

Office of Superintendent of Schools
Board Meeting of August 25, 1999

August 16, 1999

Management and Accountability
Carol Cortes, Deputy Superintendent

**SUBJECT: PROPOSED AMENDMENT OF BOARD RULE: FINAL READING 6Gx13-
5D-1.10, DISCRIMINATION/HARASSMENT: COMPLAINT PROCEDURES
FOR STUDENTS**

The School Board of Miami-Dade County, Florida, announced on July 14, 1999, its intention to amend School Board Rule 6Gx13- 5D-1.10, Discrimination/Harassment: Complaint Procedures for Students, at the meeting of August 25, 1999.

The Notice of Intended Action was published in the *Miami Daily Business Review* on July 19, 1999, posted in various places for public information and mailed to various organizations representing persons affected by the amended rule and to individuals requesting notification.

The time to request a hearing or protest the adoption of this rule has elapsed.

In accordance with the provisions of the Administrative Procedure Act, this amended rule is presented to The School Board of Miami-Dade County, Florida, for adoption and authorization to file the rule in the official records of The School Board of Miami-Dade County, Florida.

Attached are copies of the Notice of Intended Action and the amended rule. Changes from the current rule are indicated by underscoring words to be added and ~~striking through~~ words to be deleted.

RECOMMENDED: That The School Board of Miami-Dade County, Florida, adopt amended School Board Rule 6Gx13- 5D-1.10, Discrimination/Harassment: Complaint Procedures for Students, and authorize the Superintendent to file the rule with The School Board of Miami-Dade County, Florida, to be effective August 25, 1999.

CC/reu

NOTICE OF INTENDED ACTION

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, announced on July 14, 1999, its intention to amend Board Rule 6Gx13- 5D-1.10, Discrimination/Harassment: Complaint Procedures for Students, at its meeting of August 25, 1999.

PURPOSE AND EFFECT: To revise the Board Rule to reflect current applicable standards as delineated in federal/state enforcement regulations and court rulings in the area of discrimination/harassment.

SUMMARY: Board Rule 6Gx13- 5D-1.10, Discrimination/Harassment: Complaint Procedures for Students, establishes procedures to assure compliance with Federal, State Regulations, and School Board Policies of nondiscrimination/harassment in educational activities and programs.

SPECIFIC LEGAL AUTHORITY UNDER WHICH RULEMAKING IS AUTHORIZED: 230.22(2); 230.23(17) F.S.

LAW IMPLEMENTED, INTERPRETED, OR MADE SPECIFIC: 228.2001; 230.23005(6) F.S.; 6A-19.001; 6A-19.002; 6A-19.008; 6A-19.010; 6B-1.006 FAC; Title VI of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; the Florida Educational Equity Act (F.S. 228.2001); and the Multicultural Education Training Advocacy, Inc. (META) Consent Decree.

IF REQUESTED, A HEARING WILL BE HELD DURING THE BOARD MEETING OF August 25, 1999, which begins at 1:00 p.m., in the School Board Auditorium, 1450 N.E. Second Avenue, Miami, Florida 33132. Persons requesting such a hearing or who wish to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative as provided by Section 120.541(1), F.S., must do so in writing by August 9, 1999, to the Superintendent of Schools, Room 912, at the same address.

ANY PERSON WHO DECIDES TO APPEAL THE DECISION made by The School Board of Miami-Dade County, Florida, with respect to this action will need to ensure the preparation of a verbatim record of the proceedings, including the testimony and evidence upon which the appeal is to be based. (Section 286.0105, Florida Statutes)

A COPY OF THE PROPOSED AMENDED RULE is available for inspection and copying at cost by the public in the Citizen Information Center, Room 158, 1450 N.E. Second Avenue, Miami, Florida 33132.

Originator: Mr. Rafael E. Urrutia
Supervisor: Mr. Carol Cortes
Date: June 30, 1999

Welfare**DISCRIMINATION/HARASSMENT: COMPLAINT PROCEDURES FOR STUDENTS**

PROCEDURES FOR ASSURANCE OF COMPLIANCE
WITH FEDERAL/STATE REGULATIONS/SCHOOL BOARD POLICIES
OF NONDISCRIMINATION/HARASSMENT IN EDUCATIONAL
ACTIVITIES/PROGRAMS

I. Purpose

The School Board of Miami-Dade County, Florida, has established procedures to assure nondiscrimination in educational activities/programs and the elimination of harassment, including sexual harassment. It is the policy of the School Board that all students will be treated with respect by all employees, third-parties, and fellow students. Hostile treatment or violence against a student because of his/her gender, race, color, religion, ethnic or national origin, political beliefs, marital status, age, sexual orientation, social and family background, linguistic preference, pregnancy, or disability, will not be tolerated.

It is recognized that discrimination or harassment complaints by students/parents may arise from actual or perceived situations and circumstances related to the prohibition of discrimination. It is the intent of this procedure to assure that discrimination or harassment complaints are resolved in an expeditious, orderly, and equitable manner that serves to fulfill the letter and intent of the regulations. All principals are required to make a conscientious effort to fully consider and understand the nature and basis of the discrimination or harassment complaint of a student/parent and resolve it without delay or refer it to the appropriate source for resolution without delay. The initiation of a discrimination or harassment complaint by a student/parent will not be used as a basis for actions that adversely affect the student's standing in his/her school. Additionally, participation in or assistance in the investigation of a complaint is not to be used as the basis for adverse actions against a student.

Discrimination or harassment complaints made under the provisions of this rule will be handled ~~in an informal manner~~ using federal enforcement agencies' standards in the investigation of discrimination/harassment charges and without extraneous administrative barriers; ~~except that a~~ . A record or log will be maintained of each discrimination or harassment complaint investigation to include the final disposition of each.

H. ~~Definitions~~

A. ~~Complaint.~~ ~~A written allegation, officially made to a principal by a student that there has been a discriminatory action or inaction on the~~

~~basis of gender, race, color, religion, ethnic or national origin, political beliefs, marital status, age, sexual orientation, social and family background, linguistic preference, or disability, against the student by a specified individual or individuals, situations, circumstances, conditions, or other factors within the school system's scope of responsibility.~~

- ~~B. **Student.** The person (student/parent/guardian) filing a complaint.~~
- ~~C. **Respondent.** The individual(s) charged with or having responsibility for the alleged discriminatory action.~~
- ~~D. **Principal.** The principal having immediate administrative authority over the school.~~
- ~~E. **Assistant/Associate/Region Superintendent.** The Assistant/Associate/Region Superintendent having immediate administrative authority over the principal.~~
- ~~F. **Executive Director, Division of Equal Educational Opportunity and Advocacy.** The Executive Director, Division of Equal Educational Opportunity and Advocacy, who is responsible for monitoring the district's compliance with federal/state regulations related to civil rights, discrimination, and harassment. The Executive Director, Division of Equal Educational Opportunity and Advocacy is authorized to make the final determination on complaints involving students.~~
- ~~G. **Letter of Inquiry.** Assistant/Associate/Region Superintendents or other appropriate district or region staff may initiate a letter of inquiry to the Executive Director, Division of Equal Educational Opportunity and Advocacy for the purpose of seeking clarification of a Dade County Public Schools rule related to the compliance or interpretation and application of federal/state regulations regarding civil rights, discrimination or harassment.~~

~~A response to letters of inquiry should be made within ten (10) school days following receipt.~~

~~III. Procedure for Complaints~~

- ~~A. **Step #1.** The student shall communicate in writing to the principal that there has been a discriminatory or harassing action or inaction. The principal will be responsible for scheduling a discussion on the complaint with the student within five (5) school days following receipt of the communication.~~

~~In the event the complaint involves the student's principal or other~~

~~school administrator, he/she may appeal directly to the Assistant/Associate/Region Superintendent, bypassing Step #1 above and move directly to Step #2 as indicated below:~~

~~B. **Step #2.** If, after discussion of the complaint with the principal, the complaint, in the opinion of the student is not resolved, or cannot be resolved at that level, the complaint shall be forwarded by the principal within five (5) school days, to the Assistant/Associate/Region Superintendent for resolution:~~

~~C. **Step #3:**~~

~~1. If the complaint is not satisfactorily resolved in Step #2, as determined by the student, he/she may file a complaint with the Executive Director, Division of Equal Educational Opportunity and Advocacy:~~

~~2. **Conciliation** - If a determination of reasonable cause is made, the Executive Director, Division of Equal Educational Opportunity and Advocacy, will seek to conciliate the complaint with the respondent and the student:~~

~~Resolution of the complaint through this procedure by agreement of all participants, i.e., the student, the respondent, and the Executive Director, Division of Equal Educational Opportunity and Advocacy, will close the issue:~~

~~3. **Corrective Action** - If a determination of reasonable cause is made and the issue cannot be resolved by conciliation, or the circumstances preclude conciliation by the principal, the Executive Director, Division of Equal Educational Opportunity and Advocacy will present the issue to the Assistant/Associate/Region Superintendent, for corrective action. The Assistant/Associate/Region Superintendent shall submit a response to the Executive Director, Division of Equal Educational Opportunity and Advocacy, of actual or proposed corrective action within ten (10) school days from date of receipt.~~

~~If the response of corrective action proposed constitutes an inadequate or inappropriate response to the complaint, the Executive Director, Division of Equal Educational Opportunity and Advocacy will make the final determination of corrective action.~~

II. Procedure for Filing Complaints

A student/parent who has a reasonable and good-faith belief that he/she has been the subject of discrimination or harassment because of his/her gender,

race, color, religion, ethnic or national origin, political beliefs, marital status, age, sexual orientation, social and family background, linguistic preference, pregnancy, or disability, shall communicate in writing the allegation(s) to the student's school principal. The principal will be responsible for scheduling a meeting to discuss the complaint. In the event the complaint involves the student's principal, the student/parent may go directly to the next level of administration, such as a Region Director/ Region Superintendent or, when appropriate, Assistant/Associate Superintendent.

If, in the opinion of the student/parent, the complaint is not resolved after discussion with the principal, or cannot be resolved at that level, the student/parent may appeal to the next administrative level, i.e., Region Director/Region Superintendent, or when appropriate, Assistant/ Associate Superintendent.

If the complaint is not satisfactorily resolved at the second level of administration, as determined by the student/parent, he/she may file a complaint with the School Board's Equal Educational and Employment Opportunity (EEEE) office. The student/parent will be requested to provide signed, specific information to the School Board's EEEEO office regarding the discriminatory or harassing action(s) or inaction(s), the basis (e.g., age, race, disability, etc.) for the action(s) or inaction(s), the alleged offender(s), witnesses, etc.

If the student/parent does not feel comfortable discussing his/her complaint at the school or region level, the student/parent may file the complaint directly with the School Board's EEEEO office.

Due to the sensitive nature of sexual harassment complaints, students/parents may file such a complaint directly with the School Board's EEEEO office.

IV: III. Appeals

If the student/parent does not agree with the statement of final determination made by the ~~Executive Director, Division of Equal Educational Opportunity and Advocacy~~ School Board's EEEEO office, he/she may appeal the determination to the Superintendent's designee to hear such appeals.

~~In addition, the student has the right to seek recourse through the Office for Civil Rights (OCR):~~

V: IV. Special Provisions

- A. Failure on the part of the student/parent to initiate and/or follow-up on a complaint in a timely manner may result in the complaint being considered abandoned. A complaint must be filed within 300 days of the alleged discriminatory act(s).

- B. Failure by a principal to respond to a complaint ~~within the prescribed time limits in a timely manner~~ will automatically allow the complainant to move the complaint to the next step level of administration.
- C. In general, students shall continue attendance at school and pursue their studies, as directed, while complaints are pending resolution.
- D. ~~Copies of all communications pertaining to a complaint shall be provided to the student, unless classified as privileged or confidential according to statute.~~ Records of an ongoing investigation shall remain confidential and not subject to disclosure pursuant to Chapter 119, Florida Statutes until a final determination is made on the case.
- E. ~~If the student does not feel comfortable discussing his/her complaint at the school or region level, the student may file the complaint directly with the Executive Director, Division of Equal Educational Opportunity and Advocacy.~~

This policy is intended to effect compliance with federal/state regulations, i.e.: Title VI of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; the Florida Educational Equity Act (F.S. 228.2001); and the State Board Rules 6A-19.001, 6A-19.002, 6A-19.008, 6B-1.006; and the Multicultural Education Training Advocacy, Inc. (META) Consent Decree.

Specific Authority: 230.22(2); 230.23(17) F.S.

Law Implemented, Interpreted, or Made Specific: 228.2001; 230.23005(6) F.S.; 6A-19.001; 6A-19.002; 6A-19.008; 6A-19.010; 6B-1.006 FAC; Title VI of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; the Florida Educational Equity Act (F.S. 228.2001); and the Multicultural Education Training Advocacy, Inc. (META) Consent Decree.

History

New: 6-4-86

Amended: 11-19-86; 9-22-93

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA