

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

**SUBJECT:** INITIAL **READING: TO AMEND POLICIES 1362, 3362, 4362, ANTI-DISCRIMINATION/HARASSMENT, AND 1362.02, 3362.02, 4362.02, ANTI-DISCRIMINATION/HARASSMENT COMPLAINT PROCEDURE**

**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 procedures specifically for complaints of sexual harassment.

Policies 1362, 3362, 4362, 1362.02, 3362.02 and 4362.02 apply to the prohibition on discrimination and harassment by and against employees and the procedures for resolving complaints of discrimination and harassment based on protected categories. The proposed amendments to each of these policies reference the distinctive process required when allegations of sexual harassment by or against employees are made. The amendments provide notice of how members of the District

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community can contact their supervisor and/or District's Civil Rights Compliance Department ("CRC") to make a complaint of sexual harassment. As referenced throughout the policies, the amendments 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 proposed revisions include renaming Policies 1362, 3362, and 4362, *Prohibition on Discrimination and Harassment Against District Community (Non-Students)*, and Policies 1362.02, 3362.02, and 4362.02, *Discrimination and Harassment Complaint Procedures*.

The District's *Title IX Sexual Harassment Manual* will be presented with this item for final adoption on October 21, 2020. A draft version of the document will be accessible on the [Office of Civil Rights Compliance Draft Title IX Sexual Harassment Manual's Webpage](#) beginning on September 1, 2020. } Inserted

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 1362, 3362, 4362, *Anti-Discrimination/Harassment*, and 1362.02, 3362.02, 4362.02, *Anti-Discrimination/Harassment Complaint Procedure*.

**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 1362, 3362, 4362, *Anti-Discrimination/Harassment*, and 1362.02, 3362.02, 4362.02, *Anti-Discrimination/Harassment Complaint Procedure*.

## NOTICE OF INTENDED ACTION

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, announced on August 12, 2020, its intention to amend Board Policies 1362, 3362, 4362, *Anti-Discrimination/Harassment*, and 1362.02, 3362.02, 4362.02, *Anti-Discrimination/Harassment Complaint Procedure*, at its regular meeting on October 21, 2020.

PURPOSE AND EFFECT: Board Policies 1362, 3362, 4362, *Anti-Discrimination/Harassment*, and 1362.02, 3362.02, 4362.02, *Anti-Discrimination/Harassment Complaint Procedure* 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 Policies 1362, 3362, 4362, *Anti-Discrimination/Harassment*, clarify the Board's jurisdictional authority over allegations of discrimination and harassment and reference the process to be applied to allegations and complaints of sexual harassment. They authorize the District's Title IX Coordinator to coordinate the Board's Title IX obligations. Policies 1362, 3362 and 4362 are proposed to be renamed *Prohibition on Discrimination and Harassment Against District Community (Non-Students) Based on Protected Categories*.

The amendments to Board Policies 1362.02, 3362.02, 4362.02, *Anti-Discrimination/Harassment Complaint Procedure*, 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. Policies 1362.02, 3362.02 and 4362.02 are proposed to be renamed *Discrimination and Harassment Complaint Procedures*.

SUMMARY: Board Policies 1362, 3362, 4362, *Anti-Discrimination/Harassment*, and 1362.02, 3362.02, 4362.02, *Anti-Discrimination/Harassment Complaint Procedure*, incorporate specific requirements from newly promulgated Title IX regulations. Policies 1362, 3362 and 4362 are proposed to be renamed *Prohibition on Discrimination and Harassment Against District Community (Non-Students) Based on Protected Categories*. Policies 1362.02, 3362.02 and 4362.02 are proposed to be renamed *Discrimination and Harassment Complaint Procedures*.

SPECIFIC LEGAL AUTHORITY UNDER WHICH RULEMAKING IS AUTHORIZED: 1001.41 (1), (2); 1001.42 (6), (8), (15), 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
Code	1362
Status	<u>Initial</u> Reading
Adopted	May 11, 2011
Last Revised	April 13, 2016

1362 - **ANTI-PROHIBITION ON DISCRIMINATION/ AND HARASSMENT AGAINST DISTRICT COMMUNITY (NON-STUDENTS) BASED ON PROTECTED CATEGORIES**

The School Board shall comply with all Federal laws and regulations prohibiting discrimination and with all requirements and regulations of the U.S. Department of Education. The Board shall maintain an educational and work environment which is free from all forms of discrimination/ and harassment, including sexual harassment. This commitment applies to all District operations, programs, and activities. All students, administrators, teachers, staff, and all other school personnel share responsibility for avoiding, discouraging, and reporting any form of prohibited harassment. This policy ~~applies to 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 occurring on school property, or at another location if such conduct occurs during an activity sponsored by the Board.~~

The Board will vigorously enforce its prohibition against discrimination/ and harassment based on 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, pregnancy, and any other legally prohibited basis. Retaliation against an employee or student for engaging in a protected activity ~~is under this policy is also~~ prohibited.

~~The District community, as well as third parties, who feel aggrieved are encouraged to seek assistance to rectify the problems.~~ An employee who ~~has a reasonable and good faith belief that s/he~~ has been the subject of discrimination/ or harassment based on the protected categories shall communicate in writing to the Board according to the District's anti-discrimination/harassment complaint ~~rule~~ procedures in Policy 1362.02. No anonymous complaints shall be accepted or processed, except as otherwise provided in law or regulation. The Board will investigate allegations of discrimination/ or harassment and in those cases where legally prohibited discrimination or harassment is substantiated, the Board will take immediate steps to end the discrimination/ or harassment. Individuals who are found to have engaged in discrimination/ or harassment ~~may~~ will be subject to appropriate disciplinary action.

"District community" pursuant to this policy and Policy 1362.02 means ~~students,~~ administrators, teachers, staff, applicants for employment, and all other school personnel, including Board members, agents, or other ~~persons~~ non-students subject to the control and supervision of the Board. **The**

prohibition on discrimination and harassment against students based on protected categories, and corresponding procedures, are contained in Policies 5517, 5517.02 and 5517.03.

"Third parties" include, but are not limited to, guests and/or visitors on District property (e.g., visiting speakers, participants on opposing athletic teams, parents), vendors doing business with, or seeking to do business with, the Board, and other individuals who come in contact with members of the District community at while participating in or attempting to participate in school-related events/activities (whether on or off District property).

## **Other Violations**

The Board will also 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 report, 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 Superintendent shall appoint a compliance officer whose responsibility will be to require that Federal and State regulations related to employees are complied with and that any complaints are dealt with promptly in accordance with law. 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, Americans with Disabilities Act of 1990, the anti-discrimination provisions of the Immigration and Nationality Act, and the Age Discrimination in Employment Act to 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. Any sections of the District's collectively-bargained agreements dealing with hiring, promotion, and tenure will contain a statement of nondiscrimination similar to that in the Board's statement above.

In accordance with U.S.C. Section 1324b(6) of the Immigration and Nationality Act (INA) and the goal of preventing discrimination on the basis of an individual's national origin or citizenships status, School District personnel are prohibited from (1) requesting employment eligibility verification documents from any applicant for employment prior to making an offer of employment, (2) discriminating on the basis of citizenship status or national origin during the employment eligibility verification and reverification processes, and (3) discriminating against individuals on the basis of citizenship status or national origin during the recruitment, hiring, and firing processes. Applicants and employees who believe that a violation has occurred have a right to contact and/or file a charge with the United States Department of Justice, Civil Rights Division, Office of Special Counsel for Immigration-Related Unfair Employment Practices (currently: <http://www.justice.gov/crt/about/osc>) (currently: OSC Worker Hotline: 1-800-255-7688 (voice) or 1- 800-237-2515 (TTY)).

## **Definitions**

Definitions of the protected categories can be found in the CRC webpage at [http://erc.dadeschools.net/pre\\_categories.asp](http://erc.dadeschools.net/pre_categories.asp) [https://www.hrdadeschools.net/apps/pages/index.jsp?uREC\\_ID=370901&type=d&termREC\\_ID=&pREC\\_ID=718623](https://www.hrdadeschools.net/apps/pages/index.jsp?uREC_ID=370901&type=d&termREC_ID=&pREC_ID=718623).

## **Reports and Complaints of Discrimination or Harassing Conduct**

Individuals with complaints regarding employment discrimination based on citizenship status or unfair documentary practices should contact the United States Department of Justice, Civil Rights Division, Office of Special Counsel for Immigration-Related Unfair Employment Practices, 1-800-255-7688 or <http://www.justice.gov/crt/about/osc> within 180 days of the alleged discriminatory act.

All other members of the District community and third parties must promptly report incidents of discriminatory or harassing conduct to ~~their supervisor~~ the administrator or designee to whom the employee is responsible and/or the Office of Civil Rights Compliance (CRC) so that the Board may address the conduct before it becomes severe, pervasive, or persistent.

Members of the District community or third parties who believe they have been unlawfully harassed by another member of the District community or a third party are entitled to utilize the Board's complaint process in Policy 1362.02. A complaint must be submitted within 300 calendar days of the alleged discriminatory act(s) ~~-, except as otherwise specified in law or regulation. Specific procedures related to sexual harassment are to be applied in accordance with the District's Title IX Sexual Harassment Manual.~~ Individuals should make every effort to present a complaint as soon as possible after the conduct occurs while the facts are known and potential witnesses are available and to eliminate of the conduct in question. Initiating a complaint will not adversely affect the complaining individual's employment or participation in educational or extra-curricular programs unless the complaining individual makes the complaint maliciously or with knowledge that it is false. No anonymous complaints shall be accepted or processed, except as otherwise specified in law or regulation.

The complaint process in Policy 1362.02 is not intended to interfere with the right to pursue a complaint of prohibited ~~harassment~~/discrimination or harassment with the United States Department of Education, Office of Civil Rights; the Florida Civil Rights Commission; the Equal Employment Opportunity Commission; or the United States Department of Justice, Civil Rights Division, Office of Special Counsel for Immigration-Related Unfair Employment Practices.

### **Process for Addressing Complaints of Discrimination/Harassment**

~~The process to provide members of the District community who have a good faith belief that they are being discriminated/harassed is in Policy 1362.02. Once the complaint process is begun, the investigation will be completed in a timely manner (ordinarily, within thirty (30) calendar days of the complaint being received).~~

The processes for making a ~~charge report~~ of discrimination ~~/or~~ harassment, for investigating claims of discrimination ~~/and~~ harassment, and for rendering a decision regarding whether the claim of prohibited discrimination or harassment was substantiated are contained in Policy 1362.02. Information about this policy and Policy 1362.02 will be readily available to all members of the District community and posted in appropriate places throughout the District.

Information regarding where and how to file complaints of sexual and other forms of discrimination ~~/or~~ harassment will be distributed annually through the parent and staff handbooks and published on the District's web site and other locations required by law.

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

### **Confidentiality**

The District will make reasonable efforts to maintain the confidentiality of the parties involved in an investigation of discrimination ~~/or~~ harassment during the course of the investigation in accordance with applicable law and regulation. Confidentiality, however, cannot be guaranteed. All public records created as part of an investigation of a complaint of prohibited discrimination ~~/or~~ harassment will be maintained by the Compliance Officer in accordance with State law and the Board's records retention policy. Records of an ongoing investigation shall remain confidential and not subject to disclosure

pursuant to F.S. Chapter 119 until a final determination is made on the case, except as otherwise provided in law or regulation.

### **Sanctions and Monitoring**

The Board shall vigorously enforce its prohibitions against prohibited discrimination and harassment. While observing the principles of due process, a violation of this policy may result in disciplinary action up to and including the discharge of an employee. All disciplinary action will be taken according to applicable Federal and State law and regulations and the terms of the applicable collective bargaining agreement(s). When imposing discipline, the totality of the circumstances involved in the matter will be considered. In those cases where prohibited discrimination or harassment is not substantiated, the Board may consider whether the alleged conduct nevertheless warrants discipline in accordance with other Board policies, consistent with the terms of the applicable collective bargaining agreement(s). Appropriate disciplinary action for sexual harassment will be handled in accordance with the District's Title IX Sexual Harassment Manual.

Where the Board becomes aware that a prior remedial action has been taken against a member of the District community, all subsequent sanctions imposed by the Board and/or Superintendent shall be reasonably calculated to eliminate such conduct in the future.

### **Education and Training**

The Superintendent shall provide appropriate training to members of the District community to implement this policy and Policy 1362.02.

Effective 7/1/11

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Legal	34 C.F.R. Part 106
	F.A.C. 6A-19.008
	F.S. 110.1221
	F.S. 760.01
	F.S. 760.10
	F.S. 1000.05
	F.S. 1006.07
	29 C.F.R. Part 1635
	8 U.S.C. 1324b
	42 U.S.C. 2000d et seq.
	42 U.S.C. 2000e et seq.
	29 U.S.C. 621 et seq.
	29 U.S.C. 794
	20 U.S.C. 1681 et seq.
	42 U.S.C. 1983
	42 U.S.C. 2000ff et seq.
	42 U.S.C. 12101 et seq.
	National School Boards Association Inquiry and Analysis - May 2008



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The Board will vigorously enforce its prohibition against discrimination/ and harassment based on 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, pregnancy, and any other legally prohibited basis. Retaliation against an employee or student for engaging in a protected activity ~~is~~ under this policy, is also prohibited.

~~The District community as well as third parties, who feel aggrieved are encouraged to seek assistance to rectify the problems.~~ An employee who ~~has a reasonable and good faith belief that s/he~~ has been the subject of discrimination/ or harassment based on the protected categories shall communicate in writing to the Board according to the District's anti-discrimination/harassment complaint ~~procedure rule~~ procedures in Policy 3362.02. No anonymous complaints shall be accepted or processed, except as otherwise provided in law or regulation. The Board will investigate allegations of discrimination/ or harassment and in those cases where legally prohibited discrimination or harassment is substantiated, the Board will take immediate steps to end the discrimination/ or harassment. Individuals who are found to have engaged in discrimination/ or harassment ~~may~~ will be subject to appropriate disciplinary action.

"District community" pursuant to this policy and Policy 3362.02 means ~~students,~~ administrators, teachers, staff, applicants for employment, and all other school personnel, including Board members, agents, or other non-students persons subject to the control and supervision of the Board. The prohibition on discrimination and harassment against students based on protected categories, and corresponding procedures, are contained in Policies 5517, 5517.02 and 5517.03.



"Third parties" include, but are not limited to, guests and/or visitors on District property (e.g., visiting speakers, participants on opposing athletic teams, parents), vendors doing business with, or seeking to do business with, the Board, and other individuals who come in contact with members of the District community ~~at~~ while participating in or attempting to participate in school-related events/activities (whether on or off District property).

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The Board will also take immediate steps to discipline individuals for:

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- B. Filing a malicious or knowingly false report or complaint of discrimination or harassment;
- C. Disregarding, failing to report, investigate adequately, or delaying investigation of allegations of prohibited discrimination ~~or~~ or harassment, when responsibility for reporting and/or investigating unlawful discrimination or harassment charges comprises part of one's supervisory duties.

The Superintendent shall appoint a compliance officer whose responsibility will be to require that Federal and State regulations related to employees are complied with and that any complaints are dealt with promptly in accordance with law. 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, Americans with Disabilities Act of 1990, the anti-discrimination provisions of the Immigration and Nationality Act, and the Age Discrimination in Employment Act to 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. Any sections of the District's collectively-bargained agreements dealing with hiring, promotion, and tenure will contain a statement of nondiscrimination similar to that in the Board's statement above.

In accordance with U.S.C. Section 1324b(6) of the Immigration and Nationality Act (INA) and the goal of preventing discrimination on the basis of an individual's national origin or citizenship status, School District personnel are prohibited from (1) requesting employment eligibility verification documents from any applicant for employment prior to making an offer of employment, (2) discriminating on the basis of citizenship status or national origin during the employment eligibility verification and reverification processes, and (3) discriminating against individuals on the basis of citizenship status or national origin during the recruitment, hiring, and firing processes. Applicants and employees who believe that a violation has occurred have a right to contact and/or file a charge with the United States Department of Justice, Civil Rights Division, Office of Special Counsel for Immigration-Related Unfair Employment Practices (currently: <http://www.justice.gov/crt/about/osc>) (currently: OSC Worker Hotline: 1-800-255-7688 (voice) or 1-800-237-2515 (TTY))

## Definitions

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## Reports and Complaints of Discrimination or Harassing Conduct

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Office of Special Counsel for Immigration-Related Unfair Employment Practices, 1-800-255-7688 or <http://www.justice.gov/crt/about/osc> within 180 days of the alleged discriminatory act.

All other members of the District community and third parties must promptly report incidents of discriminatory or harassing conduct to ~~their supervisor~~ the administrator or designee to whom the employee is responsible and/or the Office of Civil Rights Compliance (CRC) so that the Board may address the conduct before it becomes severe, pervasive, or persistent.

Members of the District community or third parties who believe they have been unlawfully harassed by another member of the District community or a third party are entitled to utilize the Board's complaint process in Policy 3362.02. A complaint must be submitted within 300 calendar days of the alleged discriminatory act(s), except as otherwise specified in law or regulation. Specific procedures related to sexual harassment are to be applied in accordance with the District's Title IX Sexual Harassment Manual. Individuals should make every effort to present a complaint as soon as possible after the conduct occurs while the facts are known and potential witnesses are available and to eliminate of the conduct in question. Initiating a complaint will not adversely affect the complaining individual's employment or participation in educational or extra-curricular programs unless the complaining individual makes the complaint maliciously or with knowledge that it is false. No anonymous complaints shall be accepted or processed, except as otherwise specified in law or regulation.

The complaint process in Policy 3362.02 is not intended to interfere with the right to pursue a complaint of prohibited ~~harassment~~/discrimination or harassment with the United States Department of Education, Office of Civil Rights; the Florida Civil Rights Commission; the Equal Employment Opportunity Commission; or the United States Department of Justice, Civil Rights Division, Office of Special Counsel for Immigration-Related Unfair Employment Practices.

### **Process for Addressing Complaints of Discrimination/Harassment**

~~The process to provide members of the District community who have a good faith belief that they are being discriminated/harassed is in Policy 3362.02. Once the complaint process is begun, the investigation will be completed in a timely manner (ordinarily, within thirty (30) calendar days of the complaint being received).~~

The processes for making a report charge of discrimination ~~/or~~ harassment, a process for investigating claims of discrimination ~~/or~~ harassment, and a process for rendering a decision regarding whether the claim of prohibited discrimination or harassment was substantiated are contained in Policy 3362.02. Information about this policy and Policy 3362.02 will be readily available to all members of the District community and posted in appropriate places throughout the District.

Information regarding where and how to file complaints of sexual and other forms of discrimination or ~~/~~ harassment will be distributed annually through the parent and staff handbooks and published on the District's web-site and in any other location required by law.

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

### **Confidentiality**

The District will make reasonable efforts to maintain the confidentiality of the parties involved in an investigation of discrimination ~~/or~~ harassment during the course of the investigation in accordance with applicable law and regulation. Confidentiality, however, cannot be guaranteed. All public records created as part of an investigation of a complaint of prohibited discrimination ~~/or~~ harassment will be maintained by the Compliance Officer in accordance with State law and the Board's records retention policy. Records of an ongoing investigation shall remain confidential and not subject to disclosure pursuant to F.S. Chapter 119 until a final determination is made on the case, except as otherwise provided in law or regulation.

## Sanctions and Monitoring

The Board shall vigorously enforce its prohibitions against prohibited discrimination and harassment. While observing the principles of due process, a violation of this policy may result in disciplinary action up to and including the discharge of an employee. All disciplinary action will be taken according to applicable Federal and State law and regulations and the terms of the applicable collective bargaining agreement(s). When imposing discipline, the totality of the circumstances involved in the matter will be considered. In those cases where prohibited discrimination ~~and~~ or harassment is not substantiated, the Board may consider whether the alleged conduct nevertheless warrants discipline in accordance with other Board policies, consistent with the terms of the applicable collective bargaining agreement(s). Appropriate disciplinary action for sexual harassment will be handled in accordance with the District's Title IX Sexual Harassment Manual.

Where the Board becomes aware that a prior remedial action has been taken against a member of the District community, all subsequent sanctions imposed by the Board and/or Superintendent shall be reasonably calculated to eliminate such conduct in the future.

## Education and Training

The Superintendent shall provide appropriate training to members of the District community to implement this policy and Policy 3362.02.

Effective 7/1/11

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Legal

F.A.C. 6A-19.008

8 U.S.C. 1324b

34 C.F.R. Part 106

29 U.S.C. 621 et seq.

29 U.S.C. 794

42 U.S.C. 2000d et seq.

42 U.S.C. 2000e et seq.

29 C.F.R. Part 1635

42 U.S.C. 12101 et seq.

20 U.S.C. 1681 et seq.

42 U.S.C. 1983

42 U.S.C. 2000ff et seq.

F.S. 110.1221

F.S. 760.01

F.S. 760.10

F.S. 1000.05

National School Boards Association Inquiry and Analysis - May 2008



Book	Policy Manual
Section	August 12, 2020 - <u>Initial Reading</u>
Title	ANTI-DISCRIMINATION/HARASSMENT
Code	4362
Status	<u>Initial</u> Reading
Adopted	May 11, 2011
Last Revised	April 13, 2016

4362 - **ANTI-PROHIBITION ON DISCRIMINATION/ AND HARASSMENT AGAINST DISTRICT COMMUNITY (NON-STUDENTS) BASED ON PROTECTED CATEGORIES**

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The Board will vigorously enforce its prohibition against discrimination/ and harassment based on 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, pregnancy, and any other legally prohibited basis. Retaliation against an employee or student for engaging in a protected activity ~~is under this p~~ Policy is also prohibited.

~~The District community as well as third parties who feel aggrieved are encouraged to seek assistance to rectify the problems.~~ An employee who ~~has a reasonable and good faith belief that s/he~~ has been the subject of discrimination/ or harassment based on the protected categories shall communicate in writing to the Board according to the District's anti-discrimination/ and harassment complaint ~~procedure rule procedures in Policy 4362.02.~~ No anonymous complaints shall be accepted or processed, except as otherwise provided in law or regulation. The Board will investigate allegations of discrimination/ or harassment and in those cases where legally prohibited discrimination or harassment is substantiated, the Board will take immediate steps to end the discrimination/ or harassment. Individuals who are found to have engaged in discrimination/ or harassment ~~may~~ will be subject to appropriate disciplinary action.

"District community" pursuant to this policy and Policy 4362.02 means students, administrators, teachers, staff, and all other school personnel, including Board members, agents, or other ~~persons non-students~~ subject to the control and supervision of the Board. The prohibition on discrimination and

harassment against students based on protected categories, and corresponding procedures, are contained in Policies 5517, 5517.02 and 5517.03.

"Third parties" include, but are not limited to, guests and/or visitors on District property (e.g., visiting speakers, participants on opposing athletic teams, parents), vendors doing business with, or seeking to do business with, the Board, and other individuals who come in contact with members of the District community ~~at~~ while participating in or attempting to participate in school-related events/activities (whether on or off District property).

### **Other Violations**

The Board will also 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 report, 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 Superintendent shall appoint a compliance officer whose responsibility will be to require that Federal and State regulations related to employees are complied with and that any complaints are dealt with promptly in accordance with law. 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, Americans with Disabilities Act of 1990, the anti-discrimination provisions of the Immigration and Nationality Act, and the Age Discrimination in Employment Act to 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. Any sections of the District's collectively-bargained agreements dealing with hiring, promotion, and tenure will contain a statement of nondiscrimination similar to that in the Board's statement above.

In accordance with U.S.C. Section 1324b(6) of the Immigration and Nationality Act (INA) and the goal of preventing discrimination on the basis of an individual's national origin or citizenship status, ~~S~~School ~~e~~District personnel are prohibited from (1) requesting employment eligibility verification documents from any applicant for employment prior to making an offer of employment, (2) discriminating on the basis of citizenship status or national origin during the employment eligibility verification and reverification processes, and (3) discriminating against individuals on the basis of citizenship status or national origin during the recruitment, hiring, and firing processes. Applicants and employees who believe that a violation has occurred have a right to contact and/or file a charge with the United States Department of Justice, Civil Rights Division, Office of Special Counsel for Immigration-Related Unfair Employment Practices (currently: <http://www.justice.gov/crt/about/osc>) (currently: OSC Worker Hotline: 1-800-255-7688 (voice) or 1-800-237-2515 (TTY))

### **Definitions**

Definitions of the protected categories can be found in the CRC webpage at ~~<http://crc.dadeschools.net/pre-categories.asp>~~ [https://www.hrdadeschools.net/apps/pages/index.jsp?uREC\\_ID=370901&type=d&termREC\\_ID=&pREC\\_ID=718623](https://www.hrdadeschools.net/apps/pages/index.jsp?uREC_ID=370901&type=d&termREC_ID=&pREC_ID=718623).

### **Reports and Complaints of Discrimination or Harassing Conduct**

Individuals with complaints regarding employment discrimination based on citizenship status or unfair documentary practices should contact the United States Department of Justice, Civil Rights Division, Office of Special Counsel for Immigration-Related Unfair Employment Practices, 1-800-255-7688 or <http://www.justice.gov/crt/about/osc> within 180 days of the alleged discriminatory act.

All other members of the District community and third parties must promptly report incidents of discriminatory or harassing conduct to ~~their supervisor~~ the administrator or designee to whom the employee is responsible and/or the Office of Civil Rights Compliance (CRC) so that the Board may address the conduct before it becomes severe, pervasive, or persistent.

Members of the District community or third parties who believe they have been unlawfully harassed by another member of the District community or a third party are entitled to utilize the Board's complaint process in Policy 4362.02. A complaint must be submitted within 300 calendar days of the alleged discriminatory act(s), except as otherwise specified in law or regulation. Specific procedures related to sexual harassment are to be applied in accordance with the District's Title IX Sexual Harassment Manual. Individuals should make every effort to present a complaint as soon as possible after the conduct occurs while the facts are known and potential witnesses are available and to eliminate of the conduct in question. Initiating a complaint will not adversely affect the complaining individual's employment or participation in educational or extra-curricular programs unless the complaining individual makes the complaint maliciously or with knowledge that it is false. No anonymous complaints shall be accepted or processed, except as otherwise specified in law or regulation.

The complaint process in Policy 4362.02 is not intended to interfere with the right to pursue a complaint of prohibited ~~harassment~~ discrimination or harassment with the United States Department of Education, Office of Civil Rights; the Florida Civil Rights Commission; the Equal Employment Opportunity Commission; or the United States Department of Justice, Civil Rights Division, Office of Special Counsel for Immigration-Related Unfair Employment Practices.

### **Process for Addressing Complaints of Discrimination/ and Harassment**

~~The process to provide members of the District community who have a good faith belief that they are being discriminated/harassed is in Policy 4362.02. Once the complaint process is begun, the investigation will be completed in a timely manner (ordinarily, within thirty (30) calendar days of the complaint being received).~~

The processes for making a charge report of discrimination/ or harassment, a process for investigating claims of discrimination/ and harassment, and a process for rendering a decision regarding whether the claim of prohibited discrimination or harassment was substantiated are contained in Policy 4362.02. Information about this policy and Policy 4362.02 will be readily available to all members of the District community and posted in appropriate places throughout the District.

Information regarding where and how to file complaints of sexual and other forms of discrimination/ or harassment will be distributed annually through the parent and staff handbooks and published on the District's web site and other locations required by law.

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

### **Confidentiality**

The District will make reasonable efforts to maintain the confidentiality of the parties involved in an investigation of discrimination/ or harassment during the course of the investigation in accordance with applicable law and regulation. Confidentiality, however, cannot be guaranteed. All public records created as part of an investigation of a complaint of prohibited discrimination or /harassment will be maintained by the Compliance Officer in accordance with State law and the Board's records retention policy. Records of an ongoing investigation shall remain confidential and not subject to disclosure

pursuant to F.S. Chapter 119 until a final determination is made on the case, except as otherwise provided in law or regulation.

### **Sanctions and Monitoring**

The Board shall vigorously enforce its prohibitions against prohibited discrimination and harassment. While observing the principles of due process, a violation of this policy may result in disciplinary action up to and including the discharge of an employee. All disciplinary action will be taken according to applicable Federal and State law and regulations and the terms of the applicable collective bargaining agreement(s). When imposing discipline, the totality of the circumstances involved in the matter will be considered. In those cases where prohibited discrimination or harassment is not substantiated, the Board may consider whether the alleged conduct nevertheless warrants discipline in accordance with other Board policies, consistent with the terms of the collective bargaining agreement(s). Appropriate disciplinary action for sexual harassment will be handled in accordance with the District's Title IX Sexual Harassment Manual.

Where the Board becomes aware that a prior remedial action has been taken against a member of the District community, all subsequent sanctions imposed by the Board and/or Superintendent shall be reasonably calculated to eliminate such conduct in the future.

### **Education and Training**

The Superintendent shall provide appropriate training to members of the District community to implement this policy and Policy 4362.02.

Effective 7/1/11

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Legal	F.A.C. 6A-19.008
	8 U.S.C. 1324b
	20 U.S.C. 1681 et seq.
	29 U.S.C. 794
	29 C.F.R. Part 1635
	29 U.S.C. 621 et seq.
	34 C.F.R. Part 106
	42 U.S.C. 2000d et seq.
	42 U.S.C. 2000e et seq.
	42 U.S.C. 12101 et seq.
	42 U.S.C. 1983
	42 U.S.C. 2000ff et seq.
	F.S. 760.01
	F.S. 760.10
	F.S. 110.1221
	F.S. 1000.05
	National School Boards Association Inquiry and Analysis - May 2008



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Book	Policy Manual
Section	August 12, 2020 - <u>Initial</u> Reading
Title	ANTI-DISCRIMINATION/HARASSMENT COMPLAINT PROCEDURE
Code	1362.02
Status	<u>Initial</u> Reading
Adopted	May 11, 2011
Last Revised	April 13, 2016

### 1362.02 - ~~ANTI-DISCRIMINATION~~ AND HARASSMENT COMPLAINT PROCEDURES

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

Office of Civil Rights Compliance (CRC)  
Executive Director/District Title IX Coordinator  
155 N.E. 15th Street, Suite P-104E  
Miami, Florida 33132  
Phone: (305)-995-1580  
Fax: (305) 995-2047  
crc@dadeschools.net

<http://crc.dadeschools.net/>

The School Board has established procedures to fulfill the letter and intent of anti-discrimination laws. The CRC is responsible for investigating complaints and/or charges of discrimination and ~~illegal~~ harassment, based on the protected categories set forth in Policy 1362~~including sexual harassment and retaliation filed by employees, students and their parents, or applicants~~. The CRC office accepts complaints of prohibited discrimination ~~and~~ harassment directly from any member of the District community. Upon receipt of a written complaint, the Compliance Officer will designate a specific individual within the CRC office to conduct an investigation. 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.

All members of the District community must report incidents of prohibited discrimination ~~and~~ harassment to the administrator or designee~~to which they, in good faith, believe they have been~~



~~subjected or which are reported to them,~~ to whom the employee is responsible and/or the CRC ~~the CRC office~~ without delay.

## Investigation and Complaint Procedures

Any member of the District community or third party who ~~has a good faith belief that s/he~~ has been subjected to prohibited discrimination ~~or~~ harassment may seek resolution of his/her complaint through the procedures described below. Title IX sexual harassment reports will be immediately referred to the District's Title IX Coordinator for processing in accordance with specific procedures set forth in the District's Title IX Sexual Harassment Manual. The prohibition on discrimination and harassment against students based on protected categories, and corresponding procedures, are contained in Policies 5517, 5517.02 and 5517.03.

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

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

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

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

## Complaint Procedure

A member of the District community or third party ~~who has~~ ~~who believes they have~~ been subjected to prohibited discrimination ~~or~~ harassment, must report the conduct immediately to the administrator or designee to whom the employee is responsible and/or the CRC without delay ~~is/her supervisor or the CRC~~. If the complainant makes the report to CRC, the complainant shall present it in writing. If a complainant informs any other employee of the District, either orally or in writing, about any complaint of prohibited discrimination ~~or~~ harassment, that employee must immediately refer the individual or report such information to the administrator or designee to whom the employee is responsible and/or the CRC without delay ~~Compliance Officer~~. No anonymous complaints shall be accepted or processed except as otherwise provided by law or regulation. The complaint must be signed attesting that it is true to the best of the complainant's knowledge.

Within five (5) work days of receipt, the CRC designee will review the complaint to ensure that it meets the applicable definitions and inform the respondent (individual alleged to have engaged in the prohibited conduct) that a complaint has been received.

If it is determined that the complaint alleges prohibited discrimination ~~or~~ harassment, the complaint will be investigated.

Throughout the course of the investigative process, the CRC designee ~~Compliance Officer~~ should keep the complainant informed of the status of the investigation.

Complaints must 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 discrimination or conduct/harassment; 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.

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

Upon receiving a written complaint, the ~~CRC designee Compliance Officer~~ will consider, in conjunction with the complainant and the head of the division or department, ~~whether any action should be taken in~~ supportive measures to implement during the investigatory phase to protect the complainant from further legally prohibited discrimination, harassment or retaliation including but not limited to, a change of job assignment or a change of class schedule. ~~In making such a determination, the Compliance Officers should consult the complainant to assess his/her agreement to any action deemed appropriate.~~

Within three (3) work days of receiving the written complaint of legally prohibited discrimination or harassment, the ~~CRC designee Compliance Officer~~ will inform the respondent (individual alleged to have engaged in the prohibited ~~harassing~~ conduct) that a complaint has been received.

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

The ~~CRC Compliance Officer or~~ designee will complete an investigation into the allegations ~~of discrimination/harassment~~ within thirty (30) work days of receiving the written complaint. The investigation will include:

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

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

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

All decisions and appeals related to findings of responsibility for sexual harassment will be processed in accordance with the District's Title IX Sexual Harassment Manual.

## Confidentiality

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

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

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

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 Policy 8320 or the District's records retention schedule.

## Child Abuse/Sexual Misconduct

All employees aware of suspected child abuse or neglect must immediately report the abuse to the ~~Department of Children and Family Services abuse hotline~~ DCF Central Abuse Hotline at 1-800-96-ABUSE (22873) or online at <https://www.myflfamilies.com/service-programs/abuse-hotline/report-online.shtml>, the School Police, and the school site administrator. If, during the course of an investigation of prohibited discrimination ~~/or~~ harassment, the Compliance Officers ~~s~~ or designee has reason to believe or suspect that the alleged conduct indicates abuse or neglect of the complainant, a report of such knowledge must be made in accordance with State law and Policy 8462.

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

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

## **Mandatory Reporting of Misconduct by Certificated Employees**

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

Effective 7/1/11

Technical Change 7/13/15

Revised 4/13/16

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Legal

F.A.C. 6A-19.008

34 C.F.R. Part 106

F.S. 110.1221

F.S. 760.01

F.S. 760.10

F.S. 1000.05

F.S. 1006.07

29 C.F.R. Part 1635

29 U.S.C. 621 et seq.

29 U.S.C. 794

20 U.S.C. 1681 et seq.

42 U.S.C. 2000d et seq.

42 U.S.C. 2000e et seq.

42 U.S.C. 1983

42 U.S.C. 2000ff et seq.

42 U.S.C. 12101 et seq.

National School Boards Association Inquiry and Analysis - May 2008



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Book	Policy Manual
Section	August 12, 2020 - <u>Initial</u> Reading
Title	ANTI-DISCRIMINATION/HARASSMENT COMPLAINT PROCEDURE
Code	3362.02
Status	<u>Initial</u> Reading
Adopted	May 11, 2011
Last Revised	April 13, 2016

### 3362.02 - ~~ANTI-DISCRIMINATION/~~AND HARASSMENT COMPLAINT PROCEDURES

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

#### CRC Office Contact Information

Office of Civil Rights Compliance (CRC)  
Executive Director/District Title IX Coordinator  
155 N.E. 15th Street, Suite P-104E  
Miami Florida 33132  
Phone: (305)-995-1580  
Fax: (305) 995-2047  
crc@dadeschools.net  
http://crc.dadeschools.net/

The School Board has established procedures to fulfill the letter and intent of anti-discrimination laws. The CRC is responsible for investigating complaints and/or charges of discrimination and ~~illegal~~ harassment, ~~including sexual harassment and retaliation filed by employees, students and their parents, or applicants~~ based on the protected categories set forth in Policy 3362. The CRC office accepts complaints of prohibited discrimination ~~and~~ harassment directly from any member of the District community. Upon receipt of a written complaint, the Compliance Officer will designate a specific individual within the CRC office to conduct an investigation. 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.

All members of the District community must report incidents of prohibited discrimination ~~and~~ harassment to the administrator which they, in good faith, believe they have been subjected or designee to whom the employee is responsible and/or the CRC Office without delay.

## Investigation and Complaint Procedures

Any member of the District community or third party who ~~has a good faith belief that s/he~~ has been subjected to prohibited discrimination ~~/~~ or harassment may seek resolution of his/her complaint through the procedures described below. Title IX sexual harassment reports will be immediately referred to the District's Title IX Coordinator for processing in accordance with specific procedures set forth in the District's Title IX Sexual Harassment Manual. The prohibition on discrimination and harassment against students based on protected categories, and corresponding procedures, are contained in Policies 5517, 5517.02 and 5517.03.

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

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

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

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

### Complaint Procedure

A member of the District community or third party who ~~has~~ believes they have been subjected to prohibited discrimination ~~/~~ or harassment, must report the conduct immediately to the administrator or designee to whom the employee is responsible and/or the CRC without delay, ~~his/her supervisor or the CRC~~. If the complainant makes the report to CRC, the complainant shall present it in writing. If a complainant informs any other employee of the District, either orally or in writing, about any complaint of prohibited discrimination ~~/~~ or harassment, that employee must immediately refer the individual or report such information to the ~~Compliance Officer~~ administrator or designee to whom the employee is responsible and/or the CRC without delay. No anonymous complaints shall be accepted or processed except as otherwise provided by law or regulation. The complaint must be signed attesting that it is true to the best of the complainant's knowledge.

Within five (5) work days of receipt, the CRC designee will review the complaint to ensure that it meets the applicable definitions and inform the respondent (individual alleged to have engaged in the prohibited conduct) that a complaint has been received.

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

Throughout the course of the investigative process, the CRC designee ~~compliance Officer~~ should keep the complainant informed of the status of the investigation.

Complaints must 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 discrimination or conduct/harassment; 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.

The CRC~~compliance Officer or~~ designee will conduct an oral interview and prepare a written summary of the oral interview which will be presented to the complainant for verification by signature.

Upon receiving a written complaint, the CRC designee~~compliance Officer~~ will consider, in conjunction with complainant and the head of the division or department, ~~whether any action should be taken in~~ supportive measures to implement during the investigatory phase to protect the complainant from further legally prohibited discrimination, harassment or retaliation including but not limited to, a change of job assignment or a change of class schedule. ~~In making such a determination, the Compliance Officers should consult the complainant to assess his/her agreement to any action deemed appropriate.~~

Within three (3) work days of receiving the written complaint of legally prohibited discrimination or harassment, the CRC designee~~compliance Officer~~ will inform the respondent (individual alleged to have engaged in the prohibited~~harassing~~ conduct) that a complaint has been received.

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

The CRC~~compliance Officer or~~ designee will complete an investigation into the allegations ~~of discrimination/harassment~~ within thirty (30) work days of receiving the written complaint. The investigation will include:

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

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

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

All decisions and appeals related to findings of responsibility for sexual harassment will be processed in accordance with the District's Title IX Sexual Harassment Manual.

## **Confidentiality**

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

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

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

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 Policy 8320 or the District's records retention schedule.

## **Child Abuse/Sexual Misconduct**

All employees aware of suspected child abuse or neglect must immediately report the abuse to the DCF Central Abuse Hotline at 1-800-96- ABUSE (22873) or online at <https://www.myflfamilies.com/service-programs/abuse-hotline/report-online.shtml>, ~~Department of Children and Family Services abuse hotline~~, the School Police, and the school site administrator. If, during the course of an investigation of prohibited discrimination ~~/~~ or harassment, the Compliance Officer ~~s~~ or designee has reason to believe or suspect that the alleged conduct indicates abuse or neglect of the complainant, a report of such knowledge must be made in accordance with State law and Policy 8462.



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

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

### **Mandatory Reporting of Misconduct by Certificated Employees**

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

Effective 7/1/11

Technical Change 7/13/15

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Legal                      34 C.F.R. Part 106  
                                  F.A.C. 6A-19.008  
                                  F.S. 110.1221  
                                  F.S. 760.01  
                                  F.S. 760.10  
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                                  29 U.S.C. 794  
                                  42 U.S.C. 1983  
                                  42 U.S.C. 2000d et seq.  
                                  42 U.S.C. 2000e et seq.  
                                  42 U.S.C. 2000ff et seq.  
                                  42 U.S.C. 12101 et seq.  
                                  National School Boards Association Inquiry and Analysis - May 2008



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Book	Policy Manual
Section	August 12, 2020 - <u>Initial</u> Reading
Title	ANTI-DISCRIMINATION/HARASSMENT COMPLAINT PROCEDURE
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#### 4362.02 - ~~ANTI-DISCRIMINATION~~ AND HARASSMENT COMPLAINT PROCEDURES

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

#### CRC Office Contact Information

Office of Civil Rights Compliance (CRC)  
Executive Director/District Title IX Coordinator  
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The School Board has established procedures to fulfill the letter and intent of anti-discrimination laws. The ~~Office of Civil Rights Compliance (CRC)~~ is responsible for investigating complaints and/or charges of discrimination and ~~illegal~~ harassment, ~~including sexual harassment and retaliation filed by employees, students and their parents, or applicants~~ based on the protected categories set forth in Policy 4362. The CRC office accepts complaints of prohibited discrimination ~~and~~ harassment directly from any member of the District community. Upon receipt of a written complaint, the Compliance Officer will designate a specific individual within the CRC office to conduct an investigation. 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.

All members of the District community must report incidents of prohibited discrimination ~~/ and~~ harassment to the administrator ~~which they, in good faith, believe they have been subjected or which are reported~~ or designee, to whom the employee is responsible and/or the CRC without delay.

### **Investigation and Complaint Procedures**

Any member of the District community or third party who has ~~a good faith belief that s/he has~~ been subjected to prohibited discrimination ~~/ or~~ harassment may seek resolution of ~~their~~ ~~his/her~~ complaint through the procedures described below. Title IX sexual harassment reports will be immediately referred to the District's Title IX Coordinator for processing in accordance with specific procedures set forth in the District's Title IX Sexual Harassment Manual. The prohibition on discrimination and harassment against students based on protected categories, and corresponding procedures, are contained in Policies 5517, 5517.02 and 5517.03.

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

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

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

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

### **Complaint Procedure**

A member of the District community or third party who ~~has~~ ~~believes they have~~ been subjected to prohibited discrimination ~~or /~~ harassment, must report the conduct immediately to ~~his/her supervisor or the administrator or designee to whom the employee is responsible and/or the CRC without delay. - the CRC.~~ If the complainant makes the report to CRC, the complainant shall present it in writing. If a complainant informs any other employee of the District, either orally or in writing, about any complaint of prohibited discrimination ~~/ or~~ harassment, that employee must immediately refer the individual or report such information to the administrator or designee to whom the employee is responsible and/or the CRC without delay ~~Compliance Officer~~. No anonymous complaints shall be accepted or processed except as otherwise provided by law or regulation. The complaint must be signed attesting that it is true to the best of the complainant's knowledge.

Within five (5) work days of receipt, the CRC designee will review the complaint to ensure that it meets the applicable definitions and inform the respondent (the individual alleged to have engaged in the prohibited conduct) that a complaint has been received.

If it is determined that the complaint alleges prohibited discrimination ~~or~~ harassment, the complaint will be investigated.

Throughout the course of the investigative process, the ~~CRC designee~~ ~~compliance Officer~~ should keep the complainant informed of the status of the investigation.

Complaints must 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 discrimination or conduct/harassment; 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.

The ~~CRC~~ ~~compliance Officer~~ or designee will conduct an oral interview and prepare a written summary of the oral interview which will be presented to the complainant for verification by signature.

Upon receiving a written complaint, the ~~CRC designee~~ ~~compliance Officer~~ will consider, in conjunction with the complainant and the head of the division or department, supportive measures to implement during ~~whether any action should be taken in~~ the investigatory phase to protect the complainant from further legally prohibited discrimination, harassment or retaliation including but not limited to, a change of job assignment or a change of class schedule. ~~In making such a determination, the Compliance Officers should consult the complainant to assess his/her agreement to any action deemed appropriate.~~

Within three (3) work days of receiving the written complaint of legally prohibited discrimination or harassment, the ~~CRC designee~~ ~~compliance Officer~~ will inform the respondent (the individual alleged to have engaged in the prohibited ~~harassing~~ conduct) that a complaint has been received.

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

The ~~CRC~~ ~~compliance Officer~~ or designee will complete an investigation into the allegations ~~of discrimination/harassment~~ within thirty (30) work days of receiving the written complaint. The investigation will include:

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

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

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

All decisions and appeals related to findings of responsibility for sexual harassment will be processed in accordance with the District's Title IX Sexual Harassment Manual.

## Confidentiality

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

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

All ~~public~~ records related to created as part of an investigation of prohibited discrimination or harassment ~~shall will~~ be maintained by the persons responsible for the investigation Compliance Officer according to State and Federal law and the Board's records retention policy. Records of an ongoing investigation shall remain confidential and not subject to disclosure pursuant to F.S. Chapter 119, until a final determination is made on the case, or as otherwise required by law or regulation. Any records which are considered education records under the Family Educational Rights and Privacy Act will be maintained in a manner consistent with the provisions of Federal and State law.

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 Policy 8320 or the District's records retention schedule.

## Child Abuse/Sexual Misconduct

All employees aware of suspected child abuse or neglect must immediately report the abuse to the DCF Central Abuse Hotline at 1-800-96- ABUSE (22873) or online at <https://www.myflfamilies.com/service-programs/abuse-hotline/report-online.shtml> ~~Department of Children and Family Services abuse hotline~~, the School Police, and the school site administrator. If, during the course of an investigation of prohibited discrimination or harassment, the Compliance Officers or designee has reason to believe or suspect that the alleged conduct indicates abuse or

neglect of the complainant, a report of such knowledge must be made in accordance with State law and Policy 8462.

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

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

### **Mandatory Reporting of Misconduct by Certificated Employees**

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

Effective 7/1/11

Technical Change 7/13/15

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Legal                            34 C.F.R. Part 106  
    F.A.C. 6A-19.008  
    F.S. 110.1221  
    F.S 760.01  
    F.S. 760.10  
    F.S. 1000.05  
    F.S 1006.07  
    29 C.F.R. Part 1635  
    20 U.S.C. 1681 et seq.  
    29 U.S.C. 621 et seq.  
    29 U.S.C. 794  
    42 U.S.C. 2000d et seq.  
    42 U.S.C. 2000e et seq.  
    42 U.S.C. 1983  
    42 U.S.C. 12101 et seq.  
    42 U.S.C. 2000ff et seq.  
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