Nondiscrimination in General

St. Mary's Charter School (the "School") 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

The School 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

The School 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

The School 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

The School 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) (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 Director of Human Resources
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 Director of Human Resources or designee shall take appropriate steps to notify applicants and employees, including those with impaired vision or hearing, that the School does not discriminate on the basis of disability.

The notice shall state:

1. That the School does not discriminate in employment in its programs and activities; and
2. The identity of the School's 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 the School 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
The School 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

The School 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

The School 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

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

The School 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

The School 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).

The School 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.

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
The School shall make reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability, unless the School can demonstrate that the accommodation would impose an undue hardship on the operation of the School. 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 the School, 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
The School 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 the School acts on the basis of such use.

Drug Testing
The School 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, the School 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
The School 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 the School, 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
The School 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

The School 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. The School 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).

Compliance Coordinator

The School shall designate at least one employee to coordinate its efforts to comply with Title IX, Section 504, the Age Act, and the ADA. The Director of Human Resources 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).