

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

**SUBJECT:** INITIAL **READING: TO AMEND POLICIES 5517, ANTI-DISCRIMINATION/HARASSMENT (STUDENTS); 5517.02, DISCRIMINATION/HARASSMENT COMPLAINT PROCEDURES FOR STUDENTS; 5517.03, DATING VIOLENCE OR ABUSE; 2260, NONDISCRIMINATION AND ACCESS TO EQUAL EDUCATIONAL OPPORTUNITY; 5610, SUSPENSION AND EXPULSION OF STUDENTS**

**COMMITTEE:** PERSONNEL, STUDENT, SCHOOL, AND COMMUNITY SUPPORT

**LINK TO STRATEGIC**

**BLUEPRINT:** INFORMED, ENGAGED & EMPOWERED STAKEHOLDERS

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 to amend several Board policies related to harassment and discrimination based on protected categories. These amendments were developed after extensive review of regulations that are scheduled to take effect on August 14, 2020 to implement Title IX of the Education Amendments of 1972. The policy amendments were drafted in collaboration with, and reviewed by, the Superintendent, Cabinet, and District staff of departments that will implement them.

On May 6, 2020, the United States Department of Education (Department) issued new Title IX regulations defining sexual harassment, which is a form of sex discrimination, and prescribing requirements for responding to allegations of sexual harassment. The regulations require the Board to implement procedures that will apply to all aspects of the Board's prohibition against sexual harassment, including receiving reports of sexual harassment; processing formal complaints; conducting investigations; decision-making; and providing appeals. Currently the Board's policies apply broadly to discrimination and harassment based on all protected categories, including sex, race, color, ethnic or national origin, citizenship status, religion, marital status, disability, genetic information, age, political beliefs, sexual orientation, gender, gender identification, social and family background, linguistic preference, and pregnancy. The Department's Title IX regulations on sexual harassment require several Board policies to be amended to carve out new procedures specifically for complaints of sexual harassment.

Policies 5517, 5517.02, and 5517.03 apply to the prohibition on discrimination and harassment by and against students, including dating violence, and the procedures for resolving complaints of discrimination and harassment based on protected categories. Policy 2260 specifies that the Board will not discriminate or tolerate harassment in its educational programs or activities. Policy 5610 addresses the most severe sanctions that students can receive for violating the Code of Student Conduct. The proposed amendments to each of these policies reference the distinctive process required when allegations of sexual harassment by or against students are made. The amendments provide notice of how students (or their parents) can contact the Principal and/or the District's Civil Rights Compliance (CRC) Department to make a complaint of sexual harassment. As referenced throughout the policies, the Title IX regulations require the Board to authorize the District's Title IX Coordinator to coordinate the Board's Title IX obligations. As such, the CRC is developing a *Title IX Sexual Harassment Manual* that specifies the steps to be taken by the CRC to investigate and/or to delegate certain aspects of the investigation in response to formal complaints of sexual harassment; the role of decision-makers; and how to process an appeal by either party to a formal grievance process. The policy amendments also clarify that student disciplinary consequences related to complaints of sexual harassment must be addressed through the process required by the Title IX regulations. The proposed revisions include renaming Policy 5517, *Prohibition on Discrimination and Harassment Against Students Based on Protected Categories*; Policy 5517.02, *Discrimination and Harassment Complaint Procedures for Students*; and Policy 5517.03, *Prohibition on Dating Violence and Abuse*.

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 5517, *Anti-Discrimination/Harassment (Students)*; 5517.02, *Discrimination/Harassment Complaint Procedures for Students*; 5517.03, *Dating Violence or Abuse*; 2260, *Nondiscrimination and Access to Equal Educational Opportunity*; and 5610, *Suspension and Expulsion of Students*.

**RECOMMENDED:**

That The School Board of Miami-Dade County, Florida, authorize the Superintendent to initiate rulemaking proceedings in accordance with the Administrative Procedure Act to amend Board Policies 5517, *Anti-Discrimination/Harassment (Students)*; 5517.02, *Discrimination/Harassment Complaint Procedures for Students*; 5517.03, *Dating Violence or Abuse*; 2260, *Nondiscrimination and Access to Equal Educational Opportunity*, and 5610, *Suspension and Expulsion of Students*.

## NOTICE OF INTENDED ACTION

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, announced on August 12, 2020, its intention to amend Board Policies 5517, *Anti-Discrimination/Harassment (Students)*; 5517.02, *Discrimination/Harassment Complaint Procedures for Students*; 5517.03, *Dating Violence or Abuse*; 5610, *Suspension and Expulsion of Students*, and 2260, *Nondiscrimination and Access to Equal Educational Opportunity*, at its regular meeting on October 21, 2020.

PURPOSE AND EFFECT: Board Policies 5517, *Anti-Discrimination/Harassment (Students)*; 5517.02, *Discrimination/Harassment Complaint Procedures for Students*; 5517.03, *Dating Violence or Abuse*; 5610, *Suspension and Expulsion of Students*, and 2260, *Nondiscrimination and Access to Equal Educational Opportunity*, are proposed to be amended to be in compliance with regulations implementing Title IX of the Education Amendments of 1972, at 34 C.F.R. Part 106, effective August 14, 2020.

The amendments to Board Policy 5517, *Anti-Discrimination/Harassment (Students)*, incorporate the regulatory definition of sexual harassment; clarify the Board's jurisdictional authority over allegations of discrimination and harassment; reference the process to be applied to allegations and complaints of sexual harassment; and align the confidentiality and record keeping requirements of the policy to the Title IX regulations. They authorize the District's Title IX Coordinator to coordinate the Board's Title IX obligations. For clarity, the policy is proposed to be renamed *Prohibition on Discrimination and Harassment Against Students Based on Protected Categories*.

The amendments to Board Policy 5517.02, *Discrimination/Harassment Complaint Procedures for Students*, reference the distinctive process to be applied for allegations of sexual harassment as opposed to discrimination and harassment based on other protected categories. They authorize the District's Title IX Coordinator to coordinate the Board's Title IX obligations. For clarity, the policy is proposed to be renamed *Discrimination and Harassment Complaint Procedures for Students*.

The amendments to Board Policy 5517.03, *Dating Violence or Abuse*, align it with the regulatory definition of dating violence; reference the specific process for complaints of sexual harassment (of which dating violence is a sub-set); align the record-keeping requirements; and revise language related to supportive measures for student victims. For clarity, the policy is proposed to be renamed *Prohibition on Dating Violence and Abuse*.

The policy amendments to Board Policy 5610, *Suspension and Expulsion of Students*, clarify that all decisions and appeals regarding disciplinary consequences for allegations of sexual harassment will be addressed through the Board's sexual harassment grievance process.

The policy amendments to Board Policy 2260, *Nondiscrimination and Access to Equal Educational Opportunity*, align the confidentiality and record keeping requirements of the policy to the newly promulgated Title IX regulations.

SUMMARY: Board Policies 5517, *Anti-Discrimination/Harassment (Students)*; 5517.02, *Discrimination/Harassment Complaint Procedures for Students*; 5517.03, *Dating Violence or Abuse*; 5610, *Suspension and Expulsion of Students*, and 2260, *Nondiscrimination and Access to Equal Educational Opportunity*, incorporate specific requirements from newly promulgated Title IX regulations. The proposed revisions include renaming Policy 5517, *Prohibition on Discrimination and Harassment Against Students Based on Protected Categories*; 5517.02, *Discrimination and Harassment Complaint Procedures for Students*; and 5517.03, *Prohibition on Dating Violence and Abuse*.

SPECIFIC LEGAL AUTHORITY UNDER WHICH RULEMAKING IS AUTHORIZED: 1001.41 (1), (2), 1001.42 (8), 1000.05, F.S.; 6A-19.008 F.A.C.

LAWS IMPLEMENTED INTERPRETED OR MADE SPECIFIC: 20 U.S.C. § 1681, 34 C.F.R. Part 106.

IF REQUESTED, A HEARING WILL BE HELD DURING SCHOOL BOARD MEETING OF October 21, 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 September 9, 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	August 12, 2020 - <u>Initial</u> Reading
Title	ANTI-DISCRIMINATION/HARASSMENT (STUDENTS)
Code	5517
Status	<u>Initial</u> Reading
Adopted	May 11, 2011
Last Revised	April 17, 2019

5517 - **ANTI-PROHIBITION ON DISCRIMINATION/ AND HARASSMENT AGAINST STUDENTS BASED ON PROTECTED CATEGORIES (STUDENTS)**

The School Board shall comply with all Federal laws and regulations prohibiting discrimination and all requirements and regulations of the U.S. Department of Education. The Board will enforce its prohibition against discrimination/ and harassment based on sex, race, color, ethnic or national origin, religion, marital status, disability, age, political beliefs, sexual orientation, gender, gender identification, social and family background, linguistic preference, pregnancy, and any other basis prohibited by law. The Board shall maintain an educational and work environment free from all forms of discrimination/ and harassment, which includes Title IX of the Education Amendments of 1972. Title IX prohibits all forms of sex discrimination and unwelcome sexual conduct, including conditioning any aid, benefit or service of the school on an individual's participation in unwelcome sexual conduct, sexual assault, dating or domestic violence, stalking, and all forms of sexual harassment that a reasonable person would determine so severe, pervasive, and objectively offensive that it denies a student access to an education program or activity. Such conduct may include, but is not limited to, ~~sexual harassment and other sexual misconduct such as~~ unwelcome touching, graphic verbal comments, sexual jokes, slurs, gestures or pictures, whether in-person or through any other method, including sexual cyber-harassment. All students, administrators, teachers, staff, and all other school personnel share responsibility for avoiding, discouraging, and reporting any form of prohibited discrimination or harassment against students by employees, other students and their parents or guardians, or third parties. This policy prohibits discrimination and harassment at locations, events, or circumstances over which the Board exercises substantial control over both the respondent and the context in which the prohibited conduct occurs, including but not limited to such events occurring on school property, during any school-related or school-sponsored program or activity, and on school-sponsored transportation. ~~at all School District operations, programs, and activities on school property, or at another location if it occurs during an activity sponsored by the Board.~~ This policy also prohibits retaliation against a person who has made a report or filed a formal complaint alleging unlawful discrimination or harassment, or who has participated as a witness in a discrimination or harassment investigation.

For additional information about Title IX or any other discrimination/ or harassment concerns contact:

Office of Civil Rights Compliance (CRC)  
Executive Director/District Title IX Coordinator  
155 N.E. 15th Street, Suite P104E  
Miami, FL 33132

Phone: (305) 995-1580  
Fax: (305) 995-2047  
crc@dadeschools.net  
http://crc.dadeschools.net/

For additional information on Section 504 of the Rehabilitation Act of 1973 or any other student disability concerns contact:

Division of Special Education  
504 Coordinator  
1501 N.E. 2nd Avenue, Suite 409  
Miami, FL 33132  
Phone: (305) 995-1796  
Fax: (305) 523-0591  
ese@dadeschools.net  
http://ese.dadeschools.net/

The Board will take immediate steps to discipline individuals for:

- A. Retaliating against a person who has made a report or filed a complaint alleging unlawful discrimination ~~/~~ or harassment, or who has participated as a witness in a discrimination ~~/~~ or harassment investigation.
- B. Filing a malicious or knowingly false report or complaint of discrimination ~~/~~ or harassment.
- C. Disregarding, failing to investigate adequately, or delaying investigation of allegations of prohibited discrimination ~~/~~ or harassment, when responsibility for reporting and/or investigating unlawful discrimination or harassment charges comprises part of one's ~~supervisory~~ duties.

The District compliance officer will supervise compliance with Federal and State regulations and address complaints in accordance with law and Policy 5517.02. The Board will provide proper notice of nondiscrimination for Title II, Title VI, and Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendment Act of 1972, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990.

## Reports and Complaints

~~Students are encouraged to promptly report incidents of discriminatory or harassing conduct to their Principal or the Office of Civil Rights Compliance (CRC) so that the conduct can be addressed before it becomes severe, pervasive, or persistent.~~

Students who believe they have been ~~harassed or discriminated against~~ the victim of discrimination, harassment or retaliation are entitled to use the complaint ~~process~~ process procedures in Policy 5517.02, ~~or, if the complaint involves sexual harassment prohibited by Title IX, to file a formal complaint in accordance with the District's Title IX Sexual Harassment Manual and request an investigation.~~ ~~Students and parents are encouraged to present complaints of discrimination or harassment by other students or employees to the Principal, complaints against employees will be referred by the Principal to the CRC Office.~~ Reports will be addressed as soon as possible after the alleged conduct occurs while the facts are known and potential witnesses are available. When a sexual harassment report is made, supportive measures will be offered, and the formal complaint process will be explained to the complainant. During ~~an~~ the investigation of prohibited conduct, the complainant and the ~~respondent~~ subject of the complaint shall be provided an equal opportunity to present witnesses and evidence relevant to the complaint. The Principal shall apply the Code of Student Conduct to allegations of discrimination ~~/~~ and harassment by students, except as otherwise specified in law or regulation.

~~The investigative process through CRC involves the investigation of complaints of harassment and discrimination based on the protected categories. The CRC office investigates each case within a reasonable time.~~

~~Documentation of investigations of complaint and of any corrective action taken by the school site and throughout the District will be maintained by the department that conducted the investigation. Records of ongoing investigations are kept confidential until a final determination is made on each case. During the investigative process, appropriate preventive measures will be taken to protect the victims and the school community. Subsequent to the completion of a case, the complainant and the subject of the complaint will be provided with written notification of the outcome of the investigation. The District will take remedial action, as necessary, to address and resolve any substantiated complaint of discrimination or harassment and to prevent its recurrence.~~

Initiating a report or formal complaint will not adversely affect the complainant's participation in educational or extra-curricular programs unless the complainant makes the complaint maliciously or with knowledge that it is false. Investigation of an allegation shall not proceed solely on the basis of an anonymous complaint without first attempting to ascertain the identity of the complainant. If after such efforts, the complainant remains anonymous, the investigation will proceed to the extent possible.

The Superintendent shall develop guidelines setting forth the conditions and requirements to implement this policy in accordance with federal and state laws, regulations, and Board policies. The District's Title IX Coordinator is authorized to coordinate the Board's Title IX obligations.

### **Privacy/Confidentiality**

The District respects the privacy of students, including the complainant, the respondent individual(s) against whom the complaint is filed, and the witnesses, consistent with the Board's legal obligations to investigate, take appropriate action, and comply with any regulatory, discovery or disclosure obligations. All records generated under this policy and Policy 5517.02 shall be maintained as confidential to the extent permitted by law, except as otherwise set forth in law or regulation.

The complaint processes es in Policy 5517.02 and/or the Title IX Sexual Harassment Manual is/are not intended to interfere with student rights to pursue complaints with the United States Department of Education, Office for Civil Rights, or the Florida Department of Education. The CRC Office processes such complaints according to the procedures and standards set forth by Federal and State agencies.

### **Retention of Investigatory Records and Materials**

~~All individuals charged with conducting investigations under this policy shall retain all information, documents, electronically stored information (ESI), and electronic media created and received as part of an investigation. The information shall be retained immediately upon commencement of an investigation and/or, in accordance with Policy 8320, upon receipt of specific information and/or written notice that could lead to an investigation, formal complaint, or potential litigation.~~

All individuals responsible for receiving reports, applying formal complaint procedures, and/or conducting investigations under this policy, Policy 5517.02, Policy 5517.03, and/or the Title IX Sexual Harassment Manual shall retain all information, documents, electronically stored information (ESI), and electronic media created and/or received as part of the report, complaint, or investigation. The information shall be retained immediately upon receipt of specific information and/or written notice that could lead to an investigation, formal complaint, or potential litigation.

The information, documents, ESI, and electronic media retained may include public records and records exempt from disclosure under Federal and/or State law (e.g., student records).

~~The information, documents, ESI, and electronic media created or received as part of an investigation shall be retained for not less than three (3) years, but longer if required by Policy 8320 or the District's records retention schedule.~~

The information, documents, ESI, and electronic media created or received a part of a sexual harassment complaint procedure shall be retained for not less than seven (7) years. All other types of

investigations shall be maintained for not less than three (3) years, but longer if required by Policies 8320, 8330 or the District's records retention schedule.

## **Education and Training**

The Board promotes preventative educational measures to create greater awareness of unlawful harassment and discrimination. The Superintendent shall provide appropriate training to members of the School District community related to the implementation of this policy and Policy 5517.02. The District's sexual harassment training information shall be retained for not less than seven (7) years.

## **Employee Sexual Conduct**

Any teacher, administrator, coach, or other school authority who engages in sexual conduct with a student may also be guilty of a crime.

## **Effect of Other Policies**

The definition of harassment that is not based upon protected categories is contained within the Code of Student Conduct, referenced in Policy 5500. Florida law also defines Bullying and Harassment, as set forth in Policy 5517.01. In accordance with Florida law, Policy 5517.03 defines Dating Violence or Abuse. Policy 5136.02 defines Sexting.

Effective 7/1/11  
Revised 11/19/13

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Legal	34 C.F.R. Part 106 F.A.C. 6A-19.008 F.S. 110.1221 F.S. 784.049 F.S. 1000.05 F.S. 1006.07 20 U.S.C. 1400 et seq., The Individuals with Disabilities Improvement Act of 2004, as amended (commonly known as The Individuals with Disabilities Act) 42 U.S.C. 2000d et seq. 42 U.S.C. 2000e et seq. 29 U.S.C. 621 et seq., Age Discrimination in Employment Act of 1967 29 U.S.C. 794, Rehabilitation Act of 1973 42 U.S.C. 12101 et seq., Americans with Disabilities Act of 1990, as amended 20 U.S.C. 1681 et seq. 42 U.S.C. 1983 National School Boards Association Inquiry and Analysis – May 2008
Cross References	F.S. 1006.148 F.S. 1006.147



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Book	Policy Manual
Section	August 12, 2020 - <u>Initial</u> Reading
Title	DISCRIMINATION/HARASSMENT COMPLAINT PROCEDURES FOR STUDENTS
Code	5517.02
Status	<u>Initial</u> Reading
Adopted	May 11, 2011
Last Revised	April 17, 2019

#### 5517.02 - **DISCRIMINATION/HARASSMENT COMPLAINT PROCEDURES FOR STUDENTS**

The Office of Civil Rights Compliance (CRC) is responsible for investigating complaints of discrimination and harassment, including sexual harassment and retaliation filed by employees, students and their parents. The CRC office accepts complaints of discrimination ~~and~~ and harassment directly from any member of the School District community. Upon receipt of a complaint, the CRC Compliance Officer will route the complaint to the appropriate school or District office for investigation and/or response. ~~Documentation of investigations of complaints and of any corrective action taken by the school site and throughout the District will be maintained by the department that conducted the investigation.~~

#### **Complaint Procedures**

~~Any student/parent who has a good faith belief that a student has been subjected to prohibited discrimination/harassment may seek resolution of his/her complaint through the procedures described below.~~

~~Students/parents are encouraged to promptly report complaints of discriminatory or harassing conduct to their Principal. In addition to the manner prescribed in Policy 5517, a student/parent may also file the complaint directly with the Region Office or the District's Office of Civil Rights Compliance (CRC).~~

#### **CRC Office Contact Information**

Office of Civil Rights Compliance (CRC)  
Executive Director/District Title IX Coordinator  
155 N.E. 15th Street, Suite P104E  
Miami, FL 33132  
Phone: (305) 995-1580  
Fax: (305) 995-2047  
crc@dadeschools.net  
<http://crc.dadeschools.net/>



## Complaint Procedures

Any student or parent who has a good faith belief that a student has been subjected to prohibited discrimination or harassment may seek resolution of their complaint through the procedures described below. The Superintendent shall develop guidelines setting forth the conditions and requirements to implement this policy in accordance with federal and state laws, regulations, and Board policies. The District's Title IX Coordinator is authorized to coordinate the Board's Title IX obligations, including specific procedures related to sexual harassment.

Students and parents are encouraged to promptly report complaints of discriminatory or harassing conduct to their Principal. A student or parent may also file the complaint directly with the Region Office or the District's Office of Civil Rights Compliance (CRC). Supportive measures will be immediately considered upon receipt of a report of prohibited conduct.

This procedure is not intended to interfere with the rights of students ~~/ or~~ parents to pursue a complaint of discrimination/harassment with the United States Department of Education, Office for Civil Rights ("OCR"), or the Florida Department of Education.

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

Anonymous complaints shall not be processed, without first attempting to ascertain the identity of the complainant and except as outlined in Policy 5517.01 and the District's Title IX Sexual Harassment Manual. If after such efforts, the complainant remains anonymous, the investigation will proceed to the extent possible required by law or regulation.

The complaint must be signed attesting that it is true to the best of the complainant's knowledge, information, and belief. The Principal or the CRC Office will assist the complainant in reducing verbal complaints to writing. Any complainant who knowingly submits false information will be subject to discipline according to the Code of Student Conduct or applicable laws. During the investigation of a complaint, the complainant and the ~~respondent~~ ~~subject of the complaint~~ shall be provided an opportunity to present witnesses and other evidence relevant to the complaint.

The initiation of a discrimination or harassment complaint by student ~~/ or~~ parent will not be used as a basis for actions that adversely affect the student's standing in his/her educational or extra-curricular activities unless the student makes the complaint maliciously or with knowledge that it is false. Additionally, participation in or assistance with the investigation of a complaint shall not be used as the basis of any adverse action against the student or parent.

- B. Students ~~/ and~~ parents should make every effort to submit a complaint as soon as possible after the prohibited conduct while the facts are known and potential witnesses are available, and to ensure a timely response to the conduct in question. ~~Under Federal guidelines~~ Except as otherwise set forth in law or regulation, complaints must be filed within 180 calendar days of the date of the last act of alleged prohibited conduct ~~discrimination~~.

## **Processing Complaints**

- A. School-Site Complaints

If a complaint is made directly to a school staff member other than the Principal, the staff member shall immediately refer the complaint to the Principal and/or the CRC Department. The Principal will immediately refer sexual harassment matters to the District's Title IX Coordinator for processing in accordance with the District's *Title IX Sexual Harassment Manual*. All complaints involving student to student harassment, ~~excluding~~ ~~including~~ sexual harassment, will be first investigated at the school site. If such complaints are made directly to the District Office, the Region Office or the CRC Office, they will be referred to the school site for the initial investigation. Complaints involving harassment, including sexual harassment, of a student by an employee or other representatives of the school system will be investigated by the CRC Office. All complaints of sexual harassment against students will be investigated in accordance with the District's *Title IX Sexual Harassment Manual*. All reports that may constitute sexual harassment must be referred to the District's CRC Office.

For all other types of complaints, Principals are required to:

1. receive and document the complaint and notify the CRC Office within twenty-four (24) hours of receiving the complaint; for verbal complaints, assist the complainant in reducing the complaint to writing and encourage the complainant to attest that it is true to the best of the complainant's knowledge, information, and belief;
2. provide a copy of this Policy 5517.02 to the complainant;
3. ~~interview~~ ~~meet with~~ the complainant (student/parent) to ascertain the facts pertinent to the allegations;
4. ~~interview~~ ~~meet with~~ ~~the student(s) accused of the alleged harassment~~ the respondent to obtain a response to the complaint both orally and in writing;
5. ~~interview~~ ~~meet with~~ all available witnesses identified by the person(s) making the report ~~of harassment~~, the complainant and/or the ~~respondent~~ subject of the complaint, individually and confidentially. Witnesses will be asked to make a statement both orally and in writing regarding the alleged facts that form the basis of the complaint;
6. document all reports and interventions on the appropriate student case management forms within ten (10) workdays;

Upon completion of the investigation, any student(s) found by a preponderance of evidence to have violated this policy will be subject to any of the disciplinary actions described in the Code of Student Conduct and coded on the appropriate student case management form with notification of the investigation outcome to the CRC Office. All decisions regarding sexual harassment against students, including disciplinary decisions, will be made in accordance with the District's *Title IX Sexual Harassment Manual*.

\*The principal shall contact Miami-Dade County Schools Police in accordance with the Code of Student Conduct.

7. provide complainant and ~~respondent~~ subject of the complaint with a written notification of the outcome of the investigation in accordance with student confidentiality requirements; and

Absent unusual circumstances, the written report of the investigation will be provided within ten (10) workdays of reaching a final determination.

8. notify the CRC Office concurrently in writing of the outcome of the complaint.

~~If the complaint is made directly to a school staff member other than the Principal, they shall immediately refer the complaint to the Principal.~~

~~School site administrators shall apply the Code of Student Conduct to all allegations of harassment by students and to report the allegations to the CRC Office.~~ Additional procedures concerning complaints of bullying are contained in Policy 5517.01. Students ~~and~~ and parents are encouraged to direct complaints alleging discrimination ~~or~~ or harassment by employees to the CRC Office. Any ~~such complaints filed~~ reports made to or known by ~~with any employee the school~~ any employee must be immediately forwarded ~~to~~ to by the Principal ~~and/or to~~ and/or to the CRC Office. The Principal must forward all reports of sexual harassment to the CRC Office.

#### B. Appeals to the Region Office

If the complaint is not resolved to the complainant's satisfaction after discussion with the Principal, the student/parent may appeal to the Region Office by submitting a letter to the corresponding Region Office within fifteen (15) workdays of the Principal's final determination.

Within fifteen (15) workdays, the Region Office shall address appeals of complaints made to the school site by:

1. reviewing documentation submitted by the Principal;
2. providing a copy of this Policy 5517.02 to the complainant;
3. discussing the allegations with the complainant, the respondent ~~subject of the complaint~~, and witnesses (in person or otherwise), if necessary;
4. appending existing documentation to outline the steps taken to address the complaint, including the outcome/resolution;
5. providing complainant and the respondent ~~subject of the complaint~~ with a written notification of the outcome of the investigation in accordance with student confidentiality requirements; and

Absent unusual circumstances, the written report of the investigation will be provided within ten (10) workdays of reaching a final determination by the Region Office.

6. notifying the CRC Office concurrently in writing of the outcome of the complaint.

All appeals of determinations regarding sexual harassment against students will be processed in accordance with the District's Title IX Sexual Harassment Manual.

#### C. Complaints to the CRC Office

The Compliance Officer is responsible for accepting complaints and routing them for investigation and/or response within three (3) workdays. Students ~~and~~ and parents should be aware that submitting complaints to other District offices (e.g., Superintendent) may require additional time to process.

Investigations conducted by the CRC Office, absent unusual circumstances, may take thirty (30) workdays. The complainant and the ~~respondent~~~~subject of the complaint~~ will be provided a written report of the findings summarizing the evidence gathered during the investigation and the final determination of the case. The written report of the investigation will be provided within ten (10) workdays of reaching a final determination. All complaints of sexual harassment against students will be investigated in accordance with the District's Title IX Sexual Harassment Manual. All reports that may constitute sexual harassment must be referred to the District's CRC Office.

#### D. Appeals of CRC Decisions

If the student ~~or~~ parent does not agree with the final determination made by the CRC Office, s/he may appeal the determination to the Superintendent by submitting a letter of appeal within fifteen (15) workdays of the date of the final determination.

The Superintendent or designee shall address the requests for appeal within fifteen (15) workdays of receipt of the written request by:

1. reviewing documentation submitted by the CRC office;
2. reviewing information provided by complainant and respondent;
3. obtaining additional information if determined necessary to do so;
4. providing complainant and respondent written notification of the outcome of the appeal; and

Absent unusual circumstances, the written notification will be provided within fifteen (15) workdays of the review.

5. notifying the CRC Office concurrently in writing of the outcome of the review.

All appeals of determinations regarding sexual harassment against students will be processed in accordance with the District's Title IX Sexual Harassment Manual.

#### E. Other School District Offices/Sites:

Complaints filed with any other School District site shall be referred directly to the CRC Office for routing and processing.

For complaints filed directly with the United States Department of Education and/or the Florida Department of Education, the Compliance Officer coordinates the District's investigation and response to the Federal or State agency. However, the Federal or State agency provides a written response directly to the complainant. The School Board will provide proper notice of nondiscrimination for Title II, Title VI, and Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendment Act of 1972, Section 504 of the Rehabilitation Act of 1973, Americans with Disabilities Act of 1990.

#### F. Corrective Strategies:

Appropriate remedial/corrective action for students who commit acts of harassment range

from behavioral interventions up to and including suspension or expulsion as outlined in the Code of Student Conduct. Removal from the class where the infraction occurred may be implemented as a preventive measure, pending the outcome of the investigation. All decisions regarding sexual harassment against students, including disciplinary decisions, will be made in accordance with the District's Title IX Sexual Harassment Manual.

Consequences and appropriate remedial action for a school employee found to have committed an act of harassment shall include discipline in accordance with District policies, administrative procedures, and collective bargaining agreements. Alternate assignments to another location are considered when the nature of the allegation is so egregious as to warrant the removal of an employee from the site to an alternate assignment until the resolution of the case. All decisions regarding sexual harassment against students will be made in accordance with the District's Title IX Sexual Harassment Manual.

Consequences and appropriate remedial action for a visitor or volunteer found to have committed an act of harassment shall be determined by the school administrator after consideration of the nature and circumstances of the act, including reports to appropriate law enforcement officials. Temporary removal of the alleged subject of the complaint from the premises may be implemented as a preventive measure.

### **Retention of Investigatory Records and Materials**

~~All individuals charged with conducting investigations under this policy shall retain all information, documents, electronically stored information (ESI), and electronic media created and received as part of an investigation. The information shall be retained immediately upon commencement of an investigation and/or, in accordance with Policy 8320, upon receipt of specific information and/or written notice that could lead to an investigation, formal complaint, or potential litigation.~~

~~The information, documents, ESI, and electronic media retained may include public records and records exempt from disclosure under Federal and/or State law (e.g., student records).~~

~~The information, documents, ESI, and electronic media created or received as part of an investigation shall be retained for not less than three (3) years, but longer if required by Policy 8320 or the District's records retention schedule.~~

### **Privacy/Confidentiality**

The District respects the privacy of students, including the complainant, the respondent, and all reporters and witnesses, consistent with the Board's legal obligations to investigate, take appropriate action, and comply with any regulatory or discovery or disclosure obligations. All records generated under this policy shall be maintained as confidential to the extent permitted by law, except as otherwise set forth in law or regulations.

The complaint processes in this policy and the *Title IX Sexual Harassment Manual* are not intended to interfere with student rights to pursue complaints with the United States Department of Education, Office for Civil Rights, or the Florida Department of Education. The CRC Office processes such complaints according to the procedures and standards set forth by Federal and State agencies.

### **Retention of Investigatory Records and Materials**

All individuals responsible for receiving reports, applying formal complaint procedures, and/or conducting investigations under this policy, Policy 5517, Policy 5517.03, or the *Title IX Sexual Harassment Manual* shall retain all information, documents, electronically stored information (ESI), and electronic media created and/or received as part of the report, complaint, or investigation. The information shall be retained immediately upon receipt of specific information and/or written notice that could lead to an investigation, formal complaint, or potential litigation.

The information, documents, ESI, and electronic media retained may include public records and records exempt from disclosure under Federal and/or State law (e.g., student records).

The information, documents, ESI, and electronic media created or received as part of a sexual harassment complaint procedure shall be retained for not less than seven (7) years. All other types of complaint investigations shall be maintained for not less than three (3) years, but longer if required by Policies 8320, 8330 or the District's records retention schedule.

Effective 7/1/11  
Revised 11/19/13

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Legal                      F.A.C. 6A-19.008  
                                    F.S. 1000.05  
                                    34 C.F.R. Part 106



Book	Policy Manual
Section	August 12, 2020 - <u>Initial</u> Reading
Title	DATING VIOLENCE OR ABUSE
Code	5517.03
Status	<u>Initial</u> Reading
Adopted	September 3, 2013
Last Revised	April 17, 2019

### 5517.03 - **PROHIBITION ON DATING VIOLENCE ~~OR AND~~ ABUSE**

Student dating violence ~~or~~and abuse is prohibited in all locations, events, or circumstances over which the Board exercises substantial control over both the respondent and the context in which the dating violence or abuse occurs, including but not limited to such events occurring on ~~secondary schools on~~ school property, during any school-related or school-sponsored program or activity, and on school-sponsored transportation~~and/or during school-sponsored transportation.~~

#### **Definition**

The term “dating violence” is a type of sexual harassment that means violence committed by a person—

- A. who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- B. where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - i. The length of the relationship;
  - ii. The type of relationship;
  - iii. The frequency of interaction between the persons involved in the relationship.

Student dating violence may~~involves~~ a pattern of emotional, verbal, sexual, or physical abuse used by one person in a current or past dating relationship to exert power and control over another. Abuse may include insults, coercion, social sabotage, sexual harassment, stalking, threats and/or acts of physical or sexual abuse. It may also include abuse, harassment, and stalking via electronic devices such as cell phones and computers, harassment through a third party, and may be physical, mental, or both.

Title IX also prohibits other forms of sexual harassment that are similar to dating violence, including sexual assault, domestic violence, and stalking. Policy 5517 further defines sexual harassment.



## Reporting Procedures Requirement

- A. ~~All verbal or written reports/complaints alleging violations of this policy shall be submitted to the Principal or designee. Students and parents are encouraged to report dating violence and abuse to the Principal and/or the District's Civil Rights Compliance Office. Formal complaints will be investigated pursuant to the District's *Title IX Sexual Harassment Manual*.~~
- B. All school employees ~~who witness an act of dating violence or abuse or who have a reasonable suspicion that an act of dating violence and/or abuse has taken place~~ must report dating violence or abuse the incident to the Principal and/or the District's Civil Rights Compliance Office, or designee. The employee shall also immediately report the incident to School Police if there is reason to suspect that the incident might constitute a crime. Any uncertainty regarding whether an alleged violation might constitute a crime must be resolved in favor of reporting the incident to School Police.
- C. An employee's failure to report may result in action(s) or discipline consistent with the collective bargaining agreement provisions, the District's *Title IX Sexual Harassment Manual* or other applicable School Board policy.
- D. Nothing in this policy shall relieve a reporter of the obligation to report a reasonable suspicion of child abuse or neglect to the Florida Abuse Hotline or local law enforcement pursuant to F.S. 39.201.

## Complaints/Reports

- A. ~~Complaints and reports should be submitted as soon as possible after the alleged incident but shall be submitted within ninety (90) school days after the most recent alleged act of dating violence and/or abuse. The Principal or designee shall document and investigate any complaints or reports and take immediate action to prevent the reoccurrence of the behavior. Appropriate disciplinary action may be taken pursuant to the Code of Student Conduct (Policy 5500).~~
- B. ~~Failure on the part of the alleged victim to initiate a complaint within ninety (90) school days or to cooperate with the investigation may result in the complaint being deemed abandoned regarding that particular incident.~~
- C. ~~Additional procedures regarding complaints about bullying and harassment are contained in Policy 5517.01 and Policy 5517.02 and the allegations may also be required to be reported to the Office of Civil Rights pursuant to Policy 5517.~~
- D. ~~Each school shall publicize the procedure for submitting a complaint or report of dating violence in person or anonymously and how this report will be addressed.~~
- E. ~~The victim of student dating violence or abuse, anyone who witnessed an act of dating violence or abuse, and anyone who has reasonable suspicion that an act of dating violence or abuse has taken place pursuant to this policy may submit a report of dating violence or abuse.~~
- F. ~~Submission of a good faith complaint or report of student dating violence or abuse will not affect the complainant or reporter's future employment, grades, learning or working environment, or work assignments. Appropriate action will be pursued for persons found to have wrongfully and intentionally accused another of an act of dating violence or abuse.~~
- G. ~~Any written or verbal reports of an act of dating violence or abuse shall be considered an official means of reporting. Reports may be made anonymously but disciplinary action may not be based solely on the basis of an anonymous report.~~

## Retention of Investigatory Records and Materials



~~All individuals charged with conducting investigations under this policy shall retain all information, documents, electronically stored information (ESI), and electronic media created and received as part of an investigation. The information shall be retained immediately upon commencement of an investigation and/or, in accordance with Policy 8320, upon receipt of specific information and/or written notice that could lead to an investigation, formal complaint, or potential litigation.~~

~~The information, documents, ESI, and electronic media retained may include public records and records exempt from disclosure under Federal and/or State law (e.g., student records).~~

~~The information, documents, ESI, and electronic media created or received as part of an investigation shall be retained for not less than three (3) years, but longer if required by Policy 8320 or the District's records retention schedule.~~

### **Supportive Measures and Reasonable Accommodations**

- A. Supportive measures for a student who is known or reported to be a victim of dating violence or abuse will be provided in accordance with the District's Title IX Sexual Harassment Manual. ~~Principals shall include the policy in the school's student/parent handbook.~~
- B. If a student or their parent(s)/guardian(s) inform presents the school that with a court-issued a court has issued a restraining or protective order, a copy of the order should be maintained in the students' files. The school shall notify School Police immediately if it reasonably believes that a criminal or civil restraining order has been violated. School Police shall respond to a report of a violation of a criminal or civil restraining order.
- C. Whenever possible, face-to-face contact between the victim and alleged perpetrator should be avoided during the pendency of the investigation.
- D. ~~The student who is allegedly experiencing dating violence or abuse may submit a verbal or written request for accommodations to the school. If the request is made verbally, the school administrator shall document the request in writing and provide a written decision to the student as soon as possible. A denial of a request for accommodation must specify the reason(s) for the denial. If scheduling changes are requested or determined by the school to be in the best interest of the victim, the school will accommodate the victim's preference to the extent possible.~~

The Superintendent shall develop guidelines setting forth the conditions and requirements to implement this policy in accordance with federal and state laws, regulations, and Board policies. The District's Title IX Coordinator is authorized to coordinate the Board's Title IX obligations.

### **Retention of Investigatory Records and Materials**

All individuals responsible for conducting investigations under this policy shall retain all information, documents, electronically stored information (ESI), and electronic media created and received as part of an investigation. The information shall be retained immediately upon commencement of an investigation and/or upon receipt of specific information and/or written notice that could lead to an investigation, formal complaint, or potential litigation.

The information, documents, ESI, and electronic media retained may include public records and records exempt from disclosure under Federal and/or State law (e.g., student records).

The information, documents, ESI, and electronic media created or received as part of a sexual harassment complaint procedure shall be retained for not less than seven (7) years. All other types of complaint investigations shall be maintained for not less than three (3) years, but longer if required by Policies 8320, 8330 or the District's records retention schedule.

### **Dating Violence and/or Abuse Prevention Curriculum**

Instruction regarding dating violence or abuse will be provided for students in grades 7 through 12 as a component of the health education curriculum as listed in F.S. 1003.42. This instruction includes, but is not limited to, the definition of dating violence or abuse, the warning signs of dating violence or abusive behavior, the characteristics of healthy relationships, measures to prevent and stop dating violence or abuse, and community resources available to victims of dating violence or abuse. The curriculum must emphasize prevention based education. Schools should also implement a peer mentor or peer education component that will foster a deeper understanding of the issues by allowing students to relate to a similarly situated peer.

### **Professional Development**

The Principal shall review the policy with faculty/staff at the Opening of Schools meeting. Teachers, school administrators, counseling professionals, and other school site employees shall also be provided training in proper identification, investigation, and intervention of dating violence or abuse incidents that fall within the jurisdiction of the school.

Students, parents/legal guardians, teachers, and school volunteers shall be provided information on this policy, evidence-based methods of preventing dating violence or abuse, and how to effectively identify and respond to dating violence or abuse incidents.

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Legal	F.A.C. 6A-19.008
	34 C.F.R. Part 106
	F.S. 1003.42
	F.S. 1006.148



Book	Policy Manual
Section	August 12, 2020 - <u>Initial</u> Reading
Title	NONDISCRIMINATION AND ACCESS TO EQUAL EDUCATIONAL OPPORTUNITY
Code	2260
Status	<u>Initial</u> Reading
Adopted	May 11, 2011
Last Revised	April 17, 2019

## 2260 - **NONDISCRIMINATION AND ACCESS TO EQUAL EDUCATIONAL OPPORTUNITY**

The School Board shall provide equal opportunity for all students and will not discriminate or tolerate harassment in its educational programs or activities on any basis prohibited by law or Board policy.

The Superintendent shall:

### A. Curriculum Content

review current and proposed courses of study and textbooks to detect any bias based upon sex, race, color, ethnic or national origin, religion, marital status, disability, age, political beliefs, sexual orientation, gender, gender identification, social and family background, linguistic preference, and pregnancy; ascertaining whether or not supplemental materials, singly or taken as a whole, fairly depict the contribution of both genders, various races, ethnic groups, etc., toward the development of human society;

### B. Staff Training

develop an ongoing program of in-service training for school personnel designed to identify and solve problems of color/racial, gender, religious, national, cultural, or other bias in all aspects of the program;

### C. Student Access

review current and proposed programs, activities, facilities, and practices to verify that all students have equal access thereto and are not segregated on the basis of sex, race, color, ethnic or national origin, religion, marital status, disability, age, political beliefs, sexual orientation, gender, gender identification, social and family background, linguistic preference, and pregnancy in any duty, work, play, classroom, or school practice, except

as may be permitted under State and Federal laws and regulations;

The Board may establish and maintain a single-gender nonvocational class, extra-curricular activity, or school for elementary, middle, or high school students.

#### D. District Support

verify that similar aspects of the District's program receive similar support as to staff size and compensation, purchase and maintenance of facilities and equipment, access to such facilities and equipment, and related matters;

#### E. Student Evaluation

verify that tests, procedures, or guidance and counseling materials, which are designed to evaluate student progress, rate aptitudes, analyze personality, or in any manner establish or tend to establish a category by which a student may be judged, are not differentiated or stereotyped on any basis prohibited by law or Board policy.

The District Compliance Officer will supervise compliance with Federal and State regulations and address complaints according to law and Policy 5517.02. The Board shall provide proper notice of nondiscrimination for Title II, Title VI, and VII of the Civil Rights Act of 1964, Title IX of the Education Amendment Act of 1972, Section 504 of the Rehabilitation Act of 1973, and the Age Act is provided to students, their parents, staff members, and the general public.

The Superintendent shall develop guidelines setting forth the conditions and requirements to implement this policy in accordance with federal and state laws, regulations, and Board policies. The District's Title IX Coordinator is authorized to coordinate the Board's Title IX obligations.

#### Privacy/Confidentiality

The privacy of students, the individuals against whom the complaint is filed, and the witnesses, shall be respected consistent with the Board's legal obligations to investigate, take appropriate action, and comply with any discovery or disclosure obligations. All records generated under this policy and its related administrative procedures shall be maintained as confidential to the extent permitted by law or regulation.

#### Retention of Investigatory Records and Materials

All individuals responsible for ~~charged with~~ conducting investigations under this policy shall retain all information, documents, electronically stored information (ESI), and electronic media created and received as part of an investigation. The information shall be retained immediately upon commencement of a report, ~~a~~ investigation and/or, in accordance with Policy 8320, upon receipt of specific information and/or ~~written notice~~ report that could lead to an investigation, formal complaint, or potential litigation.

The information, documents, ESI, and electronic media retained may include public records and records exempt from disclosure under Federal and/or State law (e.g., student records).

~~The information, documents, ESI, and electronic media created or received as part of an investigation shall be retained for not less than three (3) years, but longer if required by Policy 8320 or the District's records retention schedule.~~

All information, documents, ESI, and electronic media created or received in response to a report or formal complaint of sexual harassment shall be retained for not less than seven (7)

years. All other types of complaint investigations shall be maintained for not less than three (3) years, but longer if required by Policy 8320, 8330 or the District's records retention schedule.

Effective 7/1/11

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Legal

- 34 C.F.R. Part 106
- F.A.C. 6A-19.008
- F.S. 553.501 et seq., Florida Americans with Disabilities Accessibility Implementation Act
- F.S. 760.08
- F.S. 760.021
- F.S. 1000.05, Florida Educational Equity
- F.S. 1002.311
- F.A.C. 6A-19.001
- Fourteenth Amendment, U.S. Constitution
- 20 U.S.C. Section 1681, Title IX of Education Amendment Act
- 20 U.S.C. Section 1701 et seq., Equal Educational Opportunities Act of 1974
- 20 U.S.C. Section 7905, Boy Scouts of America Equal Access Act
- 42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act
- 29 U.S.C. Section 794, Rehabilitation Act of 1973
- 42 U.S.C. Section 2000 et seq., Civil Rights Act of 1964
- 42 U.S.C. 12101 et seq., The Americans with Disabilities Act of 1990
- 42 U.S.C. 6101 et seq.
- 34 C.F.R. Part 110 (7/27/93)
- 29 C.F.R. Part 1635
- Vocational Education Program Guidelines for Eliminating Discrimination and Denial of Services, Department of Education, Office of Civil Rights, March 1979
- Title III of the No Child Left Behind Act of 2001



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Book	Policy Manual
Section	August 12, 2020 - <u>Initial</u> Reading
Title	SUSPENSION AND EXPULSION OF STUDENTS
Code	5610
Status	<u>Initial</u> Reading
Adopted	May 11, 2011
Last Revised	April 17, 2019

## 5610 - **SUSPENSION AND EXPULSION OF STUDENTS**

Suspension and expulsion are the most severe sanctions and cannot be imposed without due process. Prior to the use of suspension, the administrator should consider less restrictive alternatives such as Alternative Education Settings (AED) which include the School Center for Special Instruction (SCSI) and Student Success Center (SSC). Students assigned to SCSI and SSC must be afforded the opportunity to complete classwork. Students with disabilities must continue to receive a Free Appropriate Public Education (FAPE) while assigned to SCSI.

No student is to be suspended, expelled, or excluded from an activity, program, or a school unless his/her behavior represents misconduct as specified in the Code of Student Conduct (CSC), Policy 5500. The CSC shall also specify the procedures to be followed by school officials. In addition to the procedural safeguards and definitions in this policy and the CSC, the procedures in Policy 2460 shall apply to students identified as disabled under the IDEA and/or Section 504 of the Rehabilitation Act of 1973. [All disciplinary decisions and appeals related to sexual harassment shall be handled in accordance with Policies 5517, 5517.02 and 5517.03.](#)

### **Definitions**

- A. "Suspension" shall be the temporary exclusion of a student from the District's program for a period not to exceed ten (10) school days.
- B. "Expulsion" shall be the exclusion of a student from a traditional school for the number of school days remaining in the school year in which the incident that gives rise to the expulsion takes place and one (1) additional school year.

### **Suspension from School or From Riding School Bus**

- A. When a student's actions violate law, School Board policies, or school rules, the student may be suspended by the Principal. A student who is suspended shall not be allowed to attend his/her regular classes or school-sponsored activities for a prescribed number of days not to exceed ten (10). The Principal may suspend a student from riding the school bus for a prescribed number of days not to exceed ten (10). Parents of students

suspended from the school bus have the obligation to provide transportation to and from school. If bus transportation is a related service on a student's Individualized Education Plan (IEP), a bus suspension must be counted towards the ten (10) days of suspension. Outdoor suspension criterion are located in the CSC.

- B. A teacher shall not suspend a student from school or class, nor shall a bus driver suspend a student from riding a school bus.
- C. The Superintendent may suspend a student from any or all co-curricular or extra-curricular activities for violations of the CSC. The length of suspension shall be determined according to the CSC. Additionally, a manifestation determination meeting may be required for students with disabilities, depending on the number of days of suspension given (Policy 2460).
- D. Prompt notice of a suspension shall be given by telephone to the student's parent if possible. Formal written notification to the student's parent shall be initiated within twenty-four (24) hours of the time the student is informed of the suspension.
- E. Except in the event of emergencies or disruptive conditions which require immediate suspension or in the case of a serious breach of conduct that is defined as willful disobedience, open defiance of authority of a member of the school staff, violence against persons or property, or any other act which substantially disrupts the orderly conduct of the school, all out-of-school suspensions shall not begin prior to the beginning of the next school day following the infraction unless the parents have been notified.
- F. Prior to the suspension, the student shall be given an informal and impartial hearing before the Principal and shall be informed of the charge(s) against him/her which may result in suspension. If the student denies the charge(s), s/he shall be given an explanation of the evidence, an opportunity to present his/her version of the case, and notification of the action taken by the Principal. In cases of extremely disruptive or dangerous behavior, persons or groups involved may be immediately suspended and ejected from the school campus without a prior hearing. In such instances, each student shall be afforded an informal hearing before the Principal prior to the expiration of suspension. Students are not entitled to full procedural rights that the law guarantees to students who are recommended for expulsion or are defendants in criminal cases. At suspension hearings, students are not:
  - 1. entitled to the presence of an attorney;
  - 2. allowed to confront or cross-examine witnesses;
  - 3. allowed to record mechanically, or have a court reporter record the proceedings unless the Principal has elected to record or report the hearing verbatim.

If the parent(s) feel that the child has not been afforded a fair hearing at the school, they may request a review by the Region Superintendent. The appeal may consist of a review of the previous hearing, with a ruling on the facts and the validity of the suspension, or the hearing may be reconvened by the Region Superintendent or designee for additional testimony that may be deemed necessary in making a final decision.

- G. The Principal shall determine, in consultation with teachers, when appropriate, whether the student should be given the opportunity to make up school work and course requirements missed while absent due to out-of-school suspension. If this privilege is given, the student shall have a reasonable amount of time, up to five (5) school days

comparable to the days of suspension, following the suspension to complete the school work missed and shall do so on his/her own initiative. Failure to make up all written assignments missed during the approved time frame of suspension will result in the student being given the academic grade of "F" for those written assignments. Under no circumstances are teachers required to make special provisions to comply with this procedure. Upon completion of the make-up work, the student should submit the work to the teacher. The teacher must grade and record the make-up work as it is received. For students in exceptional education classes, refer to the Exceptional Student Education Policies and Procedures (SP&P) Policy 2460.

- H. The Superintendent may grant to a Principal the authority to waive mandatory suspension policies.

### **Expulsion/Administrative Assignment**

- A. A Principal may recommend expulsion of a student to the Superintendent. The Principal shall provide the Superintendent an adequate history of the student's actions and alternative measures taken relevant to the recommendation. When the Superintendent makes a recommendation for expulsion to the Board, written notice shall be given to the student and his/her parent of the recommendation and charges and advising the student and parent of their right to due process. Offenses requiring the recommendation for expulsion are located in the CSC.
- B. Upon receipt of a recommendation for expulsion from the Principal, the Superintendent may make an administrative assignment in lieu of expulsion or a Work Back in Lieu of Expulsion program.
- C. For students in exceptional student education, refer to Exceptional Student Education Policies and Procedures (SP&P), Policy 2460.
- D. All students who are recommended for expulsion shall undergo screening to determine if they qualify for exceptional education programs.
- E. A student who has been suspended or expelled by another district temporarily may be assigned to an alternative school for the same length of time as imposed by the other district.
- F. The informal hearing at the school level shall be conducted by the Principal. If available, the student shall be given an opportunity to be heard at this hearing. At the conclusion of the hearing, the Principal will reaffirm the suspension and recommendation for expulsion, or, based upon consideration of the facts and circumstances explained at the hearing, will advise the parent of the school's intention to withdraw the request for expulsion and take some alternative action.
- G. The parent shall be informed that, prior to any Board action being taken on the expulsion or administrative assignment, they will be given the opportunity to request a hearing before an impartial hearing officer. Prior to a formal hearing, the parent will be offered an appeal conference with a representative from School Operations/Alternative Education.
- H. Students with disabilities who are expelled are entitled to a Due Process Hearing with the Florida Division of Administrative Hearings. However, during the course of litigation, the student's placement is at the alternative school. Students with disabilities must continue to receive FAPE while assigned to an alternative school. Refer to the Exceptional Student Education Policies and Procedures (SP&P) Policy 2460.

All disciplinary decisions and appeals related to sexual harassment shall be handled in accordance with Policies 5517, 5517.02 and 5517.03.



A copy of this policy is to be made available to students and parents upon request. Key provisions of the policy should also be included in the CSC.

Effective 7/1/11

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Legal	34 C.F.R. Part 106
	F.A.C. 6A-19.008
	F.S. 120.569
	F.S. 120.57
	F.S. 1002.20
	F.S. 1003.02
	F.S. 1003.32
	F.S. 1006.07
	F.S. 1006.08
	F.S. 1006.09
	F.A.C. 6A-6.03312
	F.A.C. Chapter 28-106
	18 U.S.C. Section 921