

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

**SUBJECT: INITIAL READING: TO AMEND POLICIES 1242, 3242,
*PROFESSIONAL DEVELOPMENT; 3120, EMPLOYMENT OF
INSTRUCTIONAL PERSONNEL; AND 8141, MANDATORY
REPORTING OF MISCONDUCT BY CERTIFICATED EMPLOYEES***

COMMITTEE: PERSONNEL, STUDENT, SCHOOL, AND COMMUNITY SUPPORT

**LINK TO
STRATEGIC
BLUEPRINT: SAFE, HEALTHY & SUPPORTIVE LEARNING ENVIRONMENT**

Consistent with the Board's statutory responsibility to periodically review and update its policies to conform to legislative changes and District practices, authorization is requested for the Superintendent to initiate rulemaking proceedings to amend several Board policies related to human capital. These amendments have been developed after review of current statutes and regulations, recommendations by NEOLA, Inc., the Board's policy consultant, and District practices. All have been drafted in collaboration with, and reviewed by, the Superintendent, Cabinet, and District staff of departments that will implement them.

Policy 3120, *Employment of Instructional Personnel*, is proposed to be amended to include recent statutory amendments to Section 1012.57, F.S., that the Board shall adopt a policy to allow for the issuance of an adjunct teaching certificate to any applicant who fulfills specific requirements and who has expertise in the subject area to be taught if the applicant demonstrates sufficient subject area mastery through passage of a subject area test. The statute specifically states that the Legislature "intends that this section allow school districts to tap the wealth of talent and expertise" of Florida's citizens who may wish to teach in a Florida public school and "should be used primarily as a strategy to enhance the diversity of course offerings" and online offerings. School Districts are not required to hire any adjunct teacher, however, but may issue an adjunct certificate for a part-time or full-time position. However, a full-time adjunct position is valid for no more than three years and is nonrenewable. The requirements must be posted on the District website.

In addition, an amendment to Policy 3120 incorporates a requirement in Section 1012.56(3)(e), F.S., that school districts provide any employee who does not achieve a passing score on any subtest of the general knowledge examination with information

regarding the availability of state-level and District-level supports and instruction to assist them in achieving a passing score.

Amendments to Policies 1242 and 3242, *Professional Development*, are technical in nature to delete a reference to specific professional development standards adopted by the National Staff Development Council and update it with more general language to state that the District's professional development plans will be aligned with "state and nationally-adopted professional development standards."

Finally, Policy 8141, *Mandatory Reporting of Misconduct by Certificated Employees*, is proposed to be updated with numerous recent safety and security statutory changes mandated by HB 7026 and other statutes involving reporting misconduct by employees. First, the title is recommended to be changed to remove the word "certificated" to indicate that the policy applies to all employees, not just certificated. The updated language includes required reporting of any misconduct that involves engaging in or soliciting sexual, romantic, or lewd conduct with a student, also reporting to local law enforcement any misconduct that would result in disqualification from employment, and provides that reporting employees may be entitled to certain liability protections.

Attached are the Notice of Intended Action and 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 Board Policies 1242, 3242, *Professional Development*; 3120, *Employment of Instructional Personnel*; and 8141, *Mandatory Reporting of Misconduct by Certificated Employees*.

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 Board Policies 1242, 3242, *Professional Development*; 3120, *Employment of Instructional Personnel*; and 8141, *Mandatory Reporting of Misconduct by Certificated Employees*.

NOTICE OF INTENDED ACTION

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, announced on February 12, 2020, its intention to amend Board policies 1242 and 3242, *Professional Development*; 3120, *Employment of Instructional Personnel*; 8141, *Mandatory Reporting of Misconduct by Certificated Personnel*; at its regular meeting on March 18, 2020.

PURPOSE AND EFFECT: Policy 3120, *Employment of Instructional Personnel*, is proposed to be amended to include recent statutory amendments to Section 1012.57, F.S. that the Board adopt a policy to allow for the issuance of adjunct teaching certificates. The requirements must be posted on the District's website. Policy 3120 is also proposed to be amended to incorporate a statutory requirement that school districts provide any employee who does not achieve a passing score on any subtest of the general knowledge examination with information regarding the availability of state-level and District-level supports and instruction to assist them in achieving a passing score.

Amendments to Policies 1242 and 3242, *Professional Development*, are technical in nature to delete a specific reference to professional development standards adopted by the National Staff Development Council.

Finally, Policy 8141, *Mandatory Reporting of Misconduct by Certificated Employees*, is proposed to be renamed to remove the word "certificated" to indicate that the policy applies to all employees. The updated language requires reporting of misconduct that involves engaging in or soliciting sexual, romantic, or lewd conduct, reporting to local law enforcement any misconduct that would result in disqualification from employment, and provides that reporting employees may be entitled to certain liability protections.

SUMMARY: Policy 3120, *Employment of Instructional Personnel*, is proposed to be amended to allow for the issuance of an adjunct teaching certificate in accordance with law and to incorporate a statutory requirement that school districts provide any employee who does not achieve a passing score on any subtest of the general knowledge examination with information regarding the availability of state-level and District-level supports and instruction to assist them in achieving a passing score.

Amendments to Policies 1242, and 3242, *Professional Development*, delete a specific reference to the National Staff Development Council.

Policy 8141, *Mandatory Reporting of Misconduct by Certificated Employees*, is proposed to be renamed to remove the word "certificated" to indicate that the policy requires all employees to report certain employee misconduct, including misconduct that involves engaging in or soliciting sexual, romantic, or lewd conduct.

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

LAWS IMPLEMENTED INTERPRETED OR MADE SPECIFIC: 1001.42(6), (7); 1012.56(e); 1012.57;

IF REQUESTED, A HEARING WILL BE HELD DURING SCHOOL BOARD MEETING OF March 18, 2020, 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 11, 2020, 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, Florida Statutes)

COPIES OF THE PROPOSED AMENDED POLICIES are available at cost to the public for inspection and copying in the Citizen Information Center, Room 102, 1450 N.E. Second Avenue, Miami, Florida 33132.



Book	Policy Manual
Section	February 12, 2020 - <u>Initial</u> Reading
Title	PROFESSIONAL DEVELOPMENT
Code	1242
Adopted	May 11, 2011
Last Revised	October 11, 2017

1242 - PROFESSIONAL DEVELOPMENT

The District will work collaboratively with the Florida Department of Education (FLDOE), public postsecondary institutions, State education foundations, consortia, and professional organizations in Florida to maintain a coordinated system of professional development in order to increase student achievement, enhance classroom instructional strategies that promote rigor and relevance throughout the curriculum, and prepare students for continuing education in the workforce. The annual plan development process shall include a review of student achievement data, District strategic goals, applicable State and Federal mandates, and input from instructional personnel and school-based administrators.

The District's comprehensive professional development plan will also incorporate school improvement plans, will align with the Florida Professional Development System Evaluation Protocol Standards, which support the framework for state and nationally-adopted professional standards ~~adopted by the National Staff Development Council~~, and will align with the Florida Principal Leadership Standards, the Florida Educator Accomplished Practices, and shall include mentoring programs such as Mentoring and Induction for New Teacher (MINT) and the assistant principal and principal induction programs.

As required by State law, the District's comprehensive professional development plan will be updated annually by September 1st. Any substantial revisions to the District's plan will be submitted to the FLDOE for review and approval. The Superintendent will annually recommend to the School Board the updated comprehensive professional development plan, so that the adoption can be submitted to the Commissioner of Education no later than October 1st of each year.

The Board will provide funding for professional development as required by State law and the General Appropriations Act and will authorize expenditures from other sources to continuously strengthen the District's system of professional development.

Effective 7/1/11
Revised 10/11/17

Legal

- F.S. 1001.42
- F.S. 1011.62
- F.S. 1011.67
- F.S. 1012.22
- F.S. 1012.98
- F.S. 1012.985
- F.S. 1012.986



Book	Policy Manual
Section	February 12, 2020 - <u>Initial</u> Reading
Title	PROFESSIONAL DEVELOPMENT
Code	3242
Adopted	July 1, 2011
Last Revised	October 11, 2017

3242 - PROFESSIONAL DEVELOPMENT

The District will work collaboratively with the Florida Department of Education (FLDOE), public postsecondary institutions, State education foundations, consortia, and professional organizations in Florida to maintain a coordinated system of professional development in order to increase student achievement, enhance classroom instructional strategies that promote rigor and relevance throughout the curriculum, and prepare students for continuing education in the workforce. The annual plan development process shall include a review of student achievement data, District strategic goals, applicable State and Federal mandates, and input from instructional personnel and school-based administrators.

The District's comprehensive professional development plan will also incorporate school improvement plans, will align with the Florida Professional Development System Evaluation Protocol Standards, which support the framework for state and nationally-adopted professional development standards ~~adopted by the National Staff Development Council~~, and will align with the Florida Principal Leadership Standards, the Florida Educator Accomplished Practices, and shall include mentoring programs such as Mentoring and Induction for New Teachers (MINT) and the assistant principal and principal induction programs.

As required by State law, the District's comprehensive professional development plan will be updated annually by September 1st. Any substantial revisions to the District's plan will be submitted to the FLDOE for review and approval. The Superintendent will annually recommend to the School Board the updated comprehensive professional development plan so that the adoption can be submitted to the Commissioner of Education not later than October 1st of each year.

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F.S. 1012.985

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Book	Policy Manual
Section	February 12, 2020: <u>Initial</u> Reading
Title	EMPLOYMENT OF INSTRUCTIONAL PERSONNEL
Code	3120
Adopted	May 11, 2011
Last Revised	June 17, 2015

3120 - **EMPLOYMENT OF INSTRUCTIONAL PERSONNEL**

The term instructional personnel refers to K-12 staff members whose functions include the provision of direct instructional services to students. Instructional personnel also include K-12 staff members whose functions provide direct support in the learning process of students as defined by F.S. 1012.01.

Any person employed in an instructional position requiring certification shall possess a valid certificate issued pursuant to Florida law and shall file the certificate with the District.

Misstatement of fact material to qualification for employment or the determination of salary shall constitute grounds for dismissal.

A candidate shall be disqualified from employment in any position that requires direct contact with students if the candidate is ineligible for such employment under F.S. 1012.315.

Upon recommendation of the Superintendent, the School Board shall approve employment of instructional personnel.

Qualifications of instructional personnel shall be as required by law and Florida Administrative Code. To be eligible for appointment in any instructional position in the District, a person must be of good moral character; must have attained the age of eighteen (18) years; and must, when required by law, hold a certificate or license issued under rules of the State Board of Education or the Board, except when employed pursuant to F.S. 1012.55 or under the emergency provisions of F.S. 1012.24.

Instructional personnel must meet the requirements for their position and follow the employment procedures as set forth in Florida statutes and State Board of Education Rules, including but not limited to: F.S. 1012.24, 1012.35, 1012.36, 1012.39, 1012.43, and 1012.56; and F.A.C. 6A-1.0502, 6A-1.0503, 6A-4.001, 6A-6.010, and 6A-6.014 as they may be amended from time to time.

Certification of Instructional Personnel

A. State Certification

Any person employed in a position requiring certification shall possess a valid teaching certificate issued pursuant to Florida law. Instructional personnel who teach classes or provide support services shall be certified or licensed as defined in F.S. 1012.56, and F.A.C. 6A-1.0502 and 6A-1.0503.

B. District Certification

Pursuant to F.S. 1012.39, 1012.55, and 1012.57, with regard to the employment of temporary instructors, teachers of adult education, non- degreed teachers of career technical education (CTE), adjunct educators, and experts in the field, the District will establish the minimum requirements qualifications for the issuance of District certificates. Such certificates establish eligibility for employment but confer no right to employment.

The Superintendent may revoke or suspend a District certificate.

The application fee for the District certificate shall be the same as a State issued Educator's Certificate.

Any employee who does not achieve a passing score on any subtest of the general knowledge examination shall be provided information regarding the availability of State-level and District-level supports and instruction to assist them in achieving a passing score.

~~Requirements for Core Subject Area Teachers~~

~~All core subject area teachers employed by the District shall be "highly qualified" as defined by the No Child Left Behind Act of 2001. Core area teachers are defined in State and Federal law to include math, science, social science, language arts, reading, fine arts (art and music), elementary education, and foreign languages. This also includes Exceptional Student Education teachers who teach core area subjects.~~

Certification for Expert in the Field - Full-Time Instructional

Current teachers who hold a temporary certificate and have completed all requirements for professional certification but have not worked enough days to complete the work related requirements, may be eligible for a District expert in the field certificate.

The application for the District expert in the field certificate shall be submitted to the Office of Instructional Certification. Following the clearance of fingerprints and employment in a full-time instructional position, the Office of Instructional Certification will issue to the employee a District expert in the field certificate valid for one (1) school year beginning July 1st and ending June 30th. This certificate will be issued on a one-time basis and is non-renewable.

District Adjunct Teaching Certificate

The District may issue an adjunct teaching certificate for a part-time or full-time teaching position. However, an adjunct teaching certificate issued for a full-time teaching position is valid for no more than three (3) years and is nonrenewable. The District will post requirements on its website for the issuance of an adjunct teaching certificate, and also specify the subject area test through which an applicant demonstrates subject area mastery.

Effective 7/1/11
Revised 6/17/15

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Legal	F.S. 1012.01
	F.S. 1012.24
	F.S. 1012.315
	F.S. 1012.35
	F.S. 1012.36
	F.S. 1012.39
	F.S. 1012.42
	F.S. 1012.43
	F.S. 1012.55
	F.S.1012.56
	F.S. 1012.57
	F.A.C. 6A-1.0502
	F.A.C. 6A-1.0503
	F.A.C. 6A-6.014
	20 U.S.C. 6301
	20 U.S.C. 7801



Book	Policy Manual
Section	February 12, 2020 - <u>Initial</u> Reading
Title	MANDATORY REPORTING OF MISCONDUCT BY CERTIFICATED EMPLOYEES
Code	8141
Adopted	May 11, 2011
Last Revised	April 17, 2019

8141 - MANDATORY REPORTING OF MISCONDUCT BY ~~CERTIFICATED~~ EMPLOYEES

The School Board shall address employee misconduct and, where appropriate, provide a measured disciplinary response consistent with due process. In addition, with respect to certificated and/or certificated professional staff members, matters of misconduct, including conviction of certain crimes enumerated by law and/or conduct which is unbecoming to the teaching profession, will be reported by the Superintendent to the Florida Department of Education (DOE).

Reporting Professional Misconduct

All employees ~~District staff~~ are required to report to the Superintendent alleged misconduct by any District employee which affects the health, safety, or welfare of a student, including misconduct that involves engaging in or soliciting sexual, romantic, or lewd conduct with a student. For purposes of this policy, the term "employee(s)" includes all employees of the District and school officers as defined in F.S. 1012.01.

The Superintendent shall investigate any allegation of misconduct by District employees which affects the health, safety, or welfare of a student, including misconduct that involves engaging in or soliciting sexual, romantic, or lewd conduct with a student, and shall report the alleged misconduct to the Department of Education as required in F.S. 1012.796, 1001.51(12)(b), 1001.42(7)(b).

The Superintendent shall report to law enforcement agencies with jurisdiction any misconduct that would result in disqualification from educator certification or employment as set forth in F.S. 1012.315.

Staff alleged to have committed such misconduct shall be reassigned pending the outcome of a misconduct investigation.

Parental Notification of Alleged Misconduct

Within thirty (30) days of the date on which the District learns of misconduct by instructional personnel and school administrators which affects the health, safety, or welfare of a student, including misconduct that involves engaging in or soliciting sexual, romantic, lewd conduct with a student, or any conduct that would

result in disqualification from educator certification or employment as provided in F.S. 1012.315 the parent of a student who was subjected to or affected by such misconduct shall receive written notification informing the parent of the following:

- A. the alleged misconduct, including which allegations have been substantiated, if any;
- B. whether the District reported the misconduct to the Department of Education, if required by F.S. 1012.796;
- C. the sanctions imposed by the District against the employee, if any; and
- D. support the District will make available to the student subjected to or affected by the misconduct.

Parental notification shall be provided consistent with the provisions set forth in Policy 1590, Policy 3590, and Policy 4590.

Filing a Complaint with the Department of Education

If an instructional staff member or administrator has committed a violation as provided in F.S. 1012.795, and defined by rule of the State Board of Education, the Superintendent shall file with the Department of Education any legally sufficient complaint within thirty (30) days after the date on which the subject matter of the complaint came to the attention of the Superintendent. A complaint is legally sufficient if it contains ultimate facts that show a violation has occurred as provided in F.S. 1012.795 and defined by rule of the State Board of Education. The Superintendent shall include all known information relating to the complaint with the filing of the complaint. This paragraph does not limit or restrict the power and duty of the Department of Education to investigate complaints, regardless of the District's untimely filing, or failure to file, complaints and follow-up reports (F.S. 1012.796(e)).

Report of Resignation or Termination

If the Superintendent determines that a legally sufficient complaint of misconduct by an instructional staff member or an administrator who holds a certificate issued by the Florida Department of Education affects the health, safety, or welfare of a student and the misconduct warrants termination, the staff member may resign or be terminated and the Superintendent must immediately report the misconduct to the Department of Education in the format prescribed by the Department even if the instructional staff member or administrator resigns or is terminated before the conclusion of the District's investigation. The Department shall maintain each report of misconduct as a public record in the instructional personnel's certification files (F.S. 1012.796(d)).

Transmittal of False or Incorrect Report

The Superintendent shall not knowingly sign and transmit to any State official a report that the Superintendent knows to be false or incorrect.

Pursuant to F.S. 1001.42(7), a Board member may not knowingly sign and transmit to any State official a report of alleged misconduct by instructional personnel/administrators which affects the health, safety, or welfare of a student which the Board member knows to be false or incorrect.

Requirement of Disclosure of Employee Misconduct

The Board, Superintendent, or District administrator, may not enter into a confidentiality agreement regarding terminated or dismissed instructional personnel/administrators, or instructional personnel/administrators who resign in lieu of termination, based in whole or in part on misconduct that affects the health, safety, or welfare of a student. In addition, they may not provide instructional

personnel/administrators with employment references or discuss the instructional personnel/administrators' performance with prospective employers in another educational setting, without disclosing the instructional personnel/administrators' misconduct. Any part of an agreement or contract that has the purpose or effect of concealing misconduct by instructional personnel/administrators which affects the health, safety, or welfare of a student is void, is contrary to public policy, and may not be enforced (F.S. 1001.42(6)).

Posting Requirements

Pursuant to F.S. 1006.061(2), this policy shall be posted in a prominent place at each school site and on each school's internet website, so that the policy and procedures for reporting alleged misconduct by instructional personnel/administrators which affects the health, safety, or welfare of a student; the contact person to whom the report is made; and the penalties imposed on instructional personnel/administrators who fail to report suspected or actual child abuse or alleged misconduct by other instructional personnel/administrators is effectively communicated to all.

Liability

[Employees who report misconduct which affects the health, safety, or welfare of a student may be entitled to certain statutory liability protections as set forth in F.S. 39.203 and 768.095.](#)

Effective 7/1/11
Revised 4/17/19

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Legal	F.S. 39.203 (added)
	F.S. 768.095 (added)
	F.S. 1001.42(6)
	F.S. 1001.42(7)(b)
	F.S. 1001.51(12)(b)
	F.S. 1006.061(2)
	F.S. 1012.27(5)(b)
	F.S. 1012.315
	F.S. 1012.795
	F.S. 1012.796
	F.S. 1012.796(1)(d)
	F.S. 1012.796(e)