

Resource Guide: Personnel Policy

Background

Both federal and state laws and regulations set forth a variety of employment practices that apply to charter schools, many of which governing boards may choose to include in their personnel policies. Schools must also comply with contractual obligations set forth both in the Charter Contract and in any applicable collective bargaining agreements.

This document provides a guide to some of the requirements charter schools must follow. It is not an exhaustive list. Governing boards are encouraged to consult with their Deputy Attorney General for any questions or concerns regarding personnel policies.

Charter Contract

10. Personnel

10.1 Collective Bargaining. The School shall be subject to collective bargaining under Ch. 89, HRS, and shall comply with the master agreements as negotiated by the State; provided that the School may enter into supplemental collective bargaining agreements that contain cost and non-cost items to facilitate decentralized decision-making. The School shall provide a copy of any supplemental collective bargaining agreement to the Commission within 14 days of full execution.

10.2 Nondiscrimination. No person performing work under this Contract, including any employees or agents of the School, shall engage in any discrimination that is prohibited by any applicable federal, State or county law including but not limited to [Sec. 378-2, HRS](#).

10.3 Teacher Credentials. The School's teachers shall comply with applicable State licensing requirements consistent with the Elementary and Secondary Education Act and collective bargaining agreement, as such requirements may be amended. Teachers shall be licensed by the Hawaii Teachers Standards Board and shall meet the federal designation of "Highly Qualified" as adopted by the DOE and defined in the "*Title IIA Highly Qualified Teacher Guidelines*," updated May 2012, as may be amended. If the School receives Title I funding, the School shall ensure that 100% of teachers in core academic subjects are Highly Qualified, and federal funds shall not be used to pay for teachers who do not meet this requirement.

10.4 Evaluations. Pursuant to Board of Education Policy 2055, the School is responsible for implementing principal and teacher evaluation systems that are based on efficiency, ability, contribution to student learning and growth. The School may elect to implement the State-developed educator evaluation system or

to develop and implement its own educator evaluation system that meets the criteria outlined in BOE Policy 2055, as may be amended from time to time.

10.5 Non-Instructional Employees. The School shall ensure that the School's non-instructional employees or agents are experienced and fully qualified to engage in the activities and perform the services required under this Contract, and that all applicable licensing and operating requirements imposed or required under federal, State or county laws, and all applicable accreditation and other standards of quality generally accepted in the field of the activities of such employees and agents are complied with and satisfied.

10.6 Criminal History Checks. The School shall conduct criminal history checks in accordance with [Sec. 846-2.7, HRS](#), to determine whether a prospective employee or agent is suitable for working in close proximity to children. Information obtained pursuant to this provision shall be used exclusively by the School for the purposes of determining whether a person is suitable for working in close proximity to children. All such decisions shall be subject to applicable federal laws and regulations currently or hereafter in effect. The School may terminate the employment of any employee or deny employment to an applicant if the person has been convicted of a crime, and if the School finds by reason of the nature and circumstances of the crime that the person poses a risk to the health, safety or well-being of children.

10.7 Personnel Policies. The School shall adopt, update and adhere to personnel policies.

Federal and State Laws

Unlawful Discriminatory Practices ([Sec.378-2, HRS](#) and [Title VII of the Civil Rights Act of 1964](#))

Hawaii builds upon federal civil rights laws and offer additional protections against employment-related discrimination. Hawaii prohibits employers from a variety of employment practices due to one's "race, sex, including gender identity or expression, sexual orientation, age, religion, color, ancestry, disability, marital status, arrest and court record, or domestic or sexual victim status if the domestic or sexual violence victim provides notice to the victim's employer of such status or the employer has actual knowledge of such status."

It also prohibits employers from refusing "to hire or employ, bar or discharge from employment, withhold pay from, demote, or penalize a lactating employee because the employee breastfeeds or expresses milk at the workplace."

The above provides just a summary of some of the components of the law; to read in its entirety, go [here](#).

Disability ([Americans with Disabilities Act](#))

The anti-discrimination law cited above includes protections for persons with disabilities, ensuring that they are provided equal employment opportunities and are not discriminated against in employment decisions. In addition, federal law (The Americans with Disabilities Act) provides that employers may not discriminate against individuals with disabilities who have the qualifications to perform the essential functions of the job. The ADA touches all stages of the employment process from recruitment to termination.

ADA requires an employer to provide reasonable accommodation to an employee or job applicant with a disability, unless doing so would cause significant difficulty or expense for the employer. A reasonable accommodation is any change in the work environment (or in the way things are usually done) to help a person with a disability apply for a job, perform the duties of a job, or enjoy the benefits and privileges of employment.

Reasonable accommodations are changes in the work environment to allow the person with the disability to apply for a job, perform the duties of a job, or enjoy the benefits and privileges of employment. Examples include making the workplace accessible for wheelchairs or providing assistance for persons who are blind or hearing impaired.

To read Title II of the ADA, which covers state employees, go [here](#).

Sexual Harassment

Both federal and state law prohibits sexual harassment in the workplace. Sexual harassment is defined as unwanted sexual advances or other unwanted or offensive visual, verbal, or physical conduct of a sexual nature.

The Hawaii Civil Rights Commission provides a helpful summary of the sexual harassment law, along with examples, [here](#).

To read the administrative rules regarding sexual harassment, see [§12-46-109, HAR](#).

Criminal Background Checks

Charter schools must conduct criminal background checks to ensure that prospective employees or agents are suitable for working with children. The full text of state law regarding procedures for background checks can be viewed [here](#).

Personnel Policies – Questions to Consider

The following questions are offered as issues to consider when reviewing, developing, and implementing a personnel policy. The checklist is not meant to be prescriptive or regulatory in

nature. Please note, however, that personnel policies must be consistent with contractual obligations (both in the Charter Contract and collective bargaining agreements) and with state and federal law and regulations.

Equal Opportunity. *Does the policy provide equal opportunity in all employment actions, consistent with state and federal law?*

Anti-Discrimination. *Does the policy prohibit against workplace discrimination, in accordance with state and federal law and regulations?*

Disability Accommodation. *Does the comply with state and federal law related to disability accommodations by considering all request for accommodations, providing reasonable accommodations, establishing essential job functions, and eliminating pre-employment medical inquiries?*

Anti-Harassment. *Does the prevent discrimination or harassment based on a person's race, religion, national origin, sex, age, disability, veteran status, or any other classification protected by federal and state law?*

Personal Appearance and Conduct. Are any standards for personal appearance and conduct clearly communicated to appropriate staff?

Consistency with school beliefs and mission. *Are the policies consistent with the beliefs and mission of the charter school?*

Dissemination. Is the policy appropriately disseminated to all personnel?