

Paul R. Philip, Chief of Staff

SUBJECT: PROPOSED AMENDMENT OF SCHOOL BOARD RULE: INITIAL READING 6Gx13- 4A-1.01, EQUAL OPPORTUNITY EMPLOYMENT AND ASSIGNMENT

Board Rule 6Gx13- 4A-1.01, Equal Opportunity Employment and Assignment, includes policy and procedures for staff employment and assignment. While the Board was under the jurisdiction of the federal court in its desegregation case, it was required to establish racial ratios for teacher assignments. On June 21, 2001, Judge William P. Dimitrouleas, United States District Court for the Southern District of Florida, granted unitary status to Miami-Dade County Public Schools, effective June 30, 2002. At its meeting of October 24, 2001, the Board expressed its desire to pursue a compelling governmental interest in promoting the educational benefits of diverse school faculties. Accordingly, amendments to this rule are proposed which will further this goal.

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

Authorization of the Board is requested for the Superintendent to initiate rulemaking proceedings in accordance with the Administrative Procedure Act for the amendment of School Board Rule 6Gx13- 4A-1.01, Equal Opportunity Employment and Assignment.

RECOMMENDED: That The School Board of Miami-Dade County, Florida, authorize the Superintendent to initiate rulemaking proceedings in accordance with the Administrative Procedure Act to amend School Board Rule 6Gx13- 4A-1.01, Equal Opportunity Employment and Assignment.

NOTICE OF INTENDED ACTION

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, announced on May 15, 2002, its intention to amend School Board Rule 6Gx13- 4A-1.01, Equal Opportunity Employment and Assignment, at its meeting of June 19, 2002.

PURPOSE AND EFFECT: To provide for the recruitment, hiring and assignment of qualified, diverse teaching staff.

SUMMARY: The rule provides policies and practices for the equitable hiring, assignment and transfer of teaching staff, and the monitoring and accountability of this hiring, assignment and transfer, as well as specific prohibitions against harassment or discrimination.

SPECIFIC LEGAL AUTHORITY UNDER WHICH RULEMAKING IS AUTHORIZED: 230.22(2); 230.23(22) F.S.

LAW IMPLEMENTED, INTERPRETED, OR MADE SPECIFIC: 112.042; 112.043; 230.23(5); 230.23005(6)(11); 230.33(7)(a),(b),(c),(d); 231.02 F.S.; 6A-19.010 FAC; Title VI of the Civil Rights Act of 1964; Title VII of the Civil Rights Act of 1964, as amended; Title IX of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; Age Discrimination in Employment Act of 1967, as amended; Equal Pay Act of 1963; Florida Educational Equity Act, F.S. 228.2001; the Americans With Disabilities Act of 1990; the Pregnancy Discrimination Act of 1978; the Florida Civil Rights Act of 1992; and the Family and Medical Leave Act of 1993.

IF REQUESTED, A HEARING WILL BE HELD DURING THE BOARD MEETING OF June 19, 2002, which begins at 1:00 p.m., in the School Board Auditorium, 1450 N.E. Second Avenue, Miami, Florida 33132. Persons requesting such a hearing or who wish to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative as provided by Section 120.541(1), F.S., must do so in writing by June 11, 2002, to the Superintendent of Schools, Room 912, at the same address.

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

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

Originator: Mr. Paul R. Philip
Supervisor: Mr. Merrett R. Stierheim
Date: May 2, 2002

Permanent Personnel**EQUAL OPPORTUNITY EMPLOYMENT AND ASSIGNMENT**

The School Board of Miami-Dade County, Florida adheres to a policy of nondiscrimination in employment and strives affirmatively to provide equal opportunity for all as required by state and federal law. The Board attempts to identify and overcome real or potential artificial barriers to employment, training, or promotional opportunities for its staff and applicants.

Employment:

The School Board strives to ensure a highly qualified staff (in terms of educational background and experience) that reflects the overall diversity (in terms of factors such as race, ethnicity and gender) of the pool of qualified candidates. In recruiting applicants for School Board positions, the School Board also encourages men and women to enter non-traditional occupational areas where their gender is under-represented.

The School Board continually develops and reviews job descriptions and entry qualifications in order to ensure that the tasks and duties required are reasonable and do not impose artificial barriers to qualified applicants.

It is the policy of the School Board that no person will be denied access, employment, training, or promotion on the basis of gender, race, color, religion, ethnic or national origin, political beliefs, marital status, age, sexual orientation, social and family background, linguistic preference, pregnancy, or disability, and that merit principles will be followed.

The School Board offers inservice training programs designed to assist employees in achieving new competencies and/or promotion.

Personnel Management and Services will conduct job advertising and recruitment activities ~~will be conducted~~ in a manner designed to apprise persons of diverse backgrounds relative to gender, race, color, religion, ethnic or national origin, political beliefs, marital status,

age, sexual orientation, social and family background, linguistic preference, disability, or who may be pregnant or experiencing pregnancy-related medical conditions, of the job advertised.

Assignment:

~~Acceptance of a work location assignment is a condition of employment. Pate v. Dade County School Board, Case No. 69-1020-Civ-CA., order signed by Judge C. Clyde Atkins on 12/10/69. Failure of an employee to accept the assignment is grounds for termination.~~

Equitable Faculty Composition:

It is the School Board's goal that every school have a diverse, high quality faculty (that is, instructional staff and counselors) that reasonably reflects the qualifications (in terms of advanced degrees, experience and teaching out-of-field), experience and diversity (in terms of race, ethnicity and gender) of the pool of teachers at that grade level configuration districtwide.

I. Hiring:

To promote this goal, Personnel Management and Services will recruit a highly qualified and diverse applicant pool (See School Board Rule 6Gx13- 4C-1.19). Personnel shall provide all site administrators with information concerning the entire pool of qualified applicants. In addition, site administrators shall seek to interview a broad range of candidates for all available positions. All hiring decisions should be made by the site administrator based on the applicants' qualifications and the needs of the school and not on the basis of race, ethnicity or gender. Site administrators should be provided with continual training opportunities on multicultural issues, interviewing techniques, effective recruitment and retention practices, and public policy and legal issues related to employment and equity in order to help them to make appropriate hiring decisions and to develop and maintain diverse faculties. In addition, the Board may provide financial or other incentives for highly-qualified teachers (such as those possessing advanced degrees, specialized training, or National Board certification or those demonstrating exceptional instructional abilities) who commit to teach

for at least five years at a school having difficulty retaining an experienced and highly-qualified faculty or at schools with a relatively high percentage of low-income or low-performing students.

II. Assignment and Transfer:

To promote the goal of a diverse, highly-qualified faculty at each school, the overall diversity (in terms of factors such as educational background, experience, race, ethnicity and gender) of the school's staff may be considered as one factor in assessing requests for transfer to or from the school and in making assignments of teachers already hired by the M-DCPS. In addition, the Board may provide financial or other incentives for highly-qualified teachers (such as those possessing advanced degrees, specialized training, or National Board certification or those demonstrating exceptional instructional abilities) who commit to teach for at least five years at a school having difficulty retaining an experienced and highly-qualified faculty or at schools with a relatively high percentage of low-income or low-performing students.

III. Monitoring and Accountability:

Each year, Personnel Management and Services, School Operations, and Equal Educational Opportunity and Diversity Compliance ("EEEODC"), jointly will establish goals for the qualifications and diversity of school faculties by grade level configuration. The EEEODC will also monitor and annually report the qualifications (in terms of factors such as advanced degrees, experience and teaching out-of-field) and the diversity (in terms of factors such as race, ethnicity and gender) of each individual school's faculty. Each site administrator shall be responsible for ensuring that these goals are met to the extent practicable on an annual basis. As noted above, staff development activities for site administrators should be provided to support them in meeting this responsibility. Where a school fails to meet the M-DCPS annual goals in terms of the qualifications (that is, falls below a specified minimum in terms of education or experience or exceeds a certain maximum in terms of out-of-field teachers) or diversity (that is, fails to reasonably reflect

school level district-wide averages in terms of race, ethnicity or gender) of its faculty for two consecutive years, the authority to hire teachers for and approve transfers to and from that school may revert to the Superintendent of Schools or his or her designee.

**Employee
Relations:**

The Board ~~does not believe~~s that democracy ~~cannot~~ be taught in the Miami-Dade County Public Schools without demonstrating its belief in democracy in the way the schools are operated.

All employees are hereby notified that they are expected to teach or work with other employees, to teach students, and to supervise or be supervised in their work by other employees without regard for the gender, race, color, religion, ethnic or national origin, political beliefs, marital status, age, sexual orientation, social and family background, linguistic preference, pregnancy, or disability of the individual. This is a unitary school system and should be understood as such by all persons connected with it.

It is understood that harassment or discrimination based on an employee's gender, race, color, religion, ethnic or national origin, political beliefs, marital status, age, sexual orientation, social and family background, linguistic preference, pregnancy, or disability is a violation of state and federal laws and a breach of the ~~School Board's Equal Opportunity Employment and Assignment~~ EEEODC policy, which shall be grounds for disciplinary action including but not limited to a discharge.

Sexual harassment including same sex harassment, is a violation of Title VII of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972. It is defined as a pattern of behavior that includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: (1) submission to such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment; (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or (3)

such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. Such conduct needs to be severe or pervasive.

Complaints:

Complaints alleging employment harassment or discrimination on the basis of gender, race, color, religion, ethnic or national origin, political beliefs, marital status, age, sexual orientation, social and family background, linguistic preference, pregnancy, or disability should be referred to the ~~School Board's~~ Equal Educational and Employment Opportunity office EEEODC.

Specific Authority: 230.22(2); 230.23(17 22) F.S.

Law Implemented, Interpreted, or Made Specific: 112.042; 112.043; 230.23(5); 230.23005(6)(11); 230.33(7)(a),(b),(c),(d); 231.02 F.S.; 6A-19.010 FAC; Title VI of the Civil Rights Act of 1964; Title VII of the Civil Rights Act of 1964, as amended; Title IX of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; Age Discrimination in Employment Act of 1967, as amended; Equal Pay Act of 1963; Florida Educational Equity Act, F.S. 228.2001; the Americans With Disabilities Act of 1990; the Pregnancy Discrimination Act of 1978; the Florida Civil Rights Act of 1992; and the Family and Medical Leave Act of 1993.

History

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA

Repromulgated: 12-11-74

Amended: 8-19-81; 6-8-94; 8-25-99