

Board Policy #: 40
Adopted/Ratified: May 21, 2016
Revision Date: _____

BIRMINGHAM COMMUNITY CHARTER HIGH SCHOOL

EMPLOYEE CONFIDENTIALITY AGREEMENT

The Employee named below (hereinafter referred to as “Employee”) hereby acknowledges as set forth in this Confidentiality Agreement (“Agreement”) that he/she is an employee of Birmingham Community Charter High School (“BCCHS”), and in consideration of Employee’s continued employment with BCCHS, Employee hereby agrees to and acknowledges the following terms and conditions:

1. DUTY OF TRUST AND CONFIDENTIALITY

It is the policy of BCCHS to maintain the strictest level of confidentiality with respect to the confidential and private information and records of all BCCHS students and employees and to comply with all confidentiality laws, including, but not limited to, the Family Educational Rights and Privacy Act and as otherwise required under this Agreement. As such, Employee hereby acknowledges and agrees that he/she owes a duty of trust and confidentiality to BCCHS with respect to any and all confidential or proprietary information owned and maintained by BCCHS that Employee may acquire, come into contact with, have access to, or be made aware of by virtue of his/her employment with BCCHS.

2. CONFIDENTIAL INFORMATION

- a. For purposes of this Agreement, the term “confidential information” or “proprietary information” shall mean any and all information or material of any nature and in any form related to or concerning student records, student family members, employee/personnel records, employee family members, employee emails, internal communications, BCCHS documents and records, computer programs, computer and/or network access passwords, software and supporting documentation, technology improvement plans, strategic plans, and financial information regardless of whether such information is designated as confidential at the time of its disclosure or when Employee first accessed such information.
- b. Confidential or proprietary information does not include general matters of public knowledge that result from disclosure by BCCHS, information disclosed by operation of law, or information that BCCHS expressly states in writing is not confidential.

3. NON-DISCLOSURE OF CONFIDENTIAL OR PROPRIETARY INFORMATION

At all times, during and after Employee’s employment with BCCHS, whether termination of Employee’s employment is voluntary or involuntary, Employee hereby agrees to the following:

- a. Employee shall keep in the strictest confidence and trust any and all confidential and proprietary information, including without limitation any and all information referenced in Section 2 above;
- b. Employee shall not knowingly disclose, communicate, use or induce or assist in the use or disclosure of any confidential or proprietary information to any unauthorized person or third party or take any action related to any confidential or proprietary information as may be

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necessary in the ordinary course of performing the Employee's duties without the prior express written consent of BCCHS;

- c. Employee shall use any and all confidential or proprietary information solely for the purpose of performing his/her duties on behalf of BCCHS and for no other purpose;
- d. Employee shall comply with all controls and procedures established by BCCHS regarding the access and use of confidential or proprietary information;
- e. Employee shall neither reproduce, duplicate, or copy any confidential or proprietary information nor use such information commercially or for any purpose other than in the performance of his/her duties on behalf of BCCHS;
- f. Employee is prohibited from removing any confidential information, related documents or proprietary property or information without the prior written authorization of BCCHS;
- g. Employee shall exercise reasonable care to avoid the inadvertent, accidental, or unauthorized disclosure, access, modification, or destruction of confidential or proprietary information and will be bound by and required to adhere to the provisions contained in this Agreement and any other confidentiality agreement that may be executed between BCCHS and other organizations;
- h. When discussing confidential or proprietary information with other authorized employees in the course of performing the Employee's duties, Employee shall exercise reasonable care to not discuss such information in public areas, hallways, gathering spaces, etc. and maintain a private conversation that will not be overheard by people who are not authorized to have access to such information; and
- i. At all times during his/her employment, Employee shall promptly advise and notify BCCHS of any knowledge that he/she may have of any unauthorized release, access, disclosure, or use of BCCHS confidential or proprietary information.

4. UNAUTHORIZED USE OR DISCLOSURE OF CONFIDENTIAL OR PROPRIETARY INFORMATION

Employee acknowledges and agrees that any violation of this Agreement or BCCHS policy or procedure related to the appropriate access, release, disclosure, or use of confidential or proprietary information is a serious breach of the Employee's duty of trust and confidentiality and will result in disciplinary action including immediate termination of the Employee's access to confidential or proprietary information, up to and including termination of employment in accordance with the applicable collective bargaining agreement and/or other relevant employment agreements and policies of BCCHS.

5. EQUITABLE RELIEF

Employee understands and agrees that, if it appears that Employee has disclosed (or has threatened to disclose) confidential or proprietary information in violation of this Agreement, that such an unauthorized disclosure may constitute violations of state or federal law, which can lead to personal civil liability resulting in significant monetary damages, and that BCCHS shall be entitled to an injunction to restrain Employee from disclosing, in whole or in part, confidential or proprietary information or taking any action contrary to the provisions of this Agreement. Employee further acknowledges that irreparable injury will result to BCCHS from Employee's violation of any of

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the terms of this Agreement. In addition, Employee expressly agrees that BCCHS shall not be prohibited by this provision from pursuing any and all remedies or other equitable remedies, including a claim for monetary damages and losses.

6. BCCHS RETENTION OF RECORDS

Upon the termination of Employee's employment relationship with BCCHS, Employee hereby agrees to return to BCCHS all documents, and all copies thereof, relating to BCCHS and the performance of Employee's duties including, but not limited to, reports, manuals, policies and procedures, computer and network access codes and/or passwords, methods of accessing BCCHS computers, servers, and network systems, computer programs, software and related documents, and all other materials obtained by the Employee during his/her employment.

Upon the written request of BCCHS, Employee further agrees to return to BCCHS all aforementioned documents and materials no later than two (2) days after receipt of such a request from BCCHS. Employee additionally agrees to deliver to BCCHS a signed written statement certifying that Employee no longer possesses and has returned all such materials to BCCHS.

7. INQUIRY WHEN IN DOUBT

At all times during Employee's employment, if Employee has any questions concerning BCCHS policies, what constitutes confidential or proprietary information, or if Employees is asked to release confidential information to a third party or member of the public, Employee agrees to immediately inquire with the Human Resources Director before taking any action.

8. EMPLOYEE WORK PRODUCT

BCCHS shall have the sole right to determine the treatment of any information, service, or work product created or developed by Employee during the performance of his/her duties, including the right to maintain the same as proprietary property or information of BCCHS, to file copyright, patent or trademark registration for the same in the name of BCCHS, or to use the same in any manner as BCCHS may deem appropriate.

9. GOVERNING LAW

The parties agree and acknowledge that all provisions of this Agreement shall be governed and construed in accordance with the laws of the State of California exclusively and without reference to principles of conflict of laws.

10. SEVERABILITY

If any provision of this Agreement is declared or determined by any court of competent jurisdiction to be illegal, invalid or unenforceable, the remaining terms, parties, and provisions shall remain in full force and effect and the legality, validity and enforceability of this Agreement shall not be affected thereby, and said illegal, invalid or unenforceable terms or provisions shall be deemed not to be part of this Agreement.

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11. ENTIRE AGREEMENT

This Agreement represents the sole and entire agreement between the parties and supersedes any and all prior agreements, negotiations, and discussion by and between the parties hereto with respect to the subject matter covered hereby.

I HAVE READ ALL OF THIS AGREEMENT AND UNDERSTAND ALL TERMS COMPLETELY. BY MY SIGNATURE BELOW, I HEREBY REPRESENT THAT THESE TERMS ARE THE ONLY STATEMENTS MADE BY OR ON BEHALF OF BCCHS UPON WHICH I HAVE RELIED IN SIGNING AND FULLY CONSENTING TO THIS AGREEMENT.

EMPLOYEE:

Print Name

Title/Position

Signature

Date