



Book	Policy Manual
Section	4000 Support Staff
Title	NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY
Code	po4122
Status	Active
Adopted	January 19, 2010
Last Revised	July 27, 2021

4122 - **NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY**

I. **General Statement**

The Board does not discriminate on the basis of race (including anti-Semitism), ethnicity, color, national origin, sex (including sexual orientation, gender status, or gender identity), disability (including HIV, AIDS, or sickle cell trait), pregnancy, marital status, age (except as authorized by law), religion, military status, ancestry, or genetic information which are classes protected by State and/or Federal law (collectively, "protected classes") in its programs and activities, including employment opportunities.

It is the legal obligation and the policy of the Board to employ only those persons who are best qualified, with or without reasonable accommodations.

Further, nothing in this policy shall be construed to abridge the rights of students or school employees that are protected by the First Amendment to the Constitution of the United States.

II. **Definitions**

Words used in this policy shall have those meanings defined herein; words not defined herein shall be construed according to their plain and ordinary meanings.

Complainant is the individual who alleges, or is alleged, to have been subjected to unlawful discrimination/retaliation, regardless of whether the person files a formal complaint or is pursuing an informal resolution to the alleged discrimination/retaliation.

Respondent is the individual who has been alleged to have engaged in unlawful discrimination/retaliation, regardless of whether the reporting party files a formal complaint or is seeking an informal resolution to the alleged discrimination/retaliation.

District community means students and Board employees (i.e., administrators, and professional and classified staff), as well as Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Board.

Third Parties include, but are not limited to, guests and/or visitors on District property (e.g., visiting speakers, participants on opposing athletic teams, parents), vendors doing business with or seeking to do business with the Board, and other individuals who come in contact with members of the District community at school-related events/activities (whether on or off District property).

Day(s): Unless expressly stated otherwise, the term "day" or "days" as used in this policy means business day(s) (i.e., a day(s) that the Board office is open for normal operating hours, Monday – Friday, excluding State-recognized holidays).

For purposes of this policy, "military status" refers to a person's status in the uniformed services, which includes the performance of duty, on a voluntary basis, or involuntary basis, in a uniformed service including active duty, active duty for

training, initial active duty for training, inactive duty for training, and full-time National Guard duty. It also includes the period of time for which a person is absent from employment for the purpose of an examination to determine the fitness of the person to perform any such duty as listed above.

III. District Compliance Officer(s)

The Superintendent shall appoint compliance officer(s) whose responsibility it will be to require that Federal and State regulations are complied with and that any inquiries or complaints are dealt with promptly in accordance with law. The Superintendent shall also require that proper notice of nondiscrimination for Title II, Title VI, and Title VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Americans with Disabilities Act of 1990, and the Age Discrimination in Employment Act will be provided to staff members and the general public. Any sections of the District's collectively-bargained, negotiated agreements dealing with hiring, promotion, and tenure will contain a statement of nondiscrimination similar to that in the Board's statement above.

The following person is designated as the Compliance Officer, ADA Coordinator, and Title IX Coordinator:

Sheila Blue, Equity Manager
7227 Land O'Lakes Blvd.
Land O'Lakes, Florida 34638
813-794-2679
sblue@pasco.k12.fl.us

The following person is designated as the Section 504 Compliance Officer:

Melissa Musselwhite, Director of Student Support Services and Programs
7227 Land O'Lakes Blvd.
Land O'Lakes, Florida 34638
(813) 794-2627
mmusselw@pasco.k12.fl.us

The name(s), title(s), and contact information of this/these individual(s) will be published annually on the District's website.

The names, titles, and/or contact information of the persons presently serving as Compliance Officers may change from time to time, and such changes shall be deemed technical corrections within the meaning of Bylaw 0131.1 and shall be made pursuant to that bylaw.

IV. Complaint Procedures

Except for sex discrimination and/or Sexual Harassment that is covered by Policy 2266 - Nondiscrimination on the Basis of Sex in Education Programs or Activities, any employee who alleges to have been subjected to unlawful discrimination may utilize the following complaint procedures as a means of reaching, at the lowest possible administrative level, a prompt and equitable resolution of the matter. Nothing contained in this policy is intended to interfere with the rights of any individual to pursue a complaint of unlawful harassment or retaliation with the U.S. Department of Education's Office for Civil Rights ("OCR"), the Florida Commission on Human Relations ("FCHR"), or the Equal Employment Opportunity Commission ("EEOC").

In accordance with Federal and State law, employees will be notified of their right to file an internal complaint regarding an alleged violation, misinterpretation or misapplication of Federal and/or State law. In addition, employees will be notified of their right to file a complaint with the OCR, FCHR, or the EEOC.

Internal complaints must be in writing and identify the specific circumstances or areas of dispute that have given rise to the complaint and offer possible solutions to the dispute. The complaint must be filed with a compliance officer within the time limits specified below. The compliance officer is available to assist individuals in filing a complaint.

V. Internal Complaint Procedure

The following internal complaint procedure is available to employees for the prompt and equitable resolution of complaints alleging discrimination that is prohibited in this policy. This complaint procedure is not available to unsuccessful applicants. Use of the internal complaint procedure is not a prerequisite to the pursuit of other remedies, including the filing of a complaint with the OCR, FCH, or EEOC.

- A. An employee with a complaint based on alleged discrimination may first discuss the problem with the compliance officer.
- B. If the informal discussion does not resolve the matter, or if the employee skips Step A, the individual may file a formal written complaint with the compliance officer. The written complaint must contain the name and address of the

individual or representative filing the complaint, be signed by the complainant or someone authorized to sign for the complainant, describe the alleged discriminatory action in sufficient detail to inform the compliance officer of the nature and date of the alleged violation, and propose a resolution. The complaint must be filed within thirty (30) days of the circumstances or event giving rise to the complaint unless the time for filing is extended by the compliance officer for good cause.

C. The compliance officer will conduct an independent investigation of the matter (which may or may not include a hearing). This complaint procedure contemplates informal, but thorough investigations, affording all interested persons and their representatives, if any, an opportunity to present witnesses and other evidence relevant to the complaint. The compliance officer will provide the complainant with a written disposition of the complaint within ten (10) days. If no decision is rendered within ten (10) days, or the decision is unsatisfactory in the opinion of the complainant, the employee may file, in writing, an appeal with the Superintendent.

D. The Superintendent will, within ten (10) days of receiving the written appeal, conduct a hearing with all parties involved in an attempt to resolve the complaint.

The Superintendent will render his/her decision within ten (10) days of the hearing.

E. The employee may be represented, at his/her own cost, at any of the above-described meetings/hearings.

F. The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies. Use of this internal complaint procedure is not a prerequisite to the pursuit of other remedies.

If it is determined that the complainant was subjected to unlawful discrimination, the CO must identify what corrective action will be taken to stop, remedy, and prevent the recurrence of the discrimination/retaliation. The corrective action should be reasonable, timely, age-appropriate and effective, and tailored to the specific situation.

V. Filing a Complaint with OCR/FCHR/EEOC

At any time, if an employee believes that they have been subjected to unlawful discrimination, the individual may file a complaint with the OCR, FCHR, or EEOC.

VI. Retaliation

Retaliation against a person who makes a report or files a complaint alleging unlawful discrimination/retaliation or participates as a witness in an investigation is prohibited. Neither the Board nor any other person may intimidate, threaten, coerce or interfere with any individual because the person opposed any act or practice made unlawful by any Federal or State civil rights law, or because that individual made a report, formal complaint, testified, assisted or participated or refused to participate in any manner in an investigation, proceeding, or hearing under those laws and/or this policy, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws and/or this policy.

Retaliation against a person for making a report of discrimination, filing a formal complaint, or participating in an investigation or meeting is a serious violation of this policy that can result in imposition of disciplinary sanctions/consequences and/or other appropriate remedies.

Formal complaints alleging retaliation may be filed according to the internal complaint process set forth above.

The exercise of rights protected under the First Amendment of the United States Constitution does not constitute retaliation prohibited under this policy.

VII. Training

The compliance officers will also oversee the training of employees in the District so that all employees understand their rights and responsibilities under Federal and State law, and are informed of the Board's policies and practices with respect to fully implementing and complying with the requirements of Federal and State law.

VIII. Notice

Notice of the Board's policy on nondiscrimination in employment practices and the identity of the compliance officers will be posted throughout the District, and published in the District's recruitment statements or general information publications as required by Federal and State law and this policy.

IX. Retention of Investigatory Records and Materials

The Compliance Officer(s) is responsible for overseeing retention of all records that must be maintained pursuant to this

policy. All individuals charged with conducting investigations under this policy shall retain all information, documents, electronically stored information ("ESI"), and electronic media (as defined in Policy 8315) created and received as part of an investigation.

The information, documents, ESI, and electronic media (as defined in Policy 8315) retained may include public records and records exempt from disclosure under Federal and/or State law (e.g., student records).

The information, documents, ESI, and electronic media (as defined in Policy 8315) created or received as part of an investigation shall be retained in accordance with Policy 8310, Policy 8315, Policy 8320, and Policy 8330 for not less than three (3) years, but longer if required by the District's records retention schedule.

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Revised 10/6/15

Revised 4/5/16

Revised 8/7/18

Revised 7/7/20

Revised 7/27/21

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Legal

- F.S. 110.1221
- F.S. 250.481
- F.S. 760.01
- F.S. 760.10
- F.S. 1000.05
- 20 U.S.C. 1681 et seq., Title IX
- 29 U.S.C. 621 et seq., Age Discrimination in Employment Act of 1967
- 29 U.S.C. 701 et seq., Rehabilitation Act of 1973
- 42 U.S.C. 2000e, et seq., Civil Rights Act of 1964
- 42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act
- 42 U.S.C. 12112, Americans with Disabilities Act of 1990
- 29 C.F.R. Part 1635
- 38 U.S.C. 4301 et seq., The Uniformed Services Employment and Reemployment Rights Act



Book	Policy Manual
Section	4000 Support Staff
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4362 - **ANTI-HARASSMENT**

I. General Policy Statement

It is the policy of the Board to maintain an educational and work environment that is free from all forms of unlawful harassment, including sexual harassment. This commitment applies to all District operations, programs, and activities. All students, administrators, teachers, staff, and all other school personnel share responsibility for avoiding, discouraging, and reporting any form of unlawful harassment. This policy applies to unlawful conduct occurring on school property or at another location if such conduct occurs during an activity sponsored by the Board.

The Superintendent will vigorously enforce its prohibition against discriminatory harassment on the basis of race (including anti-Semitism), ethnicity, color, national origin, sex (including sexual orientation, gender status, or gender identity), disability (including HIV, AIDS, or sickle cell trait), pregnancy, marital status, age (except as authorized by law), religion, military status, ancestry, or genetic information which are classes protected by State and/or Federal law (collectively, "protected classes") (hereinafter referred to as unlawful harassment), and encourages those within the District community as well as Third Parties, who feel aggrieved to seek assistance to rectify such problems. The Superintendent will investigate all allegations of unlawful harassment and in those cases where unlawful harassment is substantiated, the Superintendent will take immediate steps to end the harassment, prevent its reoccurrence, and remedy its effects. Individuals who are found to have engaged in unlawful harassment will be subject to appropriate disciplinary action.

Further, nothing in this policy shall be construed to abridge the rights of students or school employees that are protected by the First Amendment to the Constitution of the United States.

II. Other Violations of the Anti-Harassment Policy

The Superintendent will also take immediate steps to impose disciplinary action on individuals engaging in any of the following prohibited acts:

- A. Retaliating against a person who has made a report or filed a complaint alleging unlawful harassment, or who has participated as a witness in a harassment investigation.
- B. Filing a malicious or knowingly false report or complaint of unlawful harassment.
- C. Disregarding, failing to investigate adequately, or delaying the investigation of allegations of unlawful harassment, when responsibility for reporting and/or investigating unlawful harassment charges comprises part of one's supervisory duties.

III. Definitions

Words used in this policy shall have those meanings defined herein; words not defined herein shall be construed according to their plain and ordinary meanings.

Complainant is the individual who alleges, or is alleged, to have been subjected to unlawful harassment, regardless of whether the person files a formal complaint or is pursuing an informal resolution to the alleged harassment.

Respondent is the individual who has been alleged to have engaged in unlawful harassment, regardless of whether the reporting party files a formal complaint or is seeking an informal resolution to the alleged harassment.

District community means students and Board employees (i.e., administrators, and professional and classified staff), as well as Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Board.

Third Parties include, but are not limited to, guests and/or visitors on District property (e.g., visiting speakers, participants on opposing athletic teams, parents), vendors doing business with or seeking to do business with the Board, and other individuals who come in contact with members of the District community at school-related events/activities (whether on or off District property).

Day(s): Unless expressly stated otherwise, the term "day" or "days" as used in this policy means business day(s) (i.e., a day(s) that the Board office is open for normal operating hours, Monday – Friday, excluding State-recognized holidays).

A. Bullying

Bullying rises to the level of unlawful harassment when one or more persons systematically and chronically inflict physical hurt or psychological distress on one (1) or more students or employees and that bullying is based upon sex, race (including anti-Semitism), color, national origin, religion, or disability, that is, characteristics that are protected by Federal civil rights laws. It is defined as any unwanted and repeated written, verbal, or physical behavior, including any threatening, insulting, or dehumanizing gesture, by an adult or student, that is severe or pervasive enough to create an intimidating, hostile, or offensive educational environment; cause discomfort or humiliation; or unreasonably interfere with the individual's school performance or participation. This unlawful harassment may include, but not be limited to, the following:

1. teasing;
2. threats;
3. intimidation;
4. stalking;
5. cyberstalking;
6. cyberbullying;
7. physical violence;
8. theft;
9. sexual, religious, or racial harassment;
10. public humiliation; or
11. destruction of property.

B. "Harassment" means any threatening, insulting, or dehumanizing gesture, use of data or computer software, or written, verbal, or physical conduct directed against a student or a school employee that:

1. places a student or school employee in reasonable fear of harm to his/her person or damage to his/her property;
2. has the effect of substantially interfering with a student's educational performance, opportunities, or benefits;
or
3. has the effect of substantially disrupting the orderly operation of a school.

C. Sexual Harassment

For purposes of this policy and consistent with Title VII of the Civil Rights Act of 1964, "sexual harassment" is defined as:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when:

1. Submission to such conduct is made either implicitly or explicitly a term or condition of an individual's employment, or status in a class, educational program, or activity.
2. Submission or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individual.
3. Such conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity.

Sexual harassment may involve the behavior of a person of any gender against a person of the same or another gender.

Sexual Harassment covered by Policy 2266 – Nondiscrimination on the Basis of Sex in Education Programs or Activities is not included in this policy. Allegations of such conduct shall be addressed solely by Policy 2266.

Prohibited acts that constitute sexual harassment under this policy may take a variety of forms. Examples of the kinds of conduct that may constitute sexual harassment include, but are not limited to:

1. Unwelcome sexual propositions, invitations, solicitations, and flirtations.
2. Unwanted physical and/or sexual contact.
3. Threats or insinuations that a person's employment, wages, academic grade, promotion, classroom work or assignments, academic status, participation in athletics or extra-curricular programs, activities, or events, or other conditions of employment or education may be adversely affected by not submitting to sexual advances.
4. Unwelcome verbal expressions, including graphic sexual commentaries about a person's body, dress, appearance, or sexual activities; the unwelcome use of sexually degrading language, profanity, jokes, or innuendoes; unwelcome suggestive or insulting sounds or whistles; obscene telephone calls.
5. Sexually suggestive objects, pictures, graffiti, videos, posters, audio recordings, or literature, placed in the work or educational environment, that may reasonably embarrass or offend individuals.
6. Unwelcome and inappropriate touching, patting, or pinching; obscene gestures.
7. Asking about, or telling about, sexual fantasies, sexual preferences, or sexual activities.
8. Speculations about a person's sexual activities or sexual history, or remarks about one's own sexual activities or sexual history.
9. Giving unwelcome personal gifts such as lingerie that suggest the desire for a romantic relationship.
10. Leering or staring at someone in a sexual way, such as staring at a person's breasts, buttocks, or groin.
11. A pattern of conduct, which can be subtle in nature, that has sexual overtones and is intended to create or has the effect of creating discomfort and/or humiliation to another.
12. Consensual sexual relationships where such relationship leads to favoritism of a subordinate employee with whom the superior is sexually involved and where such favoritism adversely affects other employees or otherwise creates a hostile work environment.
13. Verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping that does not involve conduct of a sexual nature.
14. Inappropriate boundary invasions by a District employee or other adult member of the District community into a student's personal space and personal life.

Not all behavior with sexual connotations constitutes unlawful sexual harassment. Sex-based and gender-based conduct must be sufficiently severe, pervasive, and persistent such that it adversely affects, limits, or denies an individual's employment, or such that it creates a hostile or abusive employment or educational environment.

D. Sexual Cyberharassment

Pursuant to Florida law, "sexual cyberharassment" means to publish to an Internet website or disseminate through

electronic means to another person a sexually explicit image of a person that contains or conveys the personal identification information of the depicted person without the depicted person's consent, contrary to the depicted person's reasonable expectation that the image would remain private, for no legitimate purpose, with the intent of causing substantial emotional distress to the depicted person. Evidence that the depicted person sent a sexually explicit image to another person does not, on its own, remove his/her reasonable expectation of privacy for that image. Sexual cyberharassment may be a form of sexual harassment.

E. Race/Color Harassment (Including Anti-Semitism)

Prohibited racial harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's race or color and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's race or color, such as racial slurs, nicknames implying stereotypes, epithets, and/or negative references relative to racial customs.

Prohibited anti-Semitism harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's Jewish heritage and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is based upon a certain perception of the Jewish people, which may be expressed as hatred toward Jewish people, rhetorical and physical manifestations of anti-Semitism directed toward a person, his/her property, or toward Jewish community institutions or religious facilities.

F. Disability Harassment

Prohibited disability harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's disability and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's disability, such as negative comments about speech patterns, movement, physical impairments or defects/appearances, or the like. Such harassment may further occur where conduct is directed at or pertains to a person's genetic information.

G. Pregnancy Harassment

Prohibited pregnancy harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's pregnancy and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's pregnancy and condition of pregnancy.

IV. Reports and Complaints of Harassing Conduct

Members of the District community and Third Parties, which includes all staff, are encouraged to promptly report incidents of unlawful harassing conduct to an administrator, supervisor or other District official so that the Superintendent may address the conduct before it becomes severe, pervasive, or persistent. Any administrator, supervisor, or other District official who receives such a report shall file it with the District's Anti-Harassment Compliance Officer within two (2) days of receiving the report of harassment.

Members of the District community and Third Parties who believe they have been unlawfully harassed by another member of the District community or a Third Party are entitled to utilize the Board's complaint process that is set forth below. Initiating a complaint, whether formally or informally, will not adversely affect the Complainant's employment or participation in educational or extra-curricular programs unless the Complainant makes the complaint maliciously or with the knowledge that it is false. While there are no time limits for initiating complaints of harassment under this policy, individuals should make every effort to file a complaint as soon as possible after the conduct occurs while the facts are known and potential witnesses are available.

If, during an investigation of reported act of bullying and/or harassment in accordance with Policy 5517.01 – Bullying and Harassment, the principal or his/her designee believes that the reported misconduct may have created a hostile work environment and may have constituted unlawful discriminatory harassment based on sex, race (including anti-Semitism), color, national origin, religion, or disability, the principal or his/her designee will report the act of bullying and/or harassment to one of the Compliance Officers who shall investigate the allegation in accordance with this policy. If the alleged harassment involves Sexual Harassment as defined by Policy 2266, the matter will be handled in accordance with the grievance process and procedures outlined in Policy 2266. While the Compliance Officer investigates the allegation, or while the matter is being

addressed pursuant to Policy 2266, the Principal shall suspend Policy 5517.01 investigation to await the Compliance Officer's written report or the determination of responsibility pursuant to Policy 2266. The Compliance Officer shall keep the Principal informed of the status of the Policy 4362 investigation and provide the Principal with a copy of the resulting written report. Likewise, the Title IX Coordinator will provide the Principal with the determination of responsibility that results from the Policy 2266 grievance process.

A. Compliance Officers

The following person is designated as the Compliance Officer, ADA Coordinator, and Title IX Coordinator:

Sheila Blue, Equity Manager
7227 Land O'Lakes Blvd.
Land O'Lakes, Florida 34638
813-794-2679
sblue@pasco.k12.fl.us

The following person is designated as the Section 504 Compliance Officer:

Melissa Musselwhite, Director of Student Support Services and Programs
7227 Land O'Lakes Blvd.
Land O'Lakes, Florida 34638
(813) 794-2627
mmusselw@pasco.k12.fl.us

The name(s), title(s), and contact information of this/these individual(s) will be published annually on the District's website.

The names, titles, and/or contact information of the persons presently serving as Compliance Officers may change from time to time, and such changes shall be deemed technical corrections within the meaning of Bylaw 0131.1 and shall be made pursuant to that bylaw.

B. Duties and Responsibilities

A Compliance Officer will be available during regular school/work hours to discuss concerns related to unlawful harassment, to assist students, other members of the District community, and Third Parties who seek support or advice when informing another individual about "unwelcome" conduct, or to intercede informally on behalf of the individual in those instances where concerns have not resulted in the filing of a formal complaint and where all parties are in agreement to participate in an informal process.

Any Board employee who directly observes unlawful harassment of a student is obligated, in accordance with this policy, to report such observations to one of the Anti-Harassment Compliance Officers within two (2) days. Thereafter, the Compliance Officer or designee must contact the Complainant, if over age eighteen (18) or the Complainant's parents/guardians if the Complainant is under the age eighteen (18), within two (2) days to advise of the Superintendent's intent to investigate the alleged misconduct, including the obligation of the compliance officer or designee to conduct an investigation following all the procedures outlined for a formal complaint.

Compliance Officers are assigned to accept complaints of unlawful harassment directly from any member of the District community or a visitor to the District or to receive complaints which are initially filed with a school building administrator. Upon receipt of a complaint either directly or through a school building administrator, the Compliance Officer will begin either an informal or formal process (depending on the request of the member of the District community alleging harassment), or the Compliance Officer will designate a specific individual to conduct such a process. In the case of a formal complaint, the Compliance Officer will prepare, after consultation with the Board Attorney, recommendations for the Superintendent or will oversee the preparation of such recommendations by a designee. All members of the District community must report incidents of unlawful harassment that are reported to them to a Compliance Officer within five (5) days of learning of the incident.

V. **Investigation and Complaint Procedure**

Except for Sexual Harassment that is covered by Policy 2266 - Nondiscrimination on the Basis of Sex in Education Program or Activities, any employee or other member of the District community or Third Party who believes that they have been subjected to unlawful harassment may seek resolution of the complaint through the procedures described below. The formal complaint process involves an investigation of the Complainant's claims of harassment or retaliation and a process for rendering a decision regarding whether the charges are substantiated.

Due to the sensitivity surrounding complaints of unlawful harassment or retaliation, time lines are flexible for initiating the

complaint process; however, individuals should make every effort to file a complaint within thirty (30) days after the conduct occurs while the facts are known and potential witnesses are available. Once the formal complaint process is begun, the investigation will be completed in a timely manner (ordinarily, within fifteen (15) days of the complaint being received).

The procedures set forth below are not intended to interfere with the rights of any individual to pursue a complaint of unlawful harassment or retaliation with the United States Department of Education, Office for Civil Rights, the Florida Civil Rights Commission, and/or the Equal Employment Opportunity Commission.

A. Informal Complaint Procedure

The goal of the informal complaint procedure is to promptly stop inappropriate behavior and to facilitate resolution through an informal means, if possible. The informal complaint procedure is provided as a less formal option for a student, other member of the District community, or Third Party who alleges unlawful harassment or retaliation. This informal procedure is not required as a precursor to the filing of a formal complaint.

Employees, other members of the District community, or Third Parties who believe that they have been unlawfully harassed or retaliated against may initiate their complaint through this informal complaint process, but are not required to do so. The informal process is only available in those circumstances where the Complainant and the Respondent mutually agree to participate in it.

The Complainant may proceed immediately to the formal complaint process and individuals who seek resolution through the informal procedure may request that the informal process be terminated at any time to move to the formal complaint process.

All complaints involving a District employee, any other adult member of the District community, or a Third Party and a student will be formally investigated.

As an initial course of action, if a Complainant feels comfortable and safe in doing so, the individual should tell or otherwise inform the Respondent that the alleged harassing conduct is unwelcome and must stop. The Complainant should address the allegedly harassing conduct as soon after it occurs as possible. The Compliance Officers is available to support and counsel individuals when taking this initial step or to intervene on behalf of the Complainant if requested to do so. A Complainant who is uncomfortable or unwilling to directly approach the Respondent about the allegedly inappropriate conduct may file an informal or a formal complaint. In addition, with regard to certain types of unlawful harassment, such as sexual harassment, the Compliance Officer may advise against the use of the informal complaint process.

A Complainant may make an informal complaint, either orally or in writing: (1) to a teacher, other employee, or building administrator; (2) to the Superintendent or other District-level employee; and/or (3) directly to one of the Compliance Officers.

All informal complaints must be reported to the Compliance Officers who will either facilitate an informal resolution as described below or appoint another individual to facilitate an informal resolution.

The District's informal complaint procedure is designed to provide employees, other members of the District community, or Third Parties who believe they are being unlawfully harassed by another individual with a range of options designed to bring about a resolution of their concerns. Depending upon the nature of the complaint and the wishes of the Complainant, informal resolution may involve, but not be limited to, one or more of the following:

1. Advising the Complainant about how to communicate the unwelcome nature of the behavior to the Respondent.
2. Distributing a copy of this policy as a reminder to the individuals in the school building or office where the Respondent works or attends.
3. If both parties agree, the Compliance Officers may arrange and facilitate a meeting or mediation between the Complainant and Respondent to work out a mutual resolution.

While there are no set time limits within which an informal complaint must be resolved, the Compliance Officers or designee is directed to attempt to resolve all informal complaints within fifteen (15) days of receiving the informal complaint. If the Complainant is dissatisfied with the informal complaint process, the Complainant may proceed to file a formal complaint. And, as stated above, either party may request that the informal process be terminated at any time to move to the formal complaint process.

B. Formal Complaint Procedure

If a complaint is not resolved through the informal complaint process, if one of the parties has requested that the informal complaint process be terminated to move to the formal complaint process, or the Complainant, from the

outset, elects to file a formal complaint, or the CO determines the allegations are not appropriate for resolution through the informal process, the formal complaint process as described below shall be implemented.

This formal complaint process is not intended to interfere with the rights of an employee, other member of the District community, or third party to pursue a complaint of unlawful harassment with the United States Department of Education, Office for Civil Rights, the Florida Civil Rights Commission, or the Equal Employment Opportunity Commission.

The Complainant may file a formal complaint, either orally or in writing with a teacher, principal, or other District official, the Compliance Officer, Superintendent, or other District official. Due to the sensitivity surrounding complaints of unlawful harassment and retaliation, time lines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) days after the conduct occurs while the facts are known and potential witnesses are available. If a Complainant informs a teacher, principal, or other District official, the Compliance Officer, Superintendent, or other District official, either orally or in writing, about any complaint of harassment, that employee must report such information to the Compliance Officer within two (2) days.

Throughout the course of the process as described herein, the Compliance Officer should keep the parties informed of the status of the investigation and the decision-making process.

All formal complaints must include the following information to the extent known: the identity of the Respondent; a detailed description of the facts upon which the complaint is based (i.e., when, where, and what occurred); a list of potential witnesses; and the resolution sought by the complainant.

If the Complainant is unwilling or unable to provide a written statement including the information set forth above, the Compliance Officer shall ask for such details in an oral interview. Thereafter the Compliance Officer will prepare a written summary of the oral interview, and the complainant will be asked to verify the accuracy of the reported charge by signing the document.

Upon receiving a formal complaint, the Compliance Officer will consider whether any action should be taken in the investigatory phase to protect the Complainant from further harassment or retaliation including but not limited to a change of work assignment or schedule for the Complainant and/or the Respondent. In making such a determination, the Compliance Officer should consult the Complainant to assess his/her agreement to any action deemed appropriate. If the complainant is unwilling to consent to any change that is deemed appropriate by the Compliance Officer, the Compliance Officer may still take whatever actions deemed appropriate in consultation with the Superintendent and/or Board Attorney.

Within two (2) days of receiving a formal complaint, the Compliance Officer or a designee will initiate a formal investigation to determine whether the complainant has been subjected to offensive conduct/harassment/retaliation. The Principal will not conduct an investigation unless directed to do so by the Compliance Officer.

Simultaneously, the Compliance Officer will inform the Respondent that a formal complaint has been received. The respondent will be informed about the nature of the allegations and a copy of any relevant policies and/or administrative procedures and the Board's anti-harassment policy shall be provided to the respondent at that time. The respondent must also be informed of the opportunity to submit a written response to the formal complaint within five (5) days.

Although certain cases may require additional time, the Compliance Officer or a designee will attempt to complete an investigation into the allegations of harassment/retaliation within fifteen (15) days of receiving the formal complaint. The investigation will include:

1. interviews with the Complainant;
2. interviews with the Respondent;
3. interviews with any other witnesses who may reasonably be expected to have any information relevant to the allegations;
4. consideration of any documentation or other evidence presented by the complainant, respondent, or any other witness which is reasonably believed to be relevant to the allegations.

At the conclusion of the investigation, the Compliance Officer/designee may consult with the Board Attorney. A written report shall then be prepared and delivered to the Superintendent which summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of unlawful harassment as provided in Board policy and State and Federal law as to whether the Respondent engaged in unlawful harassment/retaliation of the Complainant. The Compliance Officer's recommendations must be based upon the totality of the circumstances, including the ages and maturity levels of those involved. In determining if discriminatory

harassment or retaliation occurred, a preponderance of evidence standard will be used. The Compliance Officer may consult with the Board Attorney before finalizing the report to the Superintendent.

Absent extenuating circumstances, within five (5) days of receiving the report of the Compliance Officer or the designee, the Superintendent must either issue a written decision regarding whether or not the complaint of harassment has been substantiated or request further investigation. A copy of the Superintendent's final decision will be delivered to both the complainant and the respondent.

If the Superintendent requests additional investigation, the Superintendent must specify the additional information that is to be gathered, and such additional investigation must be completed within five (5) days. At the conclusion of the additional investigation, the Superintendent must issue a final written decision as described above.

The decision of the Superintendent shall be final.

The Superintendent reserves the right to investigate and resolve a complaint or report of unlawful harassment regardless of whether the member of the District community or Third Party alleging the unlawful harassment pursues the complaint. The Superintendent also reserves the right to have the formal complaint investigation conducted by an external person in accordance with this policy or in such other manner as deemed appropriate by the Superintendent.

The parties may be represented, at their own cost, at any of the above-described meetings/hearings.

The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies such as the filing of a complaint with the Office for Civil Rights, the filing of charges with local law enforcement, or the filing of a civil action in court. Use of this internal complaint process is not a prerequisite to the pursuit of other remedies.

VI. Privacy/Confidentiality

The District will employ all reasonable efforts to protect the rights of the Complainant, the Respondent, and the witnesses as much as possible, consistent with the Board's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations. All records generated under the terms of this policy and related administrative procedures shall be maintained as confidential to the extent permitted by law. Confidentiality, however, cannot be guaranteed. Additionally, the Respondent must be provided the Complainant's identity.

During the course of a formal investigation, the Compliance Officer or designee will instruct all members of the District community and third parties who are interviewed about the importance of maintaining confidentiality. Any individual who is interviewed as part of a harassment investigation is expected not to disclose any information that is learned or provided during the course of the investigation.

All public records created as a part of an investigation of a complaint of harassment will be maintained by the Compliance Officer in accordance with the Board's records retention policy. Any records which are considered student records in accordance with the *Family Educational Rights and Privacy Act* will be maintained in a manner consistent with the provisions of the Federal and State laws.

VII. Sanctions and Monitoring

The Superintendent shall vigorously enforce the Board's prohibitions against unlawful harassment by taking appropriate action reasonably calculated to stop the harassment/retaliation and prevent further such harassment. While observing the principles of due process, a violation of this policy may result in disciplinary action up to and including the discharge of an employee or the suspension/expulsion of a student. All disciplinary action will be taken in accordance with applicable State law and the terms of the relevant collective bargaining agreement(s). When imposing discipline, the Superintendent shall consider the totality of the circumstances involved in the matter, including the ages and maturity levels of those involved. In those cases where unlawful harassment is not substantiated, the Superintendent may consider whether the alleged conduct nevertheless warrants discipline in accordance with other Board policies, consistent with the terms of the relevant collective bargaining agreement(s).

Where the Superintendent becomes aware that a prior remedial action has been taken against a member of the District community, all subsequent sanctions imposed by the Board and/or Superintendent shall be reasonably calculated to end such conduct, prevent its reoccurrence, and remedy its effects.

VIII. Retaliation

Retaliation against a person who makes a report or files a complaint alleging unlawful harassment/retaliation or participates as a witness in an investigation is prohibited. Neither the Board nor any other person may intimidate, threaten, coerce or interfere with any individual because the person opposed any act or practice made unlawful by any Federal or State civil rights law, or because that individual made a report, formal complaint, testified, assisted or participated or refused to

participate in any manner in an investigation, proceeding, or hearing under those laws and/or this policy, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws and/or this policy.

Retaliation against a person for making a report of discrimination, filing a formal complaint, or participating in an investigation or meeting is a serious violation of this policy that can result in imposition of disciplinary sanctions/consequences and/or other appropriate remedies.

Formal complaints alleging retaliation may be filed according to the internal complaint process set forth above.

The exercise of rights protected under the First Amendment of the United States Constitution does not constitute retaliation prohibited under this policy.

IX. Allegations Constituting Criminal Conduct: Child Abuse/Sexual Misconduct

State law requires any teacher or school employee who knows or suspects that a child under the age of eighteen (18) is a victim of child abuse or neglect to immediately report that knowledge or suspicion to the Department of Children and Family Services. If, during the course of a harassment investigation, the Compliance Officer or a designee has reason to believe or suspect that the alleged conduct reasonably indicates abuse or neglect of the complainant, a report of such knowledge must be made in accordance with State law and Board policy.

If the Compliance Officer or a designee has reason to believe that the complainant has been the victim of criminal conduct as defined under Florida law, such knowledge should be reported to local law enforcement.

Any reports made to the local child protection service or to local law enforcement shall not terminate the Compliance Officer's or a designee's obligation and responsibility to continue to investigate a complaint of harassment. While the Compliance Officers or a designee may work cooperatively with outside agencies to conduct concurrent investigations, in no event shall the harassment investigation be inhibited by the involvement of outside agencies without good cause after consultation with the Superintendent.

X. Mandatory Reporting of Misconduct by Certificated Employees

The Superintendent is required by State law and Board Policy 8141 to report alleged misconduct by certificated employees of the District that affects the health, safety, or welfare of a student. In accordance with Board policy and State law, the Superintendent shall investigate each allegation of such conduct and, if confirmed, shall report such misconduct pursuant to Policy 8141.

XI. Education and Training

In support of this policy, the Board promotes preventative educational measures to create greater awareness of unlawful discriminatory practices. The Superintendent or designee shall provide appropriate information to all members of the District community related to the implementation of this policy and shall provide training for District students and staff where appropriate. All training, as well as all information provided regarding this policy and harassment in general, will be age and content appropriate.

XII. Retention of Investigatory Records and Materials

The Compliance Officer(s) is responsible for overseeing retention of all records that must be maintained pursuant to this policy. All individuals charged with conducting investigations under this policy shall retain all information, documents, electronically stored information ("ESI"), and electronic media (as defined in Policy 8315) created and received as part of an investigation.

The information, documents, ESI, and electronic media (as defined in Policy 8315) retained may include public records and records exempt from disclosure under Federal and/or State law (e.g., student records).

The information, documents, ESI, and electronic media (as defined in Policy 8315) created or received as part of an investigation shall be retained in accordance with Policy 8310, Policy 8315, Policy 8320, and Policy 8330 for not less than three (3) years, but longer if required by the District's records retention schedule.

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Revised 8/7/18

Revised 7/7/20

Revised 7/27/21

Legal

F.S. 110.1221

F.S. 250.481

F.S. 760.01

F.S. 760.10

F.S. 784.049

F.S. 1000.05

F.S. 1006.07

20 U.S.C. 1400 et seq., The Individuals with Disabilities Improvement Act of 2004, as amended (commonly known as the Individuals with Disabilities Act)

20 U.S.C. 1681 et seq.

29 U.S.C. 621 et seq., Age Discrimination in Employment Act of 1967

29 U.S.C. 794, Rehabilitation Act of 1973

29 C.F.R. Part 1635

29 U.S.C. 6101, The Age Discrimination Act of 1975

38 U.S.C. 4301 et seq., The Uniformed Services Employment and Reemployment Rights Act

42 U.S.C. 12101 et seq., Americans with Disabilities Act of 1990, as amended

42 U.S.C. 2000d et seq.

42 U.S.C. 2000e et seq.

42 U.S.C. 1983

42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act



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4470 - **SUPPORT STAFF COMPLAINTS AND GRIEVANCES**

The Board encourages the prompt and fair handling of problems before they become formal grievances. The grievance procedure shall be followed objectively so that no individual should fear retribution for seeking full satisfaction of the problem. Support staff who are included in a collective bargaining unit are subject to the provisions of the grievance procedure contained in the applicable collective bargaining unit.

Definitions

A grievance is a claim by an employee(s) or applicant(s) for employment of an alleged infraction or misinterpretation of a provision of a policy, procedure, or agreement which was adopted by the Board.

A complaint/grievance which alleges discrimination and/or harassment is one in which a claim is made of an infraction or misinterpretation of a provision of the policy of nondiscrimination or the policy which assures freedom from harassment based on an individual's race, religion, color, gender, ethnicity, national origin, age, marital status, or disability.

Purpose

To encourage prompt and equitable solutions and to ensure that no person need fear coercion, interference, restraint, discrimination, or reprisal for utilizing the procedure. The District will investigate any reports of discrimination or harassment or known instances of discrimination or harassment whether or not the individual who allegedly is the subject of discrimination or harassment files either a formal or informal complaint.

Complaints should be addressed as soon as possible following the alleged infraction. In cases which involve alleged discrimination and/or harassment, including sexual harassment, the initial complaint or report of any alleged infraction should be made within thirty (30) days of the alleged infraction, although the District will investigate any such complaints which are made within one (1) year of the alleged discrimination and/or harassment. All complaints and grievances will be dealt with in a confidential manner to the fullest extent as required by law.

Steps

A. Step 1

A person who feels aggrieved shall orally and informally confer with the administrator or other individual involved. In cases which involve alleged discrimination and/or harassment, including sexual harassment, the person may begin the process at the third step.

B. Step 2

If a solution is not reached at Step 1, the person may file a grievance in writing to the immediate supervisor.

A formal grievance shall be filed as soon as possible but in no event longer than twenty (20) working days after the grievant knew or could reasonably have been expected to know of the occurrence or action giving rise to the grievance.

The written statement shall include a description of the alleged violation, the date of the alleged violation, a suggested resolution, and the signature of the grievant.

C. Step 3

If the grievance is unresolved at Step 2, the grievant may request in writing within five (5) working days a review by the Superintendent or his designee. In cases which involve alleged discrimination and/or harassment, including sexual harassment, the review will be handled by the assistant superintendent for administration or his designee.

The written request shall include a copy of the original grievance and the decision arrived at in Step Two. In cases which involve alleged discrimination and/or harassment, including sexual harassment, the initial complaint or report of any alleged infraction may be made in other than written form.

Within ten (10) working days after the receipt of the written request for appeal, the Superintendent or his designee shall hold a hearing on the grievance.

The person who filed the grievance and the administrator involved in Step 2 shall be given at least two (2) days' written notice of the hearing.

Within five (5) working days after the hearing, the Superintendent or designee shall communicate his decision in writing, together with supporting reasons, to all parties present at the hearing, including the grievant.

D. Step 4

If the grievance is unresolved at Step 3, the grievant may request in writing within five (5) working days a review by the Board. The appeal shall be in writing and shall include a copy of the original grievance and the decisions arrived at in Steps 2 and 3.

Within fifteen (15) working days after the receipt of the appeal, the Board shall hold a hearing.

All parties, including the person who filed the grievance, shall be given written notice at least two (2) days prior to the hearing.

Within fifteen (15) working days after the hearing on the appeal, the Board shall communicate its decision in writing, together with its supporting reasons, to the grievant.

In cases of alleged discrimination and/or harassment in employment, nothing in this policy shall prohibit an employee or applicant for employment from pursuing a grievance through the complaint and/or grievance procedures as may be established by the Instructional Master Contract or School-Related Personnel Master Contract or Federal and/or State statutes or regulations.

No person shall be subject to adverse action in retaliation for having filed a grievance or for having testified, assisted, or participated in any manner in an investigation, proceeding, or hearing conducted under the authority of this policy.