

CHAPTER 2.00 – SCHOOL BOARD GOVERNANCE AND ORGANIZATION

2.16

PROHIBITING DISCRIMINATION, INCLUDING SEXUAL AND OTHER FORMS OF HARASSMENT

POLICY:

- 1) Policy Against Discrimination
 - a) No person shall, on the basis of race, color, religion, gender, age, marital status, sexual orientation, disability, political or religious beliefs, national or ethnic origin, or genetic information, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity, or in any employment conditions or practices conducted by this School District, except as provided by law.
 - b) The School Board shall comply with all state and federal laws, which prohibit discrimination and are designed to protect the civil rights of applicants, employees, and/or students, or other persons protected by applicable law.
 - c) The School Board shall admit students to District Schools, programs, and classes without regard to race, color, religion, gender, age, national or ethnic origin, marital status, disability or handicap.
- 2) Policy Against Sexual Harassment or Other Forms of Harassment Prohibited by Law
 - a) The School Board desires to maintain an academic and work environment in which all employees, volunteers, and students are treated with respect and dignity. A vital element of this atmosphere is the Board's commitment to equal opportunities and the prohibition of discriminatory practices. The Board's prohibition against discriminatory practices includes prohibitions against sexual harassment, or any other form of harassment based upon a person's membership in a protected class and specifically prohibited by applicable state or federal law. The School Board forbids sexual harassment, or any other form of illegal harassment, of any employee, student, volunteer or visitor. The Board will not tolerate sexual harassment, or any other form of illegal harassment by any of its employees, students, volunteers or agents.

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- b) The prohibition against discrimination including sexual and other forms of illegal harassment shall also apply to nonemployee volunteers who work subject to the control of school authorities, and to all vendors or service providers who have access to School Board facilities.

3) Definition of Sexual Harassment

- a) Prohibited sexual harassment includes, but is not limited to, requests for sexual favors, and other verbal, visual or physical conduct of a sexual nature when
 - i) Submission to the conduct is explicitly or implicitly made a term or condition of an individual's employment, academic status, or progress.
 - ii) Submission to or rejection of the conduct by an individual is used as the basis for employment or academic decisions affecting the individual.
 - iii) The conduct has the purpose or effect of having a negative impact on the individual's academic performance or employment, unreasonably interfering with the individual's education or employment, or creating an intimidating, hostile, or offensive educational or employment environment.
 - iv) Submission to or rejection of the conduct by the individual is used as the basis for any decision affecting the individual regarding any term or condition of employment, employment or academic benefits, or services, honors, programs, or activities available at or through the school.
- b) Types of conduct which are prohibited in the District and which may constitute sexual harassment include, but are not limited to
 - i) Graphic verbal comments about an individual's body or appearance.
 - ii) Sexual jokes, notes, stories, drawings, pictures or gestures.
 - iii) Sexual slurs, leering, threats, abusive words, derogatory comments or sexually degrading descriptions.
 - iv) Unwelcome sexual flirtations or propositions for sexual activity or unwelcome demands for sexual favors, including but not limited to repeated unwelcome requests for dates.
 - v) Spreading sexual rumors.

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- vi) Touching an individual's body or clothes (including one's own) in a sexual way, including, but not limited to, grabbing, brushing against, patting, pinching, bumping, rubbing, kissing, and fondling.
- vii) Cornering or blocking normal movements.
- viii) Displaying sexually suggestive drawings, pictures, written materials, and objects in the educational environment.

4) Definition of Other Forms of Prohibited Harassment

- a) Illegal harassment on the basis of any other characteristic protected by state or federal law is strictly prohibited. This includes verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of his/her race, color, religion, gender, national origin, age, disability, marital status, sexual orientation, citizenship, or genetic information or any other characteristic protected by law and that
 - i) Has the purpose or effect of creating an intimidating, hostile or offensive work or academic environment
 - ii) Has the purpose or effect of interfering with an individual's work or academic performance; or
 - iii) Otherwise, adversely affects an individual's employment or academic performance.
- b) Examples of prohibited actions, which may constitute harassment include, but are not limited to, the following:
 - i) Epithets, slurs or negative stereotyping;
 - ii) Threatening, intimidating or hostile acts, such as stalking; or
 - iii) Written or graphic material that denigrates or shows aversion toward an individual or group and that is placed on walls, or elsewhere on the school or District office premises or circulated in the workplace or academic environment.

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5) Retaliation Prohibited

- a) Any act of retaliation against an individual who files a complaint alleging a violation of the District's antidiscrimination policy and/or sexual or illegal harassment policy or who participates in the investigation of a discrimination complaint is prohibited.
- b) Retaliation may include, but is not limited to, any form of intimidation, reprisal or harassment based upon participation in the investigation of, or filing a complaint of, discrimination.

6) Procedures for Filing Complaint of Discrimination, Sexual Harassment, or Other Form of Illegal Harassment

a) Procedures for Filing Complaints

- i) Any person who believes that he or she has been discriminated against, or placed in a hostile environment based on gender, marital status, sexual orientation, race, national origin, religion, age or disability by an employee, volunteer, agent or student of the School District should within sixty (60) days of alleged occurrence file a written or oral complaint. The complaint should set forth a description of the alleged discriminatory actions/harassment, the time frame in which the alleged discrimination occurred, the person or persons involved in the alleged discriminatory actions, and any witnesses or other evidence relevant to the allegations in the complaint.
- ii) The complaint should be filed with the School Principal, Site Administrator or supervisor. Complaints filed with the Principal, Site Administrator, or supervisor must be forwarded to the District's EEO Officer within five (5) days of the filing of the complaint. If the complaint is against the principal or site administrator, the complaint may be filed directly with the EEO officer.
- iii) If the complaint is against the District's EEO Officer, the Superintendent, or other member of the School Board, the complaint may be filed with the School Board Attorney.

b) Procedures for Processing Complaints

- i) Complaints filed against persons other than the Superintendent or member of the School Board.

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Upon receipt of the written complaint by the District EEO Officer, the District EEO Officer shall appoint an investigator to conduct an investigation of the allegations in the complaint. The investigator shall interview the complainant and the accused; interview any witnesses identified by the complainant, accused, or by other sources; take statements from all witnesses; and review any relevant documents or other evidence. Upon completing a review of all evidence relevant to the complaint, the investigator shall prepare a written summary of the investigation, and make a recommendation to the District EEO Officer as to whether there is reasonable cause to believe a violation of the District's antidiscrimination policy has occurred. Copies of documents, evidence and witness statements which were considered in the investigation must be sent to the EEO officer along with the summary and recommendation.

If the complaint is against the EEO officer, the School Board Attorney shall appoint an investigator, who shall conduct an investigation in the manner set forth in section VI.B.1.a.

The investigation, summary, relevant documents, witnesses' statements and recommendation should be completed and forwarded to the EEO Officer within thirty (30) days, or to the School Board Attorney within thirty (30) days, if the complaint is against the EEO Officer. The EEO Officer, or School Board Attorney, respectively, shall review the investigation summary, evidence and recommendation, and determine within ten (10) days whether there is reasonable cause to believe a discriminatory practice occurred.

If the EEO Officer or School Board Attorney determines there is reasonable cause to believe a violation of the nondiscriminatory policy occurred, he or she shall within ten (10) days provide notice of the reasonable cause finding to the complainant and the accused. The EEO Officer or School Board Attorney shall then forward the investigatory file, reasonable cause determination, and all related documents and evidence, to the Superintendent.

If the EEO Officer or School Board Attorney determines, after a review of the investigation, summary, recommendation and other evidence, that there is no reasonable cause to believe a discriminatory practice occurred, he or she shall provide within ten (10) days notice of the finding of no reasonable cause to the complainant and accused.

The complainant may request a no reasonable cause finding by the EEO Officer or School Board Attorney be reviewed by the Superintendent within ten (10) days of receipt of this notice. The complainant shall provide a written statement detailing facts in support of his or her disagreement with the

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determination. The complainant will also be given an opportunity to meet with the Superintendent and EEO Officer/School Board Attorney to present his or her position. The Superintendent and EEO Officer/School Board Attorney shall prepare a written memorandum summarizing the content of the conference to be included in the complaint file. The Superintendent shall within ten (10) days of receipt of the notice make a final determination as to whether there is reasonable cause to believe a discriminatory practice occurred.

If review by the Superintendent is not timely requested, the EEO Officer or School Board Attorney's determination of no reasonable cause shall be final.

The accused may request, within ten (10) days of receipt of a notice of a finding of reasonable cause, that the determination be reviewed by the Superintendent. The request must include a written statement expressing the accused's position on the complaint and findings, and address any facts, statements or evidence which he or she submits are inaccurate. The accused will be given an opportunity to meet with the Superintendent and the EEO Officer/School Board Attorney to present his or her position. The Superintendent and EEO Officer/School Board Attorney must within ten (10) days of receipt of the notice prepare a memorandum summarizing the content of the meeting to be included in the complaint file.

After providing the opportunity for an informal hearing as referenced in section VI.B.I.h., the Superintendent shall evaluate all the evidence, the investigation summary, recommendations and findings, along with any input by the accused and complainant, and make a final determination as to whether there is reasonable cause to support the complainant's allegations. He or she shall then determine any necessary disciplinary, remedial, or other action. Notice of the final disposition of the complaint and any disciplinary and/or remedial action shall within ten (10) days of the informal hearing be forwarded to the accused and the complainant, and a copy of the notice will be filed with and maintained in the office of the District EEO Officer and the Personnel Director.

ii) Complaints against School Board Members or against the Superintendent

Complaints against School Board Members or the Superintendent shall be filed with the School Board Attorney. The School Board Attorney will within twenty (20) days appoint an outside, independent investigator to conduct an investigation and make a recommendation as to whether a discriminatory practice has occurred. It is recommended, but not mandatory, that the investigator be an attorney familiar with federal and state law prohibiting discrimination on the basis of a protected status.

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The complainant and accused shall be interviewed by the outside investigator. Both shall provide written lists of witnesses to be interviewed, and documents or other evidence to be reviewed as relevant to the complaint. The investigator shall interview all witnesses identified by the complainant or accused, in addition to witnesses with relevant knowledge which the investigator may discover from other sources. The investigator shall also review relevant documents and other evidence. The investigator shall within twenty (20) days of receiving the complaint prepare a written summary of his or her investigation, and a recommendation to the School Board Attorney as to whether there is reasonable cause to believe that a discriminatory practice may have occurred.

If reasonable cause is recommended by the investigator against a School Board Member or an elected Superintendent, the recommendation shall within twenty (20) days be forwarded to the Governor's office to determine if there is evidence that a misfeasance or malfeasance of office occurred. The Governor's office will be responsible for taking any necessary action in accordance with applicable law with reference to an elected official. The School Board shall receive and make the final determination if the Superintendent is appointed by the Board.

A finding of no reasonable cause by the outside investigator, which is reviewed and confirmed by the School Board Attorney shall be final. In compliance with Florida Statute, the investigation file shall become public record and the Superintendent or School Board Member shall answer to their constituency.

iii) Penalties for Confirmed Discrimination or Harassment

Student - A substantiated allegation of discrimination or harassment against a student shall subject that student to disciplinary action consistent with the Code of Student Conduct.

Employee or Volunteer - A substantiated allegation of discrimination or harassment against an employee may result in disciplinary actions including termination and referral to appropriate law enforcement authorities. A volunteer shall be removed from service and a referral may be made to appropriate law enforcement authorities.

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iv) Limited Exemption from Public Records Act and Notification of Parents of Minors

To the extent possible, complaints will be treated as confidential and in accordance with Florida Statutes and the Family Educational Rights and Privacy Act (FERPA). Limited disclosure may be necessary to complete a thorough investigation as described above. The District's obligation to investigation and take corrective action may supersede an individual's right to privacy.

The parents of a person under the age of 18 who has filed a complaint of discrimination and/or harassment shall be notified within three (3) days of receipt of a complaint.

STATUTORY AUTHORITY: 120.54, 1001.41, 1001.42, 1012.23, F.S.

LAW(S) IMPLEMENTED: 112.51, 119.07, 760.01 et seq.,
1000.05, 1000.21, 1001.43, 1012.22, F.S.
34 CFR 200.43(c), P.L.110-233

STATE BOARD OF EDUCATION RULE(S): 6A-19.001 et seq.

HISTORY:

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