

The School Board of Pasco County
Bylaws & Policies
Administrative

1362 - ANTI-HARASSMENT

General Policy Statement

It is the policy of the Board to maintain an educational and work environment that is free from discriminatory harassment based on sex/sex-stereotyping, race, color, ethnicity, national origin, religion, marital status, disability, or genetic information that are protected by Federal civil rights laws (hereinafter referred to as unlawful 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 legally prohibited harassment. This policy applies to legally prohibited conduct occurring on school property, or at another location if such conduct occurs during an activity sponsored by the Board.

For purposes of this policy, "District community" means students, administrators, teachers, staff, as well as Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Board.

For purposes of this policy, "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).

The Board will vigorously enforce its prohibition against all forms of unlawful harassment, including sexual harassment, and encourages those within the School District community as well as third parties, who feel aggrieved to seek assistance to rectify such problems. The Board will investigate all allegations of unlawful harassment and in those cases where unlawful harassment is substantiated, the Board 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.

"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 school employee that:

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

Other Violations of the Anti-Harassment Policy

The Board 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 legally prohibited harassment, or who has participated as a witness in a harassment investigation.
- B. Filing a malicious or knowingly false report or complaint of harassment.
- C. Disregarding, failing to investigate adequately, or delaying investigation of allegations of legally prohibited harassment, when responsibility for reporting and/or investigating legally prohibited harassment charges comprises part of one's supervisory duties.

Sexual Harassment

Pursuant to Title VII of the Civil Rights Act of 1964 and Title IX of the Educational Amendments of 1972, "sexual harassment" is defined as:

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

- A. 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;
- B. Submission or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individual;
- C. 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 either gender against a person of the same or opposite gender.

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

- A. Unwelcome sexual propositions, invitations, solicitations, and flirtations.
- B. Physical assault.
- C. 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 or events, or other conditions of employment or education may be adversely affected by not submitting to sexual advances.
- D. Unwelcome verbal expressions of a sexual nature, including graphic sexual commentaries about a person's body, dress, appearance, or sexual activities; the unwelcome use of sexually degrading language, jokes or innuendoes; unwelcome suggestive or insulting sounds or whistles; obscene telephone calls.
- E. Sexually suggestive objects, pictures, videotapes, audio recordings, or literature, placed in the work or educational environment, which may embarrass or offend individuals.
- F. Unwelcome and inappropriate touching, patting, or pinching; obscene gestures.
- G. 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.
- H. Remarks speculating about a person's sexual activities or sexual history, or remarks about

one's own sexual activities or sexual history.

- I. 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.
- J. 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 legally prohibited sexual harassment. Conduct must be sufficiently severe, pervasive, and persistent such that it adversely affects an individual's employment or education, or such that it creates a hostile or abusive employment or educational environment.

NOTE: Any member of the District community who engages in sexual conduct with a student may also be guilty of a crime.

Other Unlawful Harassment

Other prohibited unlawful harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's race, color, religion, national origin, disability, etc., 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, color, religion, national origin, disability, etc, such as slurs, nicknames implying stereotypes, epithets, and/or negative references relative to a legally protected class.

Reports and Complaints of Harassing Conduct

Members of the District community, which includes all staff and third parties are encouraged to promptly report incidents of unlawfully harassing conduct to an administrator, supervisor or other District official so that the Board may address the conduct before it becomes severe, pervasive, or persistent. Any administrator, supervisor, or other District official who receives such a complaint shall file it with the District's Compliance Officer or designee within two business days.

Members of the District community or 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 knowledge that it is false. 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, color, national origin, religion, or disability, the principal or his/her designee will report the act of bullying and/or harassment to the Compliance Officer who shall investigate the allegation in accordance with this policy.

Anti-Harassment Compliance Officer

The following individual serves as the "Anti-Harassment Compliance Officer" for the District and is hereinafter referred to as the "Compliance Officer".

Title: Equity Manager
Name: Sandra May
Address: 7227 Land O'Lakes Blvd.
Land O'Lakes, FL 34638
Phone: (813) 794-2679
Fax: (813) 794-2119
E-mail: smay@pasco.k12.fl.us

The name, title, and contact information of this individual will be published annually in the parent and staff handbooks, in the School District Annual Report to the public, on the School District's website, on the "Your Employment Rights" poster prominently displayed at each worksite, and published in local newspapers.

The name, title, and/or contact information of the person presently serving as Compliance Officer 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.

The formal and informal processes for making a charge of harassment, a process for investigating claims of harassment, and a process for rendering a decision regarding whether the claim of unlawful harassment was substantiated are set forth in Policy [1122.04](#) – Complaint Procedures Related to Alleged Discrimination in Employment (Employees) and Policy [5517](#) – Anti-Harassment (Students).

This procedure will be readily available to all members of the District community and posted in appropriate places throughout the District.

Members of the District community or third parties who feel they have been legally prohibited harassed should file a formal written complaint with the worksite supervisor or the District Equity Officer identified in the anti-harassment complaint procedure. Oral complaints of harassment will be reduced to writing by the individual receiving the complaint and the complainant will be asked to verify the accuracy of the reported charge by signing the document. Complaints received by a worksite supervisor will be immediately reported to the appropriate compliance officer identified in the anti-harassment complaint procedure and the worksite supervisor will not conduct an investigation unless directed to do so by the District Equity Officer.

The complaint process set forth in the policies listed above is not intended to interfere with the rights of a member of the District community or a third party to pursue a complaint of legally prohibited harassment with the United States Department of Education, Office for Civil Rights, the Florida Civil Rights Commission, or the Equal Employment Opportunity Commission.

The Board reserves the right to investigate and resolve a complaint or report of legally prohibited harassment regardless of whether the member of the District community or third party alleging the legally prohibited harassment pursues the complaint. The Board also reserves the right to have the formal complaint investigation conducted by an external person or in such other manner as deemed appropriate by the Board or its designee.

Any Board employee who directly observes unlawful harassment of a student is obligated, in accordance with this policy, to report such observations to the District's Equity Officer. Thereafter, the Equity Officer must contact the student, if over age eighteen (18) or the student's parents if under age eighteen (18), to advise of the Board'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.

Confidentiality

The District will make reasonable efforts to maintain the confidentiality of the parties involved in an investigation of unlawful harassment. Confidentiality, however, cannot be guaranteed. All complainants proceeding through the formal investigation process should be advised that their identities may be disclosed to the respondent.

During the course of a formal investigation, the Compliance Officer or his/her designee will instruct all members of the School 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 s/he learns or that s/he provides 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 law.

Sanctions and Monitoring

The Board shall vigorously enforce its prohibitions against unlawful harassment by taking appropriate action reasonably calculated to stop the harassment 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 legally prohibited harassment is not substantiated, the Board 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 Board 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.

Retaliation

Any act of retaliation 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 is prohibited.

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.

Education and Training

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

F.S. 110.1221, 760.01, 760.10, 1000.05, 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)

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

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

29 U.S.C. 621 et seq., Age Discrimination on 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

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

20 U.S.C. 1681 et seq.

42 U.S.C. 1983

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

National School Boards Association Inquiry and Analysis - May 2008

Revised 3/1/11

Revised 10/15/13

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1470 - ADMINISTRATIVE 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.

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 Step 3.

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 of 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.

F.A.C. Chapter 6A-19
34 C.F.R. 104.7