

Office of School Board Attorney
Walter J. Harvey, School Board Attorney

**SUBJECT: INITIAL READING: PROPOSED AMENDMENTS TO BOARD
POLICIES 1129, 3129, AND 4129, *CONFLICT OF INTEREST*; 1210,
3210, AND 4210, *STANDARDS OF ETHICAL CONDUCT*; AND
1362.02, 3362.02, AND 4362.02, *ANTI-
DISCRIMINATION/HARRASSMENT COMPLAINT PROCEDURE***

**COMMITTEE: INNOVATION, GOVERNMENTAL RELATIONS AND
COMMUNITY ENGAGEMENT**

**LINK TO
STRATEGIC
BLUEPRINT: HIGHLY EFFECTIVE TEACHERS, LEADERS AND STAFF**

In accordance with the Board's statutory responsibility to update, correct and revise its policies, these policy amendments are presented to clarify and include statutory requirements and current Board practices.

Amendments to Board Policies 1129, 3129, and 4129, *Standards of Ethical Conduct*, are proposed to clarify the statutory ethics requirement that employees are expressly prohibited from soliciting or accepting anything of value, including a gift, loan, reward, promise of future employment, favor or service based upon an understanding that the vote, official action or judgment of the employee would be influenced. Policies 1210, 3210 and 4210, *Conflict of Interest*, are proposed to be amended to prohibit employees from participating in the selection, award, or administration of a contract if the employee, a member of the employee's immediate family, the employee's partner or an organization which employs or is about to employ any of these parties, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. In addition, Policy 4210 adds a requirement that support staff self-report within forty-eight (48) hours to appropriate authorities any arrest and final disposition of the arrest other than minor traffic violations in order to provide consistency among all employees since administrators and instructional staff are already subject to this requirement.

Board Policies 1362.02, 4362.02, and 3362.02, *Anti-Discrimination/Harassment Complaint Procedures*, are proposed to be amended to adjust the timelines involved in

the investigation of discrimination and harassment by the Civil Rights Compliance (CRC) Office and to include the complainant's right to request review of the CRC's final report by the Superintendent, which reflects the Board's current practice.

Attached is the Notice of Intended Action and the proposed policy amendments. Changes 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 to amend Policies 1129, 3129, and 4129, *Standards of Ethical Conduct*; 1210, 3210 and 4210, *Conflict of Interest*; and 1362.02, 4362.02, and 3362.02, *Anti-Discrimination/Harassment Complaint Procedures*.

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 Policies 1129, 3129, and 4129, *Standards of Ethical Conduct*; 1210, 3210 and 4210, *Conflict of Interest*; and 1362.02, 4362.02, and 3362.02, *Anti-Discrimination/Harassment Complaint Procedures*.

NOTICE OF INTENDED ACTION

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, announced on February 3, 2016, its intention to amend Board Policies 1129, 3129, and 4129, *Standards of Ethical Conduct*; 1210, 3210 and 4210, *Conflict of Interest*; and 1362.02, 4362.02, and 3362.02, *Anti-Discrimination/Harassment Complaint Procedures*, at its meeting of March 9, 2016.

PURPOSE AND EFFECT: Amendments to Board Policies 1129, 3129, and 4129, *Standards of Ethical Conduct*, are proposed to clarify the statutory ethics requirement that employees are expressly prohibited from soliciting or accepting anything of value, including a gift, loan, reward, promise of future employment, favor or service based upon an understanding that the vote, official action or judgment of the employee would be influenced. Policies 1210, 3210 and 4210, *Conflict of Interest*, are proposed to be amended to prohibit employees from participating in the selection, award, or administration of a contract if the employee, a member of the employee's immediate family, the employee's partner or an organization which employs or is about to employ any of these parties, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. In addition, Policy 4210 adds a requirement that support staff self-report within forty-eight (48) hours to appropriate authorities any arrest and final disposition of the arrest other than minor traffic violations.

Board Policies 1362.02, 4362.02, and 3362.02, *Anti-Discrimination/Harassment Complaint Procedures*, are proposed to be amended to adjust the timelines involved in the investigation of discrimination and harassment by the Civil Rights Compliance (CRC) Office and to include the complainant's right to request review of the CRC's final report by the Superintendent, which reflects the Board's current practice.

SUMMARY: In accordance with its statutory responsibilities, the School Board is required to review and update its policies as often as necessary to reflect statutory requirements and current practices. These policies are proposed to be amended to incorporate statutory requirements related to employee ethics and include the current practice of providing a complainant the right to request that the Superintendent review a Civil Rights Compliance Office final investigation report.

SPECIFIC LEGAL AUTHORITY UNDER WHICH RULEMAKING IS AUTHORIZED: 1001.41 (1) (2), 1001.42 (6),(7), 1001.43 (10),(11), F.S.

LAWS IMPLEMENTED INTERPRETED OR MADE SPECIFIC: 112.312, 112.313, 1001.41 (1), (2),(5), 1001.42 (6), 1001.43 (10),(11), 1006.147, F.S.

IF REQUESTED, A HEARING WILL BE HELD DURING SCHOOL BOARD MEETING OF March 9, 2016, 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 in Section 120.54(1), F.S., must do so in writing by March 1, 2016, to the Superintendent, 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, F. S.

COPIES OF THE PROPOSED AMENDED POLICIES are available at cost to the public for inspection and copying in the Citizen Information Center, Room 158, 1450 N.E. Second Avenue, Miami, Florida 33132.

1

CONFLICT OF INTEREST

2 Employees are governed by the statutory provisions contained in the Code of Ethics
3 for Public Officers and Employees, Part III of F.S. Chapter 112, and by certain other
4 statutes in the Education Code. The following sections of this policy provide the
5 principles, in simplified form, in the statutory mandates. They cannot be used as
6 definitive rules to apply to different sets of circumstances or factual situations. In
7 any given situation, the full statutory language must be consulted for applicable
8 definitions, and for any exemptions.

9 A. Employees are required to comply with all provisions of the Code of
10 Ethics, including those provisions outlined below. This requirement
11 discourages the appearance of impropriety and the perception of
12 undue influence upon the business functions of the District.

13 B. This policy applies specifically to conflicts of interest. Employees are
14 reminded that other Board policies exist that may also address an
15 employee's particular issue or question. It is an employee's
16 responsibility to refer to and observe all Board policies that may be
17 applicable to his/her individual situation.

18 **Provisions**

19 A. Gifts

20 1. Employees are prohibited from soliciting or accepting
21 anything of value, such as a gift, loan, reward, promise of
22 future employment, favor, or service that is based on an
23 understanding that their official action or judgment would be
24 influenced by such gift. (F.S. 112.313(2))

25 2. No employee or his/her spouse or minor child shall accept
26 any compensation, payment, or thing of value when s/he
27 knows, or with the exercise of reasonable care should know,
28 that it was given to influence an action in which the employee
29 was expected to participate in his/her official capacity.
30 (F.S. 112.313(4))

1 B. Misuse of Public Position

2
3 No employee shall corruptly use or attempt to use his/her official
4 position or perform his/her official duties to secure a special
5 privilege, benefit, or exemption for himself/herself or others.
6 (F.S. 112.313(6))

7 C. Doing Business with the School Board

8 1. No employee acting in his/her official capacity shall directly
9 or indirectly purchase, rent, or lease any goods or services for
10 the District from any business entity of which the employee,
11 spouse, or child is an officer, partner, director or proprietor,
12 or in which the employee, spouse, or child, or any
13 combination of them, has a material interest.
14 (F.S. 112.313(3))

15 2. Some case-specific exceptions to this provision may apply.
16 Employees should review F.S. 112.313(12), for exemptions
17 that may be applicable to their particular situations.

18 3. Guidelines for Avoidance of Conflict of Interest

19
20 To avoid conflicts of interests or the appearance of conflicts as
21 it relates to personal purchases or private contracting,
22 employees who are required to file an annual statement of
23 financial interests (financial disclosure form) or who have the
24 authority to make purchases on behalf of the District shall
25 adhere to the following guidelines. These guidelines do not
26 apply to purchases made in a private capacity of goods or
27 services at a price and upon terms available to similarly
28 situated members of the general public.

29 a. When entering into a transaction or contractual
30 relationship as described above, employees subject to
31 these guidelines will make the following inquiries to the
32 entity with whom they are contracting:

33 1) Does the business entity have a contractual
34 relationship with the Board for more than \$500?

35 2) Is the contracting individual a principal or
36 employee of an entity with a contractual
37 relationship with the Board for more than \$500?

- 1 b. If an affirmative answer is given to either inquiry
2 above, the employee will request from the Board
3 Attorney guidance on whether contracting with the
4 individual or entity would constitute a conflict of
5 interest pursuant to Code of Ethics for Public Officers
6 and Employees, or other statute or Board policy. The
7 Board Attorney will issue a written opinion or will refer
8 the employee to the Florida Commission on Ethics.
- 9 4. Clarification and opinions regarding the application of the
10 Code of Ethics for Public Officers and Employees can be
11 obtained at any time from the Florida Commission on Ethics.
- 12 D. No employee shall disclose or use information not available to
13 members of the general public and gained by reason of his/her
14 official position for his/her personal gain or benefit or for the
15 personal gain or benefit of any other person or business entity.
16 (F.S. 112.313(8))
- 17
- 18 E. Employees may not participate in the selection, award, or
19 administration of a contract if s/he has a real or apparent conflict of
20 interest. Such a conflict of interest would arise when the employee,
21 any member of his/her immediate family, his/her partner, or an
22 organization which employs or is about to employ any of the parties
23 described in this section, has a financial or other interest in or a
24 tangible personal benefit from a firm considered for a contract.
- 25
- 26 E.F. Employment After Termination
- 27
- 28 Employees are prohibited from personally representing another
29 person or entity or acting as an agent or attorney for compensation
30 in connection with any matter in which the District is interested for
31 two (2) years after the employees' service terminates.
32 (F.S. 112.313(9))
- 33 1. This restriction applies to all school senior level employees
34 classified as Managerial Exempt Personnel, Pay Grade 22 and
35 above, Dade County School Administrators Association, Pay
36 Grade 47 and above, and other equivalent positions.
- 37 2. Exception to this provision is provided by statute for the
38 purpose of collective bargaining, and may be granted to
39 former District employees who are employees or agents of
40 not-for-profit organizations, other governmental agencies or

1 those whose business relationship is determined by the Board
2 to be in the best interest of the District.

3 3. The District is prohibited from entering into any business
4 relations or continue an existing business relationship with
5 any person or entity determined to have engaged in a
6 violation of the restriction contained in this provision.

7 4. In addition to penalties outlined in Penalties below, penalties
8 for violation of this provision include a civil penalty equal to
9 the compensation that the employee received for the
10 prohibited conduct.

11 **Self-Reporting Requirement**

12 All employees, upon initial hire and annually thereafter, shall certify that they will
13 comply with this Board policy, and that they will self-report any relationship that
14 may implicate a potential conflict of interest or other violations of this policy. The
15 certification shall be submitted according to a process determined by the Office of
16 Human-Capital Management Resources.

17 **Penalties**

18 Penalties for violation of this rule and/or violations of the Code of Ethics include
19 dismissal from employment, suspension from employment for not more than
20 ninety (90) days without pay, demotion, reduction in salary level, forfeiture of no
21 more than one-third salary per month for no more than twelve (12) months, civil
22 penalty not to exceed \$10,000, restitution of any pecuniary benefits received
23 because of the violation committed, and/or public censure and reprimand.
24 (F.S. 112.317)

25 F.S. 112.313, 1006.32

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7 any given situation, the full statutory language must be consulted for applicable
8 definitions, and for any exemptions.

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10 those provisions outlined below. This requirement discourages the appearance of
11 impropriety and the perception of undue influence upon the business functions of
12 the District.

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14 may also address an employee's particular issue or question. It is an employee's
15 responsibility to refer to and observe all Board policies that may be applicable to
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1 B. Misuse of Public Position

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3 No employee shall corruptly use or attempt to use his/her official
4 position or perform his/her official duties to secure a special
5 privilege, benefit, or exemption for himself/herself or others.
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7 C. Doing Business with the Board

8 1. No employee acting in his or her official capacity shall directly
9 or indirectly purchase, rent, or lease any goods or services for
10 the Board from any business entity of which the employee or
11 his/her spouse or child is an officer, partner, director or
12 proprietor, or in which such employee or his/her spouse or
13 child, or any combination of them, has a material interest.
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15 2. Some case-specific exceptions to this provision may apply.
16 Board employees should review F.S. 112.313(12) for
17 exemptions that may be applicable to their particular
18 situations.

19 3. Guidelines for Avoidance of Conflict of Interest

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21 To avoid conflicts of interests or the appearance of conflicts as
22 it relates to personal purchases or private contracting, Board
23 employees who are required to file an annual statement of
24 financial interests (financial disclosure form) or who have the
25 authority to make purchases on behalf of the School District
26 shall adhere to the following guidelines. These guidelines do
27 not apply to purchases made in a private capacity of goods or
28 services at a price and upon terms available to similarly
29 situated members of the general public.

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31 relationship as described above, employees subject to
32 these guidelines will make the following inquiries to the
33 entity with whom they are contracting:

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35 relationship with the Board for more than \$500?

- 1 2) Is the contracting individual a principal or
2 employee of an entity with a contractual
3 relationship with the Board for more than \$500?
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5 above, the employee will request from the Board
6 Attorney guidance on whether contracting with the
7 individual or entity would constitute a conflict of
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- 12 4. Clarification and opinions regarding the application of the
13 Code of Ethics for Public Officers and Employees can be
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- 15 D. No employee shall disclose or use information not available to
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17 official position for his/her personal gain or benefit or for the
18 personal gain or benefit of any other person or business entity.
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21 E. Employees may not participate in the selection, award, or
22 administration of a contract if s/he has a real or apparent conflict of
23 interest. Such a conflict of interest would arise when the employee,
24 any member of his/her immediate family, his/her partner, or an
25 organization which employs or is about to employ any of the parties
26 described in this section, has a financial or other interest in or a
27 tangible personal benefit from a firm considered for a contract.
- 28 EF. Employment After Termination
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30 Employees are prohibited from personally representing another
31 person or entity or acting as an agent or attorney for compensation
32 in connection with any matter in which the District is interested for
33 two (2) years after the employees' service terminates.
34 (F.S. 112.313(9))
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36 classified as Managerial Exempt Personnel, Pay Grade 22 and
37 above, Dade County School Administrators Association, Pay
38 Grade 47 and above, and other equivalent positions.

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2 purpose of collective bargaining, and may be granted to
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10 violation of the restriction contained in this provision.
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12 for violation of this provision include a civil penalty equal to
13 the compensation that the employee received for the
14 prohibited conduct.

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17 comply with this Board policy, and that they will self-report any relationship that
18 may implicate a potential conflict of interest or other violations of this policy. The
19 certification shall be submitted according to a process determined by the Office of
20 Human Resources Capital Management.

21 **Penalties**

22 Penalties for violation of this policy and/or violations of the Code of Ethics include
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24 ninety (90) days without pay, demotion, reduction in salary level, forfeiture of no
25 more than one-third salary per month for no more than twelve (12) months, civil
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24 (F.S. 112.317)

25 F.S. 112.313, 1006.32

1

STANDARDS OF ETHICAL CONDUCT

2 All employees are representatives of the District and shall conduct themselves, both
3 in their employment and in the community, in a manner that will reflect credit upon
4 themselves and the school system.

5 A. An administrator shall:

- 6 1. keep current in their subject area through attendance at
7 professional meetings, acquaintance with professional
8 publications, and participation in inservice activities;
- 9 2. make a reasonable effort to protect the student from
10 conditions harmful to learning and/or to the student's mental
11 and/or physical health and/or safety;
- 12 3. not unreasonably restrain a student from independent action
13 in pursuit of learning;
- 14 4. not unreasonably deny a student access to diverse points of
15 view;
- 16 5. not intentionally suppress or distort subject matter relevant
17 to a student's academic program;
- 18 6. not intentionally expose a student to unnecessary
19 embarrassment or disparagement;
- 20 7. not intentionally violate or deny a student's legal rights;
- 21 8. not harass or discriminate against any student on any basis
22 prohibited by law or the Board and shall make reasonable
23 efforts to assure that each student is protected from
24 harassment or discrimination;
- 25 9. not exploit a relationship with a student for personal gain or
26 advantage;

- 1 10. keep confidential personally identifiable information obtained
2 in the course of professional service, unless disclosure serves
3 professional purposes or is required by law;
- 4 11. take reasonable precautions to distinguish between personal
5 views and those of any educational institution or organization
6 with which the individual is affiliated;
- 7 12. not intentionally distort or misrepresent facts concerning an
8 educational matter in direct or indirect public expression;
- 9 13. not use institutional privileges for personal gain or advantage;
10 (see also Policy 1129, Conflict of Interest)
- 11 14. accept no gratuity, gift, or favor that might influence
12 professional judgment; (see also Policy 1129, Conflict of
13 Interest)
14 Pursuant to F.S. 112.313, no administrator shall solicit or
15 accept anything of value including a gift (see F.S. 112.312),
16 loan, reward, promise of future employment, favor, or service
17 based upon an understanding that the vote, official action, or
18 judgment of the administrator would be influenced thereby.
19
- 20 15. offer no gratuity, gift, or favor to obtain special advantages;
21 (see also Policy 1129, Conflict of Interest)
- 22 16. maintain honesty in all professional dealings;
- 23 17. maintain, prepare, and submit promptly all reports that may
24 be required by State law, State Department of Education
25 rules, Board policies, and administrative directives;
- 26 18. not deny a colleague professional benefits, advantages, or
27 participation in any professional organization based on any
28 basis prohibited by law or the Board;
- 29 19. not interfere with a colleague's exercise of political or civil
30 rights and responsibilities;
- 31 20. not engage in harassment or discriminatory conduct which
32 unreasonably interferes with an individual's performance of
33 professional or work responsibilities or with the orderly
34 processes of education or which creates a hostile,
35 intimidating, abusive, offensive, or oppressive environment;

**THE SCHOOL BOARD OF
MIAMI-DADE COUNTY**

ADMINISTRATION
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- 1 and, further, shall make reasonable efforts to assure that
2 each individual is protected from such harassment or
3 discrimination;
- 4 21. not use abusive and/or profane language or display unseemly
5 conduct in the workplace;
- 6 22. not make malicious or intentionally false statements about a
7 colleague;
- 8 23. not use coercive means or promise special treatment to
9 influence professional judgments of colleagues;
- 10 24. not misrepresent one's own professional qualifications;
- 11 25. not submit fraudulent information on any document in
12 connection with professional activities;
- 13 26. not make any fraudulent statement or fail to disclose a
14 material fact in one's own or another's application for a
15 professional position;
- 16 27. not withhold information regarding a position from an
17 applicant or misrepresent an assignment or conditions of
18 employment;
- 19 28. provide upon the request of a certificated individual a written
20 statement of specific reason for recommendations that lead to
21 the denial of increments, significant changes in employment,
22 or termination of employment;
- 23 29. not assist entry into or continuance in the profession of any
24 person known to be unqualified in accordance with these
25 Principles of Professional Conduct for the Education
26 Profession in Florida and other applicable Florida statutes
27 and State Board of Education rules;
- 28 30. self-report within forty-eight (48) hours to appropriate
29 authorities any arrest and final dispositions of such arrest
30 other than minor traffic violations. (DUI is not considered a
31 minor traffic violation.);

32
33 Administrators shall also self-report any conviction, finding of
34 guilt, withholding of adjudication, commitment to a pretrial
35 diversion program, or entering of a plea of guilty or Nolo
36 Contendere for any criminal offense other than a minor traffic
37 violation within forty-eight (48) hours after the final
38 judgment.

- 1 31. report any criminal act, and/or disruptive, and/or
2 inappropriate behavior to the administrator or designee to
3 whom the employee is responsible;
4
5 Allegations of child abuse and/or neglect MUST also be
6 reported, immediately upon knowledge, to the Florida
7 Department of Children and Families at 1-800-96ABUSE
8 (1-800-962-2873), to School Police at 305-995-COPS
9 (305-995-2677), and the site administrator. Failure to
10 immediately report child abuse and/or neglect to the proper
11 authorities will lead to disciplinary action.
- 12 32. report to appropriate authorities any known allegation of a
13 violation of the Florida School Code or State Board of
14 Education rules as defined in F.S. 1012.795(1);
- 15 33. seek no reprisal against any individual who has reported any
16 allegation of a violation of the Florida School Code or State
17 Board of Education rules as defined in F.S. 1012.795(1);
- 18 34. comply with the conditions of an order of the Education
19 Practices Commission imposing probation, imposing a fine, or
20 restricting the authorized scope of practice;
- 21 35. as the supervising administrator, cooperate with the
22 Education Practices Commission in monitoring the probation
23 of a subordinate.
- 24 B. No staff member shall have any interest, financial or otherwise,
25 direct or indirect; engage in any business transaction or professional
26 activity; or incur any obligation of any nature ~~which~~that is in
27 substantial conflict with the proper discharge of his/her duties in
28 the public interest. (see also Policy 1129, Conflict of Interest)

29 All administrators shall be required to complete training on these standards upon
30 employment and annually thereafter.

31 | F.S. 112.312, 112.313, 1001.42(6), 1012.23, 1012.795(1)
32 | F.A.C. 6B-1.001, 6B-1.006

1

STANDARDS OF ETHICAL CONDUCT

2 All employees are representatives of the District and shall conduct themselves, both
3 in their employment and in the community, in a manner that will reflect credit upon
4 themselves and the school system.

5 A. An instructional staff member shall:

- 6 1. teach efficiently and faithfully, using the books and materials
7 required, following the prescribed courses of study, and
8 employing approved methods of instruction as provided by
9 law and by the rules of the State Department of Education;
- 10 2. keep current in their subject area through attendance at
11 professional meetings, acquaintance with professional
12 publications, and participation in inservice activities;
- 13 3. make a reasonable effort to protect the student from
14 conditions harmful to learning and/or to the student's mental
15 and/or physical health and/or safety;
- 16 4. not unreasonably restrain a student from independent action
17 in pursuit of learning;
- 18 5. not unreasonably deny a student access to diverse points of
19 view;
- 20 6. not intentionally suppress or distort subject matter relevant
21 to a student's academic program;
- 22 7. not intentionally expose a student to unnecessary
23 embarrassment or disparagement;
- 24 8. not intentionally violate or deny a student's legal rights;
- 25 9. not harass or discriminate against any student on any basis
26 prohibited by law or the Board and shall make reasonable
27 efforts to assure that each student is protected from
28 harassment or discrimination;

- 1 10. not exploit a relationship with a student for personal gain or
2 advantage;
- 3 11. keep confidential personally identifiable information obtained
4 in the course of professional service, unless disclosure serves
5 professional purposes or is required by law;
- 6 12. take reasonable precautions to distinguish between personal
7 views and those of any educational institution or organization
8 with which the individual is affiliated;
- 9 13. not intentionally distort or misrepresent facts concerning an
10 educational matter in direct or indirect public expression;
- 11 14. not use institutional privileges for personal gain or advantage;
12 (see also Policy 3129, Conflict of Interest)
- 13 15. accept no gratuity, gift, or favor that might influence
14 professional judgment; (see also Policy 3129, Conflict of
15 Interest)
- 16 Pursuant to F.S. 112.313, no instructional staff member shall
17 solicit or accept anything of value including a gift (see F.S.
18 112.312), loan, reward, promise of future employment, favor,
19 or service based upon an understanding that the vote, official
20 action, or judgment of the instructional staff member would
21 be influenced thereby.
22
- 23 16. offer no gratuity, gift, or favor to obtain special advantages;
24 (see also Policy 3129, Conflict of Interest)
- 25 17. maintain honesty in all professional dealings;
- 26 18. maintain, prepare, and submit promptly all reports that may
27 be required by State law, State Department of Education
28 rules, Board rules, and administrative directives;
- 29 19. not deny a colleague professional benefits, advantages, or
30 participation in any professional organization on any basis
31 prohibited by law or the Board;
- 32 20. not interfere with a colleague's exercise of political or civil
33 rights and responsibilities;

**THE SCHOOL BOARD OF
MIAMI-DADE COUNTY**

INSTRUCTIONAL STAFF
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- 1 21. not use abusive and/or profane language or display unseemly
2 conduct in the workplace;
- 3 22. not engage in harassment or discriminatory conduct which
4 unreasonably interferes with an individual's performance of
5 professional or work responsibilities or with the orderly
6 processes of education or which creates a hostile,
7 intimidating, abusive, offensive, or oppressive environment;
8 and, further, shall make reasonable efforts to assure that
9 each individual is protected from such harassment or
10 discrimination;
- 11 23. not make malicious or intentionally false statements about a
12 colleague;
- 13 24. not use coercive means or promise special treatment to
14 influence professional judgments of colleagues;
- 15 25. not misrepresent one's own professional qualifications;
- 16 26. not submit fraudulent information on any document in
17 connection with professional activities;
- 18 27. not make any fraudulent statement or fail to disclose a
19 material fact in one's own or another's application for a
20 professional position;
- 21 28. not withhold information regarding a position from an
22 applicant or misrepresent an assignment or conditions of
23 employment;
- 24 29. provide upon the request of a certificated individual a written
25 statement of specific reason for recommendations that lead to
26 the denial of increments, significant changes in employment,
27 or termination of employment;
- 28 30. not assist entry into or continuance in the profession of any
29 person known to be unqualified in accordance with these
30 Principles of Professional Conduct for the Education
31 Profession in Florida and other applicable Florida statutes
32 and State Board of Education rules;

- 1 31. self-report within forty-eight (48) hours to appropriate
2 authorities any arrest and final dispositions of such arrest
3 other than minor traffic violations; (DUI is not considered a
4 minor traffic violation.)
5
6 Instructional staff members shall self-report any conviction,
7 finding of guilt, withholding of adjudication, commitment to a
8 pretrial diversion program, or entering of a plea of guilty or
9 Nolo Contendere for any criminal offense other than a minor
10 traffic violation within forty-eight (48) hours after the final
11 judgment.
- 12 32. report to appropriate authorities any known allegation of a
13 violation of the Florida School Code or State Board of
14 Education rules as defined in F.S. 1012.795(1);
- 15 33. report any criminal act, and/or disruptive, and/or
16 inappropriate behavior to the administrator or designee to
17 whom the employee is responsible;
18
19 Allegations of child abuse and/or neglect MUST also be
20 reported, immediately upon knowledge, to the Florida
21 Department of Children and Families at 1-800-96ABUSE
22 (1-800-962-2873), to School Police at 305-995-COPS
23 (305-995-2677), and the site administrator. Failure to
24 immediately report child abuse and/or neglect to the proper
25 authorities will lead to disciplinary action.
- 26 34. seek no reprisal against any individual who has reported any
27 allegation of a violation of the Florida School Code or State
28 Board of Education rules as defined in F.S. 1012.795(1);
- 29 35. comply with the conditions of an order of the Education
30 Practices Commission imposing probation, imposing a fine, or
31 restricting the authorized scope of practice;

- 1 36. as the supervising administrator, cooperate with the
2 Education Practices Commission in monitoring the probation
3 of a subordinate.
- 4 B. No staff member shall have any interest, financial or otherwise,
5 direct or indirect; engage in any business transaction or professional
6 | activity; or incur any obligation of any nature ~~which~~that is in
7 | conflict with the proper discharge of his/her duties in the public
8 | interest. (see also Policy 3129, Conflict of Interest)
- 9 C. All instructional staff members shall be required to complete
10 training on these standards upon employment and annually
11 thereafter.

12 | F.S. 112.312, 112.313, 1001.42(6), 1012.23, 1012.795(1)
13 | F.A.C. 6B-1.001, 6B-1.006

1

STANDARDS OF ETHICAL CONDUCT

2 All employees are representatives of the District and shall conduct themselves, both
3 in their employment and in the community, in a manner that will reflect credit upon
4 themselves and the school system.

5 | A support staff member ~~with direct access to students~~ shall:

6 | A1. make a reasonable effort to protect the student from conditions
7 harmful to learning and/or to the student's mental and/or physical
8 health and/or safety.

9 | B2. not unreasonably restrain a student from independent action in
10 pursuit of learning.

11 | C3. not intentionally expose a student to unnecessary embarrassment or
12 disparagement.

13 | D4. not intentionally violate or deny a student's legal rights.

14 | E5. not harass or discriminate against any student on any basis
15 prohibited by law or the Board and shall make reasonable efforts to
16 assure that each student is protected from harassment or
17 discrimination.

18 | F6. not exploit a relationship with a student for personal gain or
19 advantage.

20 | G7. keep in confidence personally identifiable information obtained in
21 the course of professional service, unless disclosure serves
22 professional purposes or is required by law.

23 | H8. not intentionally distort or misrepresent facts concerning an
24 educational matter in direct or indirect public expression.

25 | I9. not use institutional privileges for personal gain or advantage. (see
26 also Policy 4129, Conflict of Interest)

27 | J10. accept no gratuity, gift, or favor that might influence judgment. (see
28 also Policy 4129, Conflict of Interest)

29 |
30 | Pursuant to F.S. 112.313, no support staff member shall solicit or
31 | accept anything of value including a gift (see F.S. 112.312), loan,

**THE SCHOOL BOARD OF
MIAMI-DADE COUNTY**

SUPPORT STAFF
4210/page 2 of 3

- 1 | reward, promise of future employment, favor, or service based upon
2 | an understanding that the vote, official action, or judgment of the
3 | support staff member would be influenced thereby.
- 4 | ~~K~~11. offer no gratuity, gift, or favor to obtain special advantages. (see also
5 | Policy 4129, Conflict of Interest)
- 6 | ~~L~~12. maintain honesty in all dealings.
- 7 | ~~M~~13. not interfere with another District employee's exercise of political or
8 | civil rights and responsibilities.
- 9 | ~~N~~14. not engage in harassment or discriminatory conduct which
10 | unreasonably interferes with an individual's performance of work
11 | responsibilities or with the orderly processes of education or which
12 | creates a hostile, intimidating, abusive, offensive, or oppressive
13 | environment; and, further, shall make reasonable efforts to assure
14 | that each individual is protected from such harassment or
15 | discrimination.
- 16 | ~~O~~15. not make malicious or intentionally false statements about another
17 | District employee.
- 18 | ~~P~~16. not misrepresent one's qualifications.
- 19 | ~~Q~~17. not submit fraudulent information on any document in connection
20 | with employment.
- 21 | ~~R~~18. not make any fraudulent statement or fail to disclose a material fact
22 | in one's own or another's application for employment.
- 23 | ~~S~~19. not use abusive and/or profane language or display unseemly
24 | conduct in the workplace.
- 25 |
- 26 | ~~T~~20. self-report within forty-eight (48) hours to appropriate authorities
27 | any arrest and final dispositions of such arrest other than minor
28 | traffic violations; (DUI is not considered a minor traffic violation.)
- 29 | ~~F~~21. report any criminal act, and/or disruptive, and/or inappropriate
30 | behavior to the administrator or designee to whom the employee is
31 | responsible. Allegations of child abuse and/or neglect MUST also be
32 | reported, immediately upon knowledge, to the Florida Department of
33 | Children and Families at 1-800-96ABUSE (1-800-962-2873), AND
34 | to the School Police at 305-995-COPS (305-995-2677). Failure to
35 | immediately report child abuse and/or neglect to the proper
36 | authorities will lead to disciplinary action.

**THE SCHOOL BOARD OF
MIAMI-DADE COUNTY**

SUPPORT STAFF
4210/page 3 of 3

1 No support staff member shall have any interest, financial or otherwise, direct or
2 indirect; engage in any business transaction or professional activity; or incur any
3 obligation of any nature ~~which~~that is in substantial conflict with the proper
4 discharge of his/her duties in the public interest. (see also Policy 4129, Conflict of
5 Interest)
6

7 All support staff members who have direct access to students shall be required to
8 complete training on these standards upon employment and annually thereafter.

9 | F.S. 112.312,112.313, 1001.42(6), 1012.23,1012.795(1)
10 | F.A.C. 6B-1.001, 6B-1.006

1 ANTI-DISCRIMINATION/HARASSMENT COMPLAINT PROCEDURE

2 The individual listed below is the head of the Civil Rights Compliance (CRC) Office,
3 (Compliance Officer).

4 Civil Rights Compliance Executive Director

5 155 N.E. 15th Street, Suite P-104E
6 Miami, Florida 33132
7 305-995-1580

8 The School Board has established procedures to fulfill the letter and intent of
9 anti-discrimination laws. The CRC is responsible for investigating complaints
10 and/or charges of discrimination and illegal harassment, including sexual
11 harassment and retaliation filed by employees, students and their parents, or
12 applicants. The CRC office accepts complaints of prohibited
13 discrimination/harassment directly from any member of the District community.
14 Upon receipt of a written complaint, the Compliance Officer will designate a specific
15 individual within the CRC office to conduct an investigation.

16 All members of the District community must report incidents of prohibited
17 discrimination/harassment to which they, in good faith, believe they have been
18 subjected or which are reported to them, to the CRC office without delay.

19 **Investigation and Complaint Procedure**

20 Any member of the District community or third party who has a good faith belief
21 that s/he has been subjected to prohibited discrimination/harassment may seek
22 resolution of his/her complaint through the procedures described below.

23 While there is a 300 calendar day time limit for initiating a complaint of
24 discrimination/harassment, individuals should make every effort to submit a
25 complaint as soon as possible after the prohibited conduct occurred while the facts
26 are known and potential witnesses are available, and to ensure the prompt
27 elimination of the conduct in question. Failure on the part of the employee to
28 initiate and/or follow-up on a complaint in a timely manner may result in the
29 complaint being considered abandoned. The procedures below are established to
30 provide a prompt and equitable process for resolving complaints of prohibited
31 discrimination/harassment.

1 These procedures are not intended to interfere with the rights of a member of the
2 School District community or a third party to pursue a complaint of legally
3 prohibited discrimination/harassment with any State or Federal enforcement
4 agency.

5 The initiation of a discrimination or harassment complaint by an employee will not
6 be used as a basis for actions that adversely affect the complainant's standing in
7 his/her work location. Additionally, participation in or assistance in the
8 investigation of a complaint shall not be used as the basis of any adverse
9 employment action on an employee.

10 Supervising administrators throughout the District are expected to address issues
11 and/or conflicts at the worksite. Issues should be resolved by encouraging
12 communication with adherence to laws, rules and guidelines. If the issues of
13 discrimination/harassment cannot be resolved, it should be referred to the
14 Compliance Officer without delay.

15 **Complaint Procedure**

16 A member of the District community or third party who believes they have been
17 subjected to prohibited discrimination/harassment, must report the conduct
18 immediately to his/her supervisor or the CRC. If the complainant makes the report
19 to CRC, the complainant shall present it in writing. If a complainant informs any
20 other employee of the District, either orally or in writing, about any complaint of
21 prohibited discrimination/harassment, that employee must immediately refer the
22 individual or report such information to the Compliance Officer. No anonymous
23 complaints shall be accepted or processed. The complaint must be signed attesting
24 that it is true to the best of the complainant's knowledge.

25 If it is determined that the complaint alleges prohibited discrimination/harassment,
26 the complaint will be investigated.

27 Throughout the course of the investigative process, the Compliance Officer should
28 keep the complainant informed of the status of the investigation.

29 Complaints must include the following information to the extent it is available: the
30 identity of the individual believed to have engaged in, or be engaging in, prohibited
31 conduct/harassment; a detailed description of the facts upon which the complaint is
32 based; a list of potential witnesses; and, identification of the resolution which the
33 complainant seeks.

34 The Compliance Officer or designee will conduct an oral interview and prepare a
35 written summary of the oral interview which will be presented to the complainant for
36 verification by signature.

1 Upon receiving a written complaint, the Compliance Officer will consider, in
2 conjunction with the head of the division or department, whether any action should
3 be taken in the investigatory phase to protect the complainant from further legally
4 prohibited harassment or retaliation including but not limited to, a change of job
5 assignment or a change of class schedule. In making such a determination, the
6 Compliance Officers should consult the complainant to assess his/her agreement to
7 any action deemed appropriate.

8 | Within three (3) ~~business days~~workdays of receiving the written complaint of legally
9 prohibited harassment, the Compliance Officer will inform the individual alleged to
10 have engaged in the harassing conduct that a complaint has been received.

11 | Within five (5) ~~business days~~workdays of receiving the complaint, the Compliance
12 Officer or a designee will initiate a formal investigation to determine whether the
13 complainant has been subject to prohibited discrimination/harassment.

14 The Compliance Officer or designee will complete an investigation into the
15 | allegations of discrimination/harassment within thirty (30) ~~calendar days~~workdays
16 of receiving the written complaint. The investigation will include:

- 17 A. interviews with the complainant;
- 18 B. interviews with the respondent;
- 19 C. interviews with any other witnesses who may reasonably be
20 expected to have any information relevant to the allegations;
- 21 D. consideration of any documentation or other evidence presented by
22 the complainant, respondent, or any other witness which is
23 reasonably believed to be relevant to the allegations.

24 At the conclusion of the investigation, the respondent and the complainant will be
25 provided a written report of the findings summarizing the evidence gathered during
26 the investigation and the final determination of the case. If a finding of Probable
27 Cause occurs, CRC will forward the completed investigative report, including the
28 determination of Probable Cause to the Office of Professional Standards for review, a
29 recommendation for disciplinary action, and final disposition of the case. All
30 disciplinary action will be taken according to State law and the terms of the
31 applicable collective bargaining agreement(s). The Board will act upon the
32 recommended disciplinary determination at its regular meeting.

33
34 The complainant may request review of the CRC determination by the
35 Superintendent. The request must be submitted in writing within fifteen (15)
36 workdays and state with particularity the reasons for the request, which may
37 include additional witnesses, evidence or information that if obtained, would likely
38 change the outcome of the investigation.

1 **Confidentiality**

2 The District will make all reasonable efforts to protect the rights of the complainant
3 and the respondent. The District will respect the privacy of the complainant (unless
4 the complainant made the complaint with malice or with knowledge that it was
5 false), the respondent, and all witnesses in a manner consistent with the District's
6 legal obligations under State and Federal law. Confidentiality cannot be guaranteed
7 however. All parties proceeding through the investigation process should be advised
8 that at the conclusion of the investigation, their identities and the investigation
9 become subject to disclosure under F.S. 119.

10 During the course of the investigation, the Compliance Officer or his/her designee
11 will instruct all members of the District community and third parties who are
12 interviewed about the importance of maintaining confidentiality. Any individual who
13 is interviewed as part of an investigation of prohibited discrimination/harassment is
14 expected not to disclose any information that s/he learns or that s/he provides
15 during the course of the investigation.

16 All public records created as part of an investigation of prohibited
17 discrimination/harassment will be maintained by the Compliance Officer according
18 to State law and the Board's records retention policy. Records of an ongoing
19 investigation shall remain confidential and not subject to disclosure pursuant to
20 F.S. Chapter 119, until a final determination is made on the case. Any records
21 which are considered education records under the Family Educational Rights and
22 Privacy Act will be maintained in a manner consistent with the provisions of Federal
23 and State law.

24 **Child Abuse/Sexual Misconduct**

25 All employees aware of suspected child abuse or neglect must immediately report
26 the abuse to the Department of Children and Family Services abuse hotline, the
27 School Police, and the school site administrator. If, during the course of an
28 investigation of prohibited discrimination/harassment, the Compliance Officers or
29 designee has reason to believe or suspect that the alleged conduct indicates abuse
30 or neglect of the complainant, a report of such knowledge must be made in
31 accordance with State law and Policy 8462.

32 If the Compliance Officer or a designee has reason to believe that the complainant
33 has been the victim of criminal conduct, such knowledge should be reported to local
34 law enforcement.

1 Any reports made to the local child protection service or to local law enforcement
2 shall not terminate the Compliance Officer's or designee's obligation and
3 responsibility to continue to investigate a complaint of prohibited
4 discrimination/harassment.

5 Mandatory Reporting of Misconduct by Certificated Employees

6 The Superintendent is required by State law and Policy 8141 to report alleged
7 misconduct by certificated employees of the District that affects the health, safety,
8 and welfare of a student.

9 F.S. 110.1221, 760.01, 760.10, 1000.05, 1006.07
10 20 U.S.C. 1681 et seq.
11 29 U.S.C. 621 et seq.
12 29 U.S.C. 794
13 29 C.F.R. Part 1635
14 42 U.S.C. 12101 et seq.
15 42 U.S.C. 2000d et seq.
16 42 U.S.C. 2000e et seq.
17 42 U.S.C. 1983
18 42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act
19 National School Boards Association Inquiry and Analysis - May 2008

20 Technical Change 7/13/15

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6 Miami Florida 33132
7 305-995-1580

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9 discrimination laws. The CRC is responsible for investigating complaints and/or
10 charges of discrimination and illegal harassment, including sexual harassment and
11 retaliation filed by employees, students and their parents, or applicants. The CRC
12 office accepts complaints of prohibited discrimination/harassment directly from any
13 member of the District community. Upon receipt of a written complaint, the
14 Compliance Officer will designate a specific individual within the CRC office to
15 conduct an investigation.

16 All members of the District community must report incidents of prohibited
17 discrimination/harassment to which they, in good faith, believe they have been
18 subjected or which are reported to them, to the CRC office without delay.

19 **Investigation and Complaint Procedure**

20 Any member of the District community or third party who has a good faith belief
21 that s/he has been subjected to prohibited discrimination/harassment may seek
22 resolution of his/her complaint through the procedures described below.

23 While there is a 300 calendar day time limit for initiating a complaint of
24 discrimination/harassment, individuals should make every effort to submit a
25 complaint as soon as possible after the prohibited conduct occurred while the facts
26 are known and potential witnesses are available, and to ensure the prompt
27 elimination of the conduct in question. Failure on the part of the employee to
28 initiate and/or follow-up on a complaint in a timely manner may result in the
29 complaint being considered abandoned. The procedures below are established to
30 provide a prompt and equitable process for resolving complaints of prohibited
31 discrimination/harassment.

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2 School District community or a third party to pursue a complaint of legally
3 prohibited discrimination/harassment with any State or Federal enforcement
4 agency.

5 The initiation of a discrimination or harassment complaint by an employee will not
6 be used as a basis for actions that adversely affect the complainant's standing in
7 his/her work location. Additionally, participation in or assistance in the
8 investigation of a complaint shall not be used as the basis of any adverse
9 employment action on an employee.

10 Supervising administrators throughout the District are expected to address issues
11 and/or conflicts at the worksite. Issues should be resolved by encouraging
12 communication with adherence to laws, rules and guidelines. If the issues of
13 discrimination/harassment cannot be resolved, it should be referred to the
14 Compliance Officer without delay.

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17 subjected to prohibited discrimination/harassment, must report the conduct
18 immediately to his/her supervisor or the CRC. If the complainant makes the report
19 to CRC, the complainant shall present it in writing. If a complainant informs any
20 other employee of the District, either orally or in writing, about any complaint of
21 prohibited discrimination/harassment, that employee must immediately refer the
22 individual or report such information to the Compliance Officer. No anonymous
23 complaints shall be accepted or processed. The complaint must be signed attesting
24 that it is true to the best of the complainant's knowledge.

25 If it is determined that the complaint alleges prohibited discrimination/harassment,
26 the complaint will be investigated.

27 Throughout the course of the investigative process, the Compliance Officer should
28 keep the complainant informed of the status of the investigation.

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32 based; a list of potential witnesses; and, identification of the resolution which the
33 complainant seeks.

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35 written summary of the oral interview which will be presented to the complainant for
36 verification by signature.

1 Upon receiving a written complaint, the Compliance Officer will consider, in
2 conjunction with the head of the division or department, whether any action should
3 be taken in the investigatory phase to protect the complainant from further legally
4 prohibited harassment or retaliation including but not limited to, a change of job
5 assignment or a change of class schedule. In making such a determination, the
6 Compliance Officers should consult the complainant to assess his/her agreement to
7 any action deemed appropriate.

8 | Within three (3) ~~business days~~workdays of receiving the written complaint of legally
9 prohibited harassment, the Compliance Officer will inform the individual alleged to
10 have engaged in the harassing conduct that a complaint has been received.

11 | Within five (5) ~~business days~~workdays of receiving the complaint, the Compliance
12 Officer or a designee will initiate a formal investigation to determine whether the
13 complainant has been subject to prohibited discrimination/harassment.

14 The Compliance Officer or designee will complete an investigation into the
15 | allegations of discrimination/harassment within thirty (30) ~~calendar days~~workdays
16 of receiving the written complaint. The investigation will include:

- 17 A. interviews with the complainant;
- 18 B. interviews with the respondent;
- 19 C. interviews with any other witnesses who may reasonably be
20 expected to have any information relevant to the allegations;
- 21 D. consideration of any documentation or other evidence presented by
22 the complainant, respondent, or any other witness which is
23 reasonably believed to be relevant to the allegations.

24 At the conclusion of the investigation, the respondent and the complainant will be
25 provided a written report of the findings summarizing the evidence gathered during
26 the investigation and the final determination of the case. If a finding of Probable
27 Cause occurs, CRC will forward the completed investigative report, including the
28 determination of Probable Cause to the Office of Professional Standards for review, a
29 recommendation for disciplinary action, and final disposition of the case. All
30 disciplinary action will be taken according to State law and the terms of the
31 applicable collective bargaining agreement(s). The Board will act upon the
32 recommended disciplinary determination at its regular meeting.

33
34 The complainant may request a review of the CRC determination by the
35 Superintendent. The request must be submitted in writing within fifteen (15)
36 workdays and state with particularity the reasons for the request, which may
37 include additional witnesses, evidence or information that if obtained, would likely
38 change the outcome of the investigation.

1 **Confidentiality**

2 The District will make all reasonable efforts to protect the rights of the complainant
3 and the respondent. The District will respect the privacy of the complainant (unless
4 the complainant made the complaint with malice or with knowledge that it was
5 false), the respondent, and all witnesses in a manner consistent with the District's
6 legal obligations under State and Federal law. Confidentiality cannot be guaranteed
7 however. All parties proceeding through the investigation process should be advised
8 that at the conclusion of the investigation, their identities and the investigation
9 become subject to disclosure under F.S. 119.

10 During the course of the investigation, the Compliance Officer or his/her designee
11 will instruct all members of the District community and third parties who are
12 interviewed about the importance of maintaining confidentiality. Any individual who
13 is interviewed as part of an investigation of prohibited discrimination/harassment is
14 expected not to disclose any information that s/he learns or that s/he provides
15 during the course of the investigation.

16 All public records created as part of an investigation of prohibited
17 discrimination/harassment will be maintained by the Compliance Officer according
18 to State law and the Board's records retention policy. Records of an ongoing
19 investigation shall remain confidential and not subject to disclosure pursuant to
20 F.S. Chapter 119 until a final determination is made on the case. Any records
21 which are considered education records under the Family Educational Rights and
22 Privacy Act will be maintained in a manner consistent with the provisions of Federal
23 and State law.

24 **Child Abuse/Sexual Misconduct**

25 All employees aware of suspected child abuse or neglect must immediately report
26 the abuse to the Department of Children and Family Services abuse hotline, the
27 School Police, and the school site administrator. If, during the course of an
28 investigation of prohibited discrimination/harassment, the Compliance Officers or
29 designee has reason to believe or suspect that the alleged conduct indicates abuse
30 or neglect of the complainant, a report of such knowledge must be made in
31 accordance with State law and Policy 8462.

32 If the Compliance Officer or a designee has reason to believe that the complainant
33 has been the victim of criminal conduct, such knowledge should be reported to local
34 law enforcement.

1 Any reports made to the local child protection service or to local law enforcement
2 shall not terminate the Compliance Officer's or a designee's obligation and
3 responsibility to continue to investigate a complaint of prohibited
4 discrimination/harassment.

5 Mandatory Reporting of Misconduct by Certificated Employees

6 The Superintendent is required by State law and Policy 8141 to report alleged
7 misconduct by certificated employees of the District that affects the health, safety,
8 and welfare of a student.

9 F.S. 110.1221, 760.01, 760.10, 1000.05, 1006.07
10 20 U.S.C. 1681 et seq.
11 29 U.S.C. 621 et seq.
12 29 U.S.C. 794
13 29 C.F.R. Part 1635
14 42 U.S.C. 12101 et seq.
15 42 U.S.C. 2000d et seq.
16 42 U.S.C. 2000e et seq.
17 42 U.S.C. 1983
18 42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act
19 National School Boards Association Inquiry and Analysis - May 2008

20 Technical Change 7/13/15

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1 ANTI-DISCRIMINATION/HARASSMENT COMPLAINT PROCEDURE

2 The individual listed below is the head of the Civil Rights Compliance (CRC) Office,
3 ("Compliance Officer").

4 Civil Rights Compliance Executive Director
5 155 N.E. 15th Street, Suite P-104E
6 Miami Florida 33132
7 305-995-1580

8 The Board has established procedures to fulfill the letter and intent of anti-
9 discrimination laws. The Office of Civil Rights Compliance (CRC) is responsible for
10 investigating complaints and/or charges of discrimination and illegal harassment,
11 including sexual harassment and retaliation filed by employees, students and their
12 parents, or applicants. The CRC office accepts complaints of prohibited
13 discrimination/harassment directly from any member of the District community.
14 Upon receipt of a written complaint, the Compliance Officer will designate a specific
15 individual within the CRC office to conduct an investigation.

16 All members of the District community must report incidents of prohibited
17 discrimination/harassment to which they, in good faith, believe they have been
18 subjected or which are reported to them, to the CRC office without delay.

19 **Investigation and Complaint Procedure**

20 Any member of the District community or third party who has a good faith belief
21 that s/he has been subjected to prohibited discrimination/harassment may seek
22 resolution of his/her complaint through the procedures described below.

23 While there is a 300 calendar day time limit for initiating a complaint of
24 discrimination/harassment, individuals should make every effort to submit a
25 complaint as soon as possible after the prohibited conduct occurred while the facts
26 are known and potential witnesses are available, and to ensure the prompt
27 elimination of the conduct in question. Failure on the part of the employee to
28 initiate and/or follow-up on a complaint in a timely manner may result in the
29 complaint being considered abandoned. The procedures below are established to
30 provide a prompt and equitable process for resolving complaints of prohibited
31 discrimination/harassment.

1 These procedures are not intended to interfere with the rights of a member of the
2 District community or a third party to pursue a complaint of legally prohibited
3 discrimination/harassment with any State or Federal enforcement agency.

4 The initiation of a discrimination or harassment complaint by an employee will not
5 be used as a basis for actions that adversely affect the complainant's standing in
6 his/her work location. Additionally, participation in or assistance in the
7 investigation of a complaint shall not be used as the basis of any adverse
8 employment action on an employee.

9 Supervising administrators throughout the District are expected to address issues
10 and/or conflicts at the worksite. Issues should be resolved by encouraging
11 communication with adherence to laws, rules and guidelines. If the issues of
12 discrimination/harassment cannot be resolved, it should be referred to the
13 Compliance Officer without delay.

14 **Complaint Procedure**

15 A member of the District community or third party who believes they have been
16 subjected to prohibited discrimination/harassment, must report the conduct
17 immediately to his/her supervisor or the CRC. If the complainant makes the report
18 to CRC, the complainant shall present it in writing. If a complainant informs any
19 other employee of the District, either orally or in writing, about any complaint of
20 prohibited discrimination/harassment, that employee must immediately refer the
21 individual or report such information to the Compliance Officer. No anonymous
22 complaints shall be accepted or processed. The complaint must be signed attesting
23 that it is true to the best of the complainant's knowledge.

24 If it is determined that the complaint alleges prohibited discrimination/harassment,
25 the complaint will be investigated.

26 Throughout the course of the investigative process, the Compliance Officer should
27 keep the complainant informed of the status of the investigation.

28 Complaints must include the following information to the extent it is available: the
29 identity of the individual believed to have engaged in, or be engaging in, prohibited
30 conduct/harassment; a detailed description of the facts upon which the complaint is
31 based; a list of potential witnesses; and, identification of the resolution which the
32 complainant seeks.

33 The Compliance Officer or designee will conduct an oral interview and prepare a
34 written summary of the oral interview which will be presented to the complainant for
35 verification by signature.

1 Upon receiving a written complaint, the Compliance Officer will consider, in
2 conjunction with the head of the division or department, whether any action should
3 be taken in the investigatory phase to protect the complainant from further legally
4 prohibited harassment or retaliation including but not limited to, a change of job
5 assignment or a change of class schedule. In making such a determination, the
6 Compliance Officers should consult the complainant to assess his/her agreement to
7 any action deemed appropriate.

8 | Within three (3) ~~business days~~workdays of receiving the written complaint of legally
9 prohibited harassment, the Compliance Officer will inform the individual alleged to
10 have engaged in the harassing conduct that a complaint has been received.

11 | Within five (5) ~~business days~~workdays of receiving the complaint, the Compliance
12 Officer or a designee will initiate a formal investigation to determine whether the
13 complainant has been subject to prohibited discrimination/harassment.

14 The Compliance Officer or designee will complete an investigation into the
15 | allegations of discrimination/harassment within thirty (30) ~~calendar days~~workdays
16 of receiving the written complaint. The investigation will include:

- 17 A. interviews with the complainant;
- 18 B. interviews with the respondent;
- 19 C. interviews with any other witnesses who may reasonably be
20 expected to have any information relevant to the allegations;
- 21 D. consideration of any documentation or other evidence presented by
22 the complainant, respondent, or any other witness which is
23 reasonably believed to be relevant to the allegations.

24 At the conclusion of the investigation, the respondent and the complainant will be
25 provided a written report of the findings summarizing the evidence gathered during
26 the investigation and the final determination of the case. If a finding of Probable
27 Cause occurs, CRC will forward the completed investigative report, including the
28 determination of Probable Cause to the Office of Professional Standards for review, a
29 recommendation for disciplinary action, and final disposition of the case. All
30 disciplinary action will be taken according to State law and the terms of the
31 applicable collective bargaining agreement(s). The Board will act upon the
32 recommended disciplinary determination at its regular meeting.

33
34 The complainant may request review of the CRC determination by the
35 Superintendent. The request must be submitted in writing within fifteen (15)
36 workdays and state with particularity the reasons for the request, which may
37 include additional witnesses, evidence or information to be sought that if obtained,
38 would likely change the outcome of the investigation.

1 **Confidentiality**

2 The District will make all reasonable efforts to protect the rights of the complainant
3 and the respondent. The District will respect the privacy of the complainant (unless
4 the complainant made the complaint with malice or with knowledge that it was
5 false), the respondent, and all witnesses in a manner consistent with the District's
6 legal obligations under State and Federal law. Confidentiality cannot be guaranteed
7 however. All parties proceeding through the investigation process should be advised
8 that at the conclusion of the investigation, their identities and the investigation
9 become subject to disclosure under F.S. 119.

10 During the course of the investigation, the Compliance Officer or his/her designee
11 will instruct all members of the District community and third parties who are
12 interviewed about the importance of maintaining confidentiality. Any individual who
13 is interviewed as part of an investigation of prohibited discrimination/harassment is
14 expected not to disclose any information that s/he learns or that s/he provides
15 during the course of the investigation.

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