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ROCHESTER BEACON ACADEMY- RBA
POLICY No. 408
PROHIBITION AGAINST UNFAIR DISCRIMINATORY PRACTICES IN
EMPLOYMENT AND GRIEVANCE PROCEDURES

I. PURPOSE

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

II. POLICY STATEMENT

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

III. PROHIBITIONS

- A. It shall be a violation of this policy for any RBA student or employee to discriminate against, or engage in unlawful discriminatory conduct with regard to a RBA employee, through conduct (e.g., physical, oral, graphic or written) that is based upon that employee's actual or perceived race, color, creed, national origin, religion, sex/gender, sexual orientation, disability, public assistance, or marital status or age [hereinafter referred to as "protected class"] as defined by this policy. For purposes of this policy, a RBA employee includes RBA board members, RBA school employees, RBA agents, RBA volunteers, RBA contractors, or persons subject to the supervision and control of RBA.
- B. RBA will investigate all complaints, formal or informal, oral or written, of discrimination or unlawful discriminatory conduct based upon an employee's perceived or actual membership in one or more protected classes identified above and to discipline or take appropriate action against any student or school district employee who is found to have violated this policy.

IV. DEFINITIONS

- A. Disability. "Disability" means any condition or characteristic that renders a person a disabled person. A disabled person is any person who: (1) has a physical, sensory, or mental impairment which materially limits one or more major life activities; (2) has a record of such an impairment; or (3) is regarded as having such an impairment.
- B. Discriminate. The term "discriminate" includes segregate or separate and, for purposes of discrimination based on sex, it includes sexual harassment. It also includes:
 - 1. An "unfair discriminatory practice", as described in Minn. Stat. §§363A.08, 363A.13, 363A.14, 363A.15 and 363A.19;
 - 2. Any violation of federal laws prohibiting discrimination in employment (including but not limited to "Title II"; "Title VI"; Title "VII"; and the "Americans with Disabilities Act").
- C. National origin. "National origin" means the place of birth of an individual or of any of the individual's lineal ancestors.
- D. Sexual harassment. "Sexual harassment" includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact or other verbal or physical conduct or communication of a sexual nature when:
 - 1. Submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining employment or education;
 - 2. Submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment or education;
 - 3. That conduct or communication has the purpose or effect of substantially interfering with an individual's employment or creating an intimidating, hostile, or offensive employment environment.
- E. Sexual orientation. "Sexual orientation" means having or being perceived as having an emotional, physical, or sexual attachment to another person without regard to the sex of that person or having or being perceived as having an orientation for such attachment, or having or being perceived as having a self-image or identity not traditionally associated with one's biological maleness or femaleness.

V. APPLICABILITY OF THIS POLICY

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

VI. COMPLIANCE OFFICER DESIGNATIONS, REPORTING PROCEDURES

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

An employee may make an oral or written report to his or her supervisor. If this supervisor is unavailable, or the employee believes that it would be inappropriate or uncomfortable to contact that person, an employee may immediately contact the

human rights officer. These reporting procedures are not intended to prevent a person from reporting harassment or violence incident(s) to another school official.

- D. Any school official to whom a report is made must immediately notify the Executive Director, who must then submit the oral or written complaint/report to the human rights officer without screening or investigating the credibility of the report. If the Executive Director is not available on the date of the report, then the school official receiving the report must forward the oral or written report/complaint directly to the human rights officer.
 - 1. If the report was given orally, the Executive Director will personally reduce it to written form within 24 hours and forward it to the human rights officer.
 - 2. If the Executive Director fails to forward any harassment or violence report or complaint (written or oral) to the human rights officer within 24 hours, the Executive Director will be subject to disciplinary action.
- E. If the complaint involves the Executive Director, the complaint will be made or filed directly with the human rights officer, by the school official receiving the report, or by the reporting party or complainant.
- F. The human rights officer may request, but not insist, upon a written complaint. The RBA Board encourages the reporting party to complete the complaint form for written complaints. It is available from the Executive Director or the school office. Alternative means of filing a complaint, such as through a personal interview or by tape recording, will be made available upon request for qualified persons with a disability.
- G. RBA will conspicuously post the name of the human rights officer(s), Executive Director and Board members, including mailing addresses and telephone numbers as follows:
 - 1. The Human Rights Officer is: Melissa Walsh
 - 2. Mailing address: 2521 Pennington DR NW Rochester, MN 55901
 - 3. Telephone number: 507-258-5351
 - 4. Email address: melissa.walsh@rochesterbeaconacademy.org
 - 5. The Executive Director is: Nicole Musolf
 - 6. Mailing address: 2521 Pennington DR NW Rochester, MN 55901

7. Telephone number; 507-258-5351
8. Email address: Nicole.musolf@rochesterbeaconacademy.org
9. The RBA Board Chair is: Pam Johnson
10. Mailing address: 213 Harrison Ave NE Rochester, MN 55906
11. Telephone number: 507-358-6125
12. Email address: board.member9@rochesterbeaconacademy.org

VII. INVESTIGATION

- A. The human rights officer upon receipt of a complaint alleging discrimination toward an employee will promptly undertake an investigation if deemed appropriate. Alternatively, the human rights officer may designate a neutral third party to do the investigation. The investigation will be completed as soon as is feasible under the circumstances.
- B. The investigation may consist of personal interviews with the complainant, the individual(s) against whom the complaint is filed, and others who may have knowledge of the alleged incident(s) or circumstances giving rise to the complaint. The investigation may also consist of any other methods and documents deemed pertinent by the investigator.
- C. In determining whether alleged conduct constitutes a violation of this policy, RBA will consider the facts and the surrounding circumstances, such as the nature of the behavior, past incidents or continuing patterns of behavior, the relationships between the parties involved, and the context in which the alleged incident occurred.
- D. RBA may take immediate steps to protect the parties involved in the complaint process, pending completion of an investigation of alleged unlawful discrimination of an employee.
- E. Upon completion of the preliminary investigation, a draft report will be made to the Executive Director. If the complaint involves the human rights officer or the Executive Director, the draft report must be filed directly with the RBA Board Chair. The draft report will include the facts, a determination of whether the allegations have been substantiated and whether a violation of this policy has occurred, as well as a description of any proposed resolution which may include alternate dispute resolution. The Executive Director, or Board Chair if the complaint is against the

Executive Director, will make a final determination regarding whether or not the complaint is substantiated.

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

VIII. APPEAL

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

IX. ACTION BASED ON FINDINGS

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

X. REPRISAL

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

XI. CONFLICT OF INTEREST

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

XII. DISSEMINATION OF POLICY AND TRAINING

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

F. RBA will post this policy on its website and ensure that it is easily accessible to view and download.

XIII. RIGHT TO ALTERNATIVE COMPLAINT PROCEDURES

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

Minnesota Department of Human Rights
540 Fairview Ave N. Suite 201
St. Paul, MN 55104
toll free: 800.657.3704
tty: 651.296.1283
fax: 651.296.9042
www.mn.gov/mdhr/

U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202
Tel: 1-800-872-5327

Employment Discrimination/Harassment

Equal Employment Opportunity Commission (EEOC)
330 South 2nd Ave., Suite 720
Minneapolis, MN 55401
(612) 552-7306
Fax: (612) 335-4044
TTY: 1-800-669-6820
<https://www1.eeoc.gov/field/minneapolis/index.cfm>

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

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

**United States Department of Education Office for Civil Rights
DISCRIMINATION COMPLAINT FORM**

Personal Information and the Consent Form.

1. Name of person filing this complaint:

Last Name: _____ First Name: _____ Middle Initial: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Home Telephone: _____ Work Telephone: _____

E-mail Address: _____

2. Name of person discriminated against (if other than person filing). If the person discriminated against is age 18 or older, we will need that person's signature on this complaint form and the consent/release form before we can proceed with this complaint. If the person is a minor, and you do not have the legal authority to file a complaint on the student's behalf, the signature of the child's parent or legal guardian is required.

Last Name: _____ First Name: _____ Middle Initial: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Home Telephone: _____ Work Telephone: _____

E-mail Address: _____

3. The regulations OCR enforces prohibit discrimination on the basis of race, color, national origin, sex, disability, age or retaliation. Please indicate the basis of your complaint:

Discrimination based on race (specify)

Discrimination based on color (specify)

Discrimination based on national origin (specify)

Discrimination based on sex (specify)

Discrimination based on disability (specify)

Discrimination based on age (specify)

Retaliation because you filed a complaint or asserted your rights (specify)

4. Please describe each alleged discriminatory act. For each action, please include the date(s) the discriminatory act occurred, the name(s) of each person(s) involved and, why you believe the discrimination was because of race, disability, age, sex, etc. Also please provide the names of any person(s) who was present and witnessed the act(s) of discrimination.

5. What is the most recent date you were discriminated against? Date: _____

6. If this date is more than 180 days ago, you may request a waiver of the filing requirement.

I am requesting a waiver of the 180-day time frame for filing this complaint. Please explain why you waited until now to file your complaint.

7. What would you like RBA to do as a result of your complaint — what remedy are you seeking?

8. We cannot accept your complaint if it has not been signed. Please sign and date your complaint below.

_____ (Date) _____ (Signature)

_____ (Date) _____ (Signature of person in Item 2)