

Office of Superintendent of Schools
Board Meeting of September 10, 2003

August 27, 2003

Paul R. Philip, Chief of Staff

**SUBJECT: PROPOSED AMENDMENT OF BOARD RULES: INITIAL
READING 6Gx13- 4A-1.32, DISCRIMINATION/HARASSMENT:
COMPLAINT PROCEDURES FOR EMPLOYEES; 6Gx13- 5D-
1.10, DISCRIMINATION/HARASSMENT: COMPLAINT
PROCEDURES FOR STUDENTS**

**COMMITTEE: LEGISLATIVE RELATIONS, PUBLIC RELATIONS AND
PERSONNEL SERVICES**

This item is submitted for consideration by the School Board to amend the aforementioned rules, which contain the District's procedures for assurance of compliance with Federal, State Regulations, and School Board Policies of nondiscrimination/harassment in employment and educational programs/activities. Amendments include changes allowing employees to file a complaint directly with the Civil Rights and Diversity Compliance (CRDC) office. In addition, both Board Rules now address anonymous complaints and the complainant having to attest that the complaint is true to the best of their knowledge, information and belief, as well as revisions to reflect current applicable standards as delineated in federal/state enforcement regulations and court rulings in the area of discrimination/harassment.

Attached are the Notices of Intended Action and the rules proposed for amendment. Changes from the current rules are indicated by underscoring words to be added and ~~striking through~~ words to be deleted.

Authorization of the Board is requested for the Superintendent to initiate rulemaking proceedings in accordance with the Administrative Procedure Act for the amendment of School Board Rule 6Gx13- 4A-1.32, Discrimination/Harassment: Complaint Procedures for Employees, and 6Gx13- 5D-1.10, Discrimination/Harassment: Complaint Procedures for Students.

RECOMMENDED: That The School Board of Miami-Dade County, Florida, authorize the Superintendent to initiate rulemaking proceedings in accordance with the Administrative Procedure Act to amend School Board Rule 6Gx13- 4A-1.32, Discrimination/Harassment: Complaint Procedures for Employees, and 6Gx13- 5D-1.10, Discrimination/Harassment Complaint Procedures for Students.

**Revised
C-22**

NOTICE OF INTENDED ACTION

ADDED

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, announced on September 10, 2003, its intention to amend Board Rule 6Gx13- 4A-1.32, Discrimination/Harassment: Complaint Procedures for Employees, at its meeting of October 22, 2003.

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- 4A-1.32, Discrimination/Harassment: Complaint Procedures for Employees, establishes procedures to assure nondiscrimination in employment, and the elimination of harassment, including sexual harassment.

SPECIFIC LEGAL AUTHORITY UNDER WHICH RULEMAKING IS AUTHORIZED: 1001.41(1)(2); 1001.42(22); 1001.43(10) F.S.

LAW IMPLEMENTED, INTERPRETED, OR MADE SPECIFIC: 1001.43, (11) F.S.; 6A-19.009 FAC; Title VI of the Civil Rights Act of 1964; Title VII of the Civil Rights Act of 1964, as amended; Title IX of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; Age Discrimination in Employment Act of 1967, as amended; Equal Pay Act of 1963; the Florida Educational Equity Act, F.S. 1000.05; the Americans with Disabilities Act of 1990; the Pregnancy Discrimination Act of 1978; the Florida Civil Rights Act of 1992; and the Family and Medical Leave Act of 1993.

IF REQUESTED, A HEARING WILL BE HELD DURING THE BOARD MEETING OF October 22, 2003, 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 October 6, 2003, 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: Ms. Susan Rothstein
Supervisor: Mr. Paul R. Philip
Date: August 27, 2003

Permanent Personnel**DISCRIMINATION/HARASSMENT: COMPLAINT PROCEDURES FOR EMPLOYEES****PROCEDURES FOR ASSURANCE OF COMPLIANCE
WITH FEDERAL/STATE REGULATIONS/SCHOOL BOARD POLICIES
OF NONDISCRIMINATION/HARASSMENT IN EMPLOYMENT****I. Purpose**

The School Board of Miami-Dade County, Florida, has established procedures to assure nondiscrimination in employment, and the elimination of harassment, including sexual harassment. It is the policy of the School Board that all employees will be treated with respect. Hostile treatment or violence against an employee 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 employees may arise from actual or perceived situations and circumstances related to the prohibition of discrimination. It is the intent of these procedures 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 law. All administrators and principals are required to make a conscientious effort to fully consider and understand the nature and basis of the discrimination or harassment complaint of an employee and resolve it, to the satisfaction of the complainant, without delay or refer it, without delay, to the appropriate source office for resolution without delay. The initiation of a discrimination or harassment complaint by an employee will not be used as a basis for actions that adversely affect the employee's complainant's standing in his/her work location. Additionally, participation in or assistance in the investigation of a complaint is shall not to be used as the basis for any adverse employment action on an employee.

Discrimination or harassment complaints made under the provisions of this rule will be handled using federal enforcement agencies' procedures and standards in the processing and investigation of discrimination/harassment charges and without extraneous administrative barriers. No anonymous complaints shall be accepted or processed. The complaint must be signed attesting that it is true to the best of the complainant's knowledge, information and belief. Any complainant who knowingly submits false information will be subject to disciplinary action. A record will be maintained of each discrimination or harassment complaint investigation to include the final disposition of each.

II. Procedure for Filing Complaints

A School Board employee 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 his/her principal or supervising administrator. ~~The principal or administrator will be responsible for scheduling a meeting to discuss the complaint. In the event the complaint involves the employee's principal or supervising administrator, the employee may go directly to the next level of administration, such as an Assistant/Associate/Region/Deputy Superintendent. If the employee does not feel comfortable discussing his/her complaint at his/her work location, the employee may file the complaint with the next administrative level.~~

If the employee does not feel comfortable discussing his/her complaint at the work site or next administrative level, the employee may file the complaint directly with the School Board's Civil Rights and Diversity Compliance (CRDC) office.

Due to the sensitive nature of sexual harassment complaints, employees may file such a complaint directly with the School Board's CRDC office.

If the complaint is submitted to the principal or administrator, the principal or administrator will be responsible for scheduling a meeting with the complainant to discuss the complaint. In the event the complaint involves the employee's principal or supervising administrator, the employee may go directly to the next level of administration, such as an Assistant/Associate/Deputy Superintendent. If the employee does not feel comfortable discussing his/her complaint at his/her work location, the employee may file the complaint with the next administrative level.

If, in the opinion of the employee, the complaint is not resolved, to the complainant's satisfaction, after discussion with the principal or supervising administrator, or cannot be resolved at that level, the employee may appeal at the next level of administration, i.e., Assistant/Associate/Region/Deputy Superintendent.

If the complaint is not satisfactorily resolved at the second level of administration, as determined by the employee, he/she may file a complaint with the School Board's Equal Educational and Employment Opportunity (EEEE) CRDC office. The employee will be requested to provide, signed, specific information to the School Board's EEEE CRDC office signed, specific information 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.

~~Due to the sensitive nature of sexual harassment complaints, employees~~

~~may file such a complaint directly with the School Board's EEEE office.~~

III. Appeals

If the employee does not agree with the final determination made by the School Board's EEEE CRDC office, he/she may appeal the determination to the Superintendent's designee to hear such appeals by submitting a letter of appeal within 15 workdays of the date of the final determination.

IV. Special Provisions

- A. Failure on the part of the employee 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 or appropriate administrator to respond to address a complaint, within 10 workdays, will automatically allow the complainant to move the complaint to the next level of administration.
- C. In general, School Board employees are obligated to perform their duties, as directed, while complaints are pending resolution.
- D. 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. Suspensions, dismissals, and reductions in pay grade are not subject to federal/state regulations in the absence of discrimination.

This rule is intended to effect compliance with federal/state regulations, i.e., Title VI of the Civil Rights Act of 1964; Title VII of the Civil Rights Act of 1964, as amended; Title IX of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; Age Discrimination in Employment Act of 1967, as amended; Equal Pay Act of 1963; the Florida Educational Equity Act, F.S. ~~228.2001~~ 1000.05; the Americans with Disabilities Act of 1990; the Pregnancy Discrimination Act of 1978; the Florida Civil Rights Act of 1992; and the Family and Medical Leave of Act of 1993.

Specific Authority: ~~230.22(2)~~ 1001.41 (1)(2); ~~230.23(17)~~ 1001.42(22); 1001.43(10)F.S.
Law Implemented, Interpreted, or Made Specific: ~~230.23005(6)~~, 1001.43(11) F.S.; 6A-
19.010 009 FAC; Title VI of the Civil Rights Act of 1964; Title VII of the Civil Rights Act of
1964, as amended; Title IX of the Education Amendments of 1972; Section 504 of the
Rehabilitation Act of 1973; Age Discrimination in Employment Act of 1967, as amended;
Equal Pay Act of 1963; the Florida Educational Equity Act, F.S. ~~228.2004~~ 1000.05; the
Americans with Disabilities Act of 1990; the Pregnancy Discrimination Act of 1978; the
Florida Civil Rights Act of 1992; and the Family and Medical Leave Act of 1993.

History: THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA
New: 6-4-86
Amended: 9-17-86; 3-4-92; 6-8-94; 8-25-99

NOTICE OF INTENDED ACTION

ADDED

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, announced on September 10, 2003, its intention to amend Board Rule 6Gx13- 5D-1.10, Discrimination/Harassment Complaint Procedures for Students, at its meeting of October 22, 2003.

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, established 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: 1001.41; 1001.42 F. S.

LAW IMPLEMENTED, INTERPRETED, OR MADE SPECIFIC: 1000.05; 1001.43 F.S.; 6A-19.001; 6A-19.002; 6A-10.008; 6B-1.001 and 6B-1.006 FAC; Title VI of the Civil Rights Act of 1964; Title IV of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; the American with Disabilities Act of 1990; the Florida Educational Equity Act (F.S. 1000.05); and the Multicultural Education Training Advocacy, Inc. (META) Consent Decree.

IF REQUESTED, A HEARING WILL BE HELD DURING THE BOARD MEETING OF October 22, 2003, 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 120.54(1), F.S., must do so in writing by October 6, 2003, 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: Ms. Susan Rothstein
Supervisor: Mr. Paul R. Philip
Date: August 27, 2003

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 law. 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, to the satisfaction of the complainant, without delay or refer it, without delay, to the appropriate source office 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 shall 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 using federal enforcement agencies' procedures and standards in the processing and investigation of discrimination/harassment charges and without extraneous administrative barriers. No anonymous complaints shall be accepted or processed. The complaint must be signed attesting that it is true to the best of the complainant's knowledge, information and belief. Any complainant who knowingly submits false information will be subject to disciplinary action. A record will be maintained of each discrimination or harassment complaint investigation to include the final disposition of each.

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 the student/parent does not feel comfortable discussing his/her complaint at the school or ACCESS Center, the student/parent may file the complaint directly with the School Board's Civil Rights and Diversity Compliance (CRDC) office.

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

If the complaint is submitted to the principal, the principal will be responsible for scheduling a meeting with the complainant 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 the ACCESS Center Student Advocacy Director or Assistant Superintendent.

If, in the opinion of the student/parent, the complaint is not resolved to the complainant's satisfaction 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 the ACCESS Center Student Advocacy Director or Assistant 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) CRDC office. The student/parent will be requested to provide signed, specific information to the School Board's EEEE CRDC office signed specific information 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.~~

III. Appeals

If the student/parent does not agree with the ~~statement~~ of final determination made by the School Board's EEEEO CRDC office, he/she may appeal the determination to the Superintendent's designee to hear such appeals by submitting a letter of appeal within 15 workdays of the date of the final determination.

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 acts(s).
- B. Failure by a principal to ~~respond to~~ address a complaint in a timely manner within 10 workdays, will automatically allow the complainant to move the complaint to the next level of administration.
- C. In general, students shall continue attendance at school and pursue their studies, as directed, while complaints are pending resolution.
- D. 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.

This policy rule 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. ~~228.2004~~ 1000.05); the State Board Rules 6A-19.001, 6A-19.002, 6A-19.008, 6B -1.001 and 6B-1.006; and the Multicultural Education Training Advocacy, Inc. (META) Consent Decree.

Specific Authority: ~~230.22(2)~~ 1001.41 (1)(2); ~~230.23(17)~~ 1001.42(22); 1001.43(10) F.S. Law Implemented, Interpreted, or Made Specific: ~~228.2001~~ 1000.05; ~~230.23005(6)~~ 1001.43 F.S.; 6A-19.001; 6A-19.002; 6A-19.008; ~~6A-19.010~~; 6B-1.001 and 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~~ 1000.05); and the Multicultural Education Training Advocacy, Inc. (META) Consent Decree.

History

New: 6-4-86

Amended: 11-19-86; 9-22-93; 8-25-99

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA