

Personnel Management and Services
Nelson E. Diaz, Deputy Superintendent

SUBJECT: REVIEW OF RACE/ETHNICITY DESIGNATIONS AND CHANGES

At the School Board Meeting of June 21, 2000, the Board discussed Agenda Item B-2, concerning the designation, changing of designation, and reporting of employees by race and ethnicity. At that meeting, Agenda Item B-2 was amended to direct the Superintendent to review the current practice of race/ethnicity changes and to make a recommendation concerning that practice. By way of legal review, pursuant to both state and federal laws, the Board is required to report the race and ethnicity of its employees. The two state statutes, §§231.546(1)(c) and 231.62(a), Florida Statutes, require reporting for purposes of considering teacher characteristics in determining critical teacher shortage areas.

The School Board Attorney's office has conducted a review and analysis of the federal reporting requirements as mandated by 42 U.S.C. §2000- e-8 (Title VII), requiring public schools to report employee statistics by race/ethnicity and sex. This reporting requirement has been challenged in court and upheld. The five federal reporting classifications (White, Black, Hispanic, Asian or Pacific Islander and American Indian or Alaskan Native) were developed by An Ad Hoc Committee of the Federal Interagency Committee on Education in 1974. In 1977, the Federal Office of Management and Budget (OMB) issued "Race and Ethnic Standards for Federal Statistics and Administrative Reporting". Subsequently, in 1997, OMB issued a directive that would require all government agencies to adopt by January, 2003, a method for reporting more than one race, but not to use "multi-racial". Accordingly, unless the directive is repealed, by January, 2003, government agencies will have to be in conformance with the OMB directive. The Equal Employment Opportunity Commission (EEOC) currently requires that in filling out the public school reporting form (EEO-5 form) no employee can be counted in more than one race/ethnic group. Thus, the EEOC requirement, which the system is currently bound by, of reporting only one designation is at odds with the OMB directive. For this reason alone, it is not suggested that the School Board adopt written policy in this area.

Moreover, the school district is scheduled for a hearing in its desegregation case (Pate, et al. v. School Board) on December 18, 2000, for purposes of reporting to the U.S. District Court on the unitary status of the school system. The resolution of the Pate case has further implications in this area. Since the inception of Pate, the Court has required that the Board report faculty and staff assignments by race as Black or Non-Black although the reports to the Court include a broader non-required reporting by ethnicity and gender. This reporting requirement is to ensure proper compliance under the District's continued Court-ordered supervision for desegregation purposes.

As the Board is aware, pursuant to Pate, a limited number of schools each year fall within controlled staffing requirements. Therefore, potential changes to the Court's Order in Pate additionally make it ill-advised to codify Board policy in this area.

The Board's current practice as it pertains to race/ethnicity has remained consistent over the years, with minor adjustments/refinements in 1996-97, designed to curtail any perceived abuses. An employee may only change his/her classification designation upon a showing supported by documentation. The type of documentation, which is considered, is court records, certificates of birth, etc. Only one change is permitted during that employee's tenure of employment to ensure that an employee cannot switch back and forth for a real or perceived employee benefit. A three member committee decides requests for changes, and an appeal process of a denial is afforded to the employee.

While it has been suggested that this practice of permitting a change is unusual, the origination of such a practice was and is based upon fairness. The definitions and reporting requirements, which the Board is obligated to follow, are not flexible and in some instances are seemingly inconsistent. For example, the definition of White is White (not of Hispanic origin). Clearly, many employees of this district are White and of Hispanic origin; however, the federal law does not currently allow for the selection of both White and Hispanic.

For all the above-stated reasons, the Administration and Board Attorney's recommendation is to continue the employment practice currently being utilized.

RECOMMENDED: That The School Board of Miami-Dade County, Florida, continue its current employment practice and reporting requirements of employee race/ethnicity designation.

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