any employee's inappropriate use of electronic communication resources, violations of copyright restrictions, user mistakes or negligence, or costs incurred by users. PCS shall not be responsible for ensuring the accuracy or usability of any information found on the Internet/World-Wide Web.

Electronic mail transmissions, faxes, and program or data files sent, received, created, or accessed by employees are not considered confidential and may be monitored at any time by designated staff to insure appropriate use of educational and administrative technology.

PCS reserves the right to restrict or terminate Internet, network, or computer access at any time for any reason. PCS also reserves the right to monitor Internet, network, and computer activity in any way necessary to maintain the integrity and security of the network and the privacy and accuracy of user information.

Consequences for Violations of the Employee Acceptable Use Policy

Violations of this policy will be treated like other allegations of wrongdoing at PCS. The use or installation of any software or device onto any computer or network for the purpose of controlling, collecting logins, or accessing any data or systems without written permission will result in disciplinary action. Allegations of misconduct will be adjudicated according to established procedures. Sanctions for violations of this policy may include, but are not limited to, one or more of the following:

- Temporary or permanent revocation of access to some or all computing and networking resources and facilities.
- Disciplinary action, up to and including termination.
- Legal action according to applicable laws and contractual agreements.

Access to Cellular and/or Wireless Telephone Equipment and Accounts

Access to cellular and/or wireless telephone equipment and accounts is made available exclusively for instructional and administrative purposes in accordance with guidelines and regulations developed by PRIORITY CHARTER SCHOOLS (“PCS”). 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 PCS-supplied telephone equipment and accounts. Such guidelines shall be distributed to all PCS employees.

Consequences for Violations

Violations of PCS’ 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:

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

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PRIORITY CHARTER SCHOOLS does not issue payroll advances or loans to employees.

Attendance

PRIORITY CHARTER SCHOOLS (“PCS”) 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.

PCS 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 PCS may implement, time keeping for non-exempt employees must be done weekly and manually using PCS’ approved time sheets.

Notice of Absence or Tardiness

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 and Human Resources Department shall develop procedures concerning employee absence and tardiness. These procedures shall be distributed to all employees.

Employee Work Schedules

The Superintendent and Human Resources Department shall see that work schedules are developed and distributed for each position with PCS.

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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; PCS shall process the employee's work separation as a voluntary resignation without good cause related to the work.

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EMPLOYEE COMPLAINTS AND GRIEVANCES – GENERAL

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Purpose

PRIORITY CHARTER SCHOOLS (“PCS”) values the opinions of all its employees. Employees have the right to express their views through appropriate informal and formal processes.

The Board encourages employees to discuss their concerns and complaints through informal meetings with their supervisor and/or Principal. Concerns and complaints should be expressed as soon as possible to allow early resolution at the lowest possible administrative level.

Neither the Board nor any PCS employee shall unlawfully retaliate against an employee for bringing a concern or complaint.

The purpose of the grievance process is to resolve conflicts in an efficient and expeditious manner. All employees are entitled to utilize the grievance process, but employees involved in the process are expected to be courteous to one another and adhere to the Code of Ethics and Standard Practices for Texas Educators.

The Superintendent or designee may develop more detailed grievance procedures. The Superintendent or designee shall ensure that PCS’ grievance procedures are distributed to employees. Any grievance procedures shall provide that any grievance may ultimately be considered or heard by the Board in accordance with Commissioner of Education rules.

Definitions

For purposes of this policy, “days” shall mean PCS business days. In calculating time lines under this policy, the day a document is filed is “day zero,” and all deadlines shall be determined by counting the following day as “day one.”

If the administrator addressing the complaint determines that additional time is needed to complete a thorough investigation of the complaint and/or issue a decision, the administrator shall inform the employee in writing of the necessity to extend the time for investigating or responding and a specific date by when the decision will be issued.

The terms “complaint” and “grievance” shall have the same meaning. A grievance under this policy may include, but shall not be limited to, any of the following:

1. Grievances concerning an employee’s wages, hours, or conditions of work.
2. Specific allegations of unlawful discrimination in employment on the basis of sex (including allegations of sexual harassment and/or wage discrimination on the basis of sex), race, religion, national origin, age, or disability, following the

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completion of an investigation by the appropriate compliance coordinator designated by applicable policy.

3. Specific allegations of unlawful discrimination or retaliation on the basis of the employee's exercise of constitutional rights.
4. Specific allegations of adverse employment action in retaliation for reporting a violation of law by a PCS employee, Director, or Officer to an appropriate authority. Employees making such complaints must initiate a grievance under this policy within the time specified by law. Timelines for the employee and PCS set out in this policy may be shortened to allow the Board to make a final decision within 60 days of the initiation of the complaint.

Other Complaint Processes/Exclusions

Employee complaints shall be filed in accordance with this policy, except as required by the policies listed below. Some of these policies require appeals to be submitted in accordance with this Board Policy PG-4.6 after the relevant complaint process or are excluded from eligibility for consideration under this policy.

1. Complaints alleging discrimination, including violations of Title IX (gender), Title VII (sex, race, color, religion, national origin), ADEA (age), GINA (genetic information), or ADA/Section 504 (disability) shall be submitted in accordance with Board Policy PG-4.14.
2. Complaints alleging certain forms of harassment, including harassment by a supervisor and violation of Title VII, shall be submitted in accordance with Board Policy PG-4.14.
3. Complaints concerning retaliation relating to discrimination and harassment shall be submitted in accordance with Board Policy PG-4.14.
4. Complaints related to reports to Child Protective Services or Adult Protective Services made pursuant to the requirements of Section 261.101 of the Texas Family Code.
5. Complaints where the relief sought by the grievant has already been granted at a prior administrative level or through informal conference or other similar means.
6. Complaints where the grievant fails to state specific relief sought that applies to the grievant directly, or that cannot be granted by the grievance officer or Board.

Informal Conferences

An employee may request an informal conference through his or her Principal or Supervisor within ten (10) days of the time the employee knew or should have known of the event(s) giving rise to the complaint. If the employee is not satisfied with the results of the informal conference, he or she may submit a written grievance form to the Principal or other appropriate administrator.

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Formal Grievances

The formal process provides all employees with an opportunity to be heard up to the highest level of management if they are dissatisfied with an administrative response. Once all administrative procedures are exhausted, employees can bring concerns or complaints to the Board, as outlined below.

In the event of a problem or dispute with other personnel, students, or parents, an employee may submit a grievance following the process described below.

A grievance must specify the harm alleged by each individual and the remedy sought. An employee is prohibited from bringing separate or serial grievances regarding the same event or action. Multiple grievances may be consolidated at the discretion of PCS. The complaining employee shall strictly comply with all time limits discussed in this policy, unless such time limits are modified by mutual consent. Costs of any grievance shall be paid by the party incurring them.

Level One

An employee shall submit a proper grievance, in writing, to the supervising Principal or appropriate administrator within the later of (1) ten days of the date the employee first knew or should have known of the event(s) giving rise to the complaint, or (2) within ten days after the date a letter is mailed or e-mailed to the employee after completion of the informal grievance process notifying the employee of the formal grievance process. PCS reserves the right, upon review of the grievance, to require the grievant to begin the grievance process at Level Two.

The Principal or designee shall serve as the Level One Grievance Officer, and will meet with the employee to consider the grievance within ten days of receipt of the written grievance. The Level One Grievance Officer will provide a written response to the employee within ten days of the meeting.

Note: An employee alleging adverse employment action in retaliation for a violation of law by a PCS employee, Director, or Officer may appeal directly from Level One to Level Three.

Level Two

If the grievance is not resolved to the employee's satisfaction at Level One, or if no written decision is received from the Level One Grievance Officer within the time allotted, the employee may submit a written appeal to the Superintendent or designee within ten days of the Level One decision or the response deadline if no decision is made. The appeal must be specific, reference the law or policy alleged to

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have been violated or the dissatisfaction raised by the employee, and where possible, suggest a resolution.

The Superintendent or designee will serve as the Level Two Grievance Officer. The Level Two Grievance Officer will meet with the employee to consider the appeal within ten days of receipt of the appeal. The Superintendent or designee shall issue a written decision within ten days of the meeting.

Level Three

If the matter is still not resolved, the employee may submit a written appeal to the Board of Directors within ten days of receipt of the Level Two Grievance Officer's response or, if no written decision is received, no later than ten days of the deadline for receipt of a Level Two decision. The complaint shall be directed and delivered to the President of the Board of Directors, and shall include a copy of the written complaint to the Level Two Grievance Officer, with his or her response.

The Board shall then consider the grievance and may, at its discretion, require the appearance of the employee and administration. The Board may subsequently take action or no action. If the Board takes action, it may make and communicate its decision orally or in writing at any time up to and including the next regularly scheduled Board meeting. The failure of the Board to act on a complaint has the effect of upholding the decision below. The Board may not delegate its authority to issue a decision, and any decision by the Board is final and may not be appealed.

Grievances involving the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the employee bringing the grievance, may be heard by the Directors in closed meeting. Grievances involving a complaint or charge against another PCS employee, Director, or Officer shall be heard in closed meeting unless an open meeting is requested in writing by the employee, Director, or Officer against whom the complaint or charge is brought.

Occupational Safety and Health Administration Compliance

The Superintendent shall ensure that PRIORITY CHARTER SCHOOLS (“PCS”) complies with all applicable requirements of the Occupational Safety and Health Act (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, PCS 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 Occupational Safety and Health Administration, 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.

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.

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, PCS will orally report the fatality/multiple hospitalization by telephone or in person to the Area Office of the Occupational Safety and Health Administration that is nearest to the site of the incident.

Reporting Procedures

PCS will utilize the required Occupational Safety and Health Administration 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.

Personal Protective Equipment

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

Safety Training

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

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 PCS, except when related to an approved lesson plan. Polytechnics in PCS buildings or on school grounds is strictly prohibited.

Asbestos Management Plan

PCS 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.

Pest Control Treatment

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 PCS' integrated pest management program.

Notices of planned pest control treatment will be posted in PCS 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 PCS administrators or the Charter Schools Director of Facilities.

Clean Air Act

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

Hazard Communication Act

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

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EMPLOYEE SEARCHES

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Employee Searches

PRIORITY CHARTER SCHOOLS (“PCS”) reserves the right to conduct searches to monitor compliance with rules concerning safety of employees, security of PCS 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 PCS premises, PCS may search employees, their work areas, lockers, personal vehicles if driven or parked on PCS property, and other personal items such as bags, purses, briefcases, backpacks, lunch boxes, and other containers.

No Expectation of Privacy

There is no general or specific expectation of privacy in PCS’ workplace, either on PCS property or while on duty. In general, employees should assume that what they do while on duty or on PCS 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 PCS officials and/or law enforcement authorities.

Lockers and Other Storage Areas

If an employee uses a locker or other storage area at work, including a locking desk drawer or locking cabinet, PCS 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 PCS.

Applicability of Policy

All PCS 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.

PRIORITY CHARTER SCHOOLS BOARD POLICY MANUAL
POLICY GROUP 4 – PERSONNEL
EMPLOYEE SEARCHES

PG-4.8

Any search under this policy will be done in a manner protecting employee privacy, confidentiality, and personal dignity to the greatest extent possible. PCS 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 PCS will face disciplinary action, up to and possibly including immediate termination of employment.

Video Surveillance

In order to promote the safety of PCS employees, students, and visitors, as well as the security of its facilities, PCS 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 PCS buildings and used to promote the safety and security of people and property.

PRIORITY CHARTER SCHOOLS BOARD POLICY MANUAL

POLICY GROUP 4 – PERSONNEL

NOTIFICATION OF ARRESTS, INDICTMENTS, CONVICTIONS, AND OTHER ADJUDICATIONS PG-4.9

Notification of Arrests, Indictments, Convictions, and Other Adjudications

A PRIORITY CHARTER SCHOOLS (“PCS”) 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 PCS 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 PCS 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.