

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

SUBJECT: **INITIAL READING: PROPOSED AMENDMENTS TO SCHOOL BOARD POLICIES 1362, 3362, 4362, PROHIBITION ON DISCRIMINATION AND HARASSMENT AGAINST DISTRICT COMMUNITY (NON-STUDENTS) BASED ON PROTECTED CATEGORIES, 2260, NONDISCRIMINATION AND ACCESS TO EQUAL EDUCATIONAL OPPORTUNITY, AND 5517, PROHIBITION ON DISCRIMINATION AND HARASSMENT AGAINST STUDENTS BASED ON PROTECTED CATEGORIES**

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

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

Consistent with the Board's statutory responsibility to periodically review and update policies to conform to legislative changes and District practices, authorization is requested for the Superintendent to initiate rulemaking proceedings to amend Policy 1362, *Prohibition on Discrimination and Harassment Against District Community (Non-Students) Based on Protected Categories* (and corresponding policies 3362 and 4362), Policy 2260, *Nondiscrimination and Access to Equal Educational Opportunity*, and Policy 5517, *Prohibition on Discrimination and Harassment Against Students Based on Protected Categories*, as a result of HB-7, *Individual Freedom*. (2022). The amendments include reference to Florida Statutes, Sections 760.10 and 1000.05, which now prohibit certain training, instruction, and other required activities considered unlawful discrimination.

The policy amendments were drafted in collaboration with, and reviewed by the Superintendent, Cabinet, and District staff. The Notice of Intended Action and policy with strikethroughs and underlines are attached.

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 Policy 1362, 3362, 4362 *Prohibition on Discrimination and Harassment Against District Community (Non-Students) Based on Protected Categories*, Policy 2260, *Nondiscrimination and Access to Equal Educational Opportunity*, and Policy 5517, *Prohibition on Discrimination and Harassment Against Students Based on Protected Categories*.

NOTICE OF INTENDED ACTION

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, announced on August 15, 2022, its intention to amend Board Policies 1362, 3362, 4362, *Prohibition on Discrimination and Harassment Against District Community (Non-Students) Based on Protected Categories*, Policy 2260, *Nondiscrimination and Access to Equal Educational Opportunity*, and Policy 5517, *Prohibition on Discrimination and Harassment Against Students Based on Protected Categories*, at its meeting of October 19, 2022.

PURPOSE AND EFFECT: Policies 1362, 3362, 4362, *Prohibition on Discrimination and Harassment Against District Community (Non-Students) Based on Protected Categories*, Policy 2260, *Nondiscrimination and Access to Equal Educational Opportunity*, and Policy 5517, *Prohibition on Discrimination and Harassment Against Students Based on Protected Categories*, are proposed for amendment to conform to legislative changes and District practices.

SUMMARY: Policies 1362, 3362, 4362 *Prohibition on Discrimination and Harassment Against District Community (Non-Students) Based on Protected Categories*, Policy 2260, *Nondiscrimination and Access to Equal Educational Opportunity*, and Policy 5517, *Prohibition on Discrimination and Harassment Against Students Based on Protected Categories*, are proposed for amendment to conform to legislative changes and District practices. The amendments include reference to Florida Statutes, Sections 760.10 and 1000.05, which now prohibit certain training, instruction, and other required activities considered unlawful discrimination.

SPECIFIC LEGAL AUTHORITY UNDER WHICH RULEMAKING IS AUTHORIZED: Fla. Stat. ss. 1001.41(1), (2); 1001.42(15).

LAWS IMPLEMENTED INTERPRETED OR MADE SPECIFIC: Fla. Stat. ss. 760.10; 1000.05.

IF REQUESTED, A HEARING WILL BE HELD DURING SCHOOL BOARD MEETING OF October 19, 2022, 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 14, 2022, 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 POLICY are available at cost to the public for inspection and copying in the Citizen Information Center, Room 158, 1450 N.E. Second Avenue, Miami, Florida 33132.



Book	Policy Manual
Section	August 15, 2022 - <u>Initial</u> Reading
Title	PROHIBITION ON DISCRIMINATION AND HARASSMENT AGAINST DISTRICT COMMUNITY (NON-STUDENTS) BASED ON PROTECTED CATEGORIES
Code	1362
Status	<u>Initial</u> Reading
Adopted	May 11, 2011
Last Revised	October 21, 2020

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

I. Discrimination and Harassment Prohibited

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 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.

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 under this policy is also prohibited.

The Board does not, as a condition of employment, membership, certification, licensing, credentialing, or passing an examination, subject individuals to training, instruction, or other required activity that is prohibited under F.S. 760.10 and F.S. 1000.05. Prohibited discrimination occurs when any student or employee is subjected to training or instruction that is unlawful under these provisions. The prohibited activities should not be construed to exclude discussion of the concepts listed therein as part of a larger course of training or instruction, provided such training or instruction is given in an objective manner without endorsement of the concepts.

An employee who 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 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 be subject to appropriate disciplinary action.

"District community" pursuant to this policy and Policy 1362.02 means administrators, teachers, staff, applicants for employment, and all other school personnel, including Board members, agents, or other 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 Policy 5517, Policy 5517.02, and Policy 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 while participating in or attempting to participate in school-related events/activities (whether on or off District property).

II. Retaliation and 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)).

III. Definitions

Definitions of the protected categories can be found in the CRC webpage at 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 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 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 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.

IV. Process for Addressing Complaints of Discrimination/Harassment

The processes for making a 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.

V. 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.

VI. 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.

VII. 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
Revised 10/21/20

© Neola 2010

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



Book	Policy Manual
Section	August 15, 2022 - <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	October 21, 2020

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

I. Equal opportunity in programming and activities

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;

The Board does not, as a condition of employment, membership, certification, licensing, credentialing, or passing an examination, subject individuals to training, instruction, or other required activity that is prohibited under F.S. 760.10 and F.S. 1000.05. Prohibited discrimination occurs when any student or employee is subjected to training or instruction that is unlawful under these provisions. The prohibited activities should not be construed to exclude discussion of the concepts listed therein as part of a larger course of training or instruction, provided such training or instruction is given in an objective manner without endorsement of the concepts.

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.

II. 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.

III. 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 a report, investigation, and/or, in accordance with Policy 8320, upon receipt of specific information and/or 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).

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
Revised 10/21/20

© Neola 2018

Legal

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
F.A.C. 6A-19.008
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.
29 C.F.R. Part 1635
34 C.F.R. Part 106
34 C.F.R. Part 110 (7/27/93)
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



Book	Policy Manual
Section	August 15, 2022 - <u>Initial</u> Reading
Title	PROHIBITION ON DISCRIMINATION AND HARASSMENT AGAINST STUDENTS BASED ON PROTECTED CATEGORIES
Code	5517
Status	<u>Initial</u> Reading
Adopted	May 11, 2011
Last Revised	October 21, 2020

5517 - PROHIBITION ON DISCRIMINATION AND HARASSMENT AGAINST STUDENTS BASED ON PROTECTED CATEGORIES

I. Discrimination and Harassment

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, 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. 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.

The Board does not, as a condition of employment, membership, certification, licensing, credentialing, or passing an examination, subject individuals to training, instruction, or other required activity that is prohibited under F.S. 760.10 and F.S. 1000.05. Prohibited discrimination occurs when any student or employee is subjected to training or instruction that is unlawful under these provisions. The prohibited activities should not be construed to exclude discussion of the concepts listed therein as part of a larger course of training or instruction, provided such training or instruction is given in an objective manner without endorsement of the concepts.

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/>

II. Retaliation and Other Violations

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 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.

III. Reports and Complaints

Students who believe they have been the victim of discrimination, harassment or retaliation are entitled to use the complaint 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. 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 investigation of prohibited conduct, the complainant and the respondent 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.

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.

IV. Privacy/Confidentiality

The District respects the privacy of students, including the complainant, the respondent, 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 in Policy 5517.02 and/or 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.

V. Retention of Investigatory Records and Materials

All individuals responsible for receiving reports, applying formal complaint procedures, and/or conducting investigations under this policy, Policy 5517.02, 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 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.

VI. 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.

VII. 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.

VIII. 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
Revised 10/21/20

© Neola 2018

Legal	F.S. 110.1221
	F.S. 784.049
	F.S. 1000.05
	F.S. 1006.07
	F.S. 1006.147
	F.S. 1006.148
	F.A.C. 6A-19.008
	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)
	20 U.S.C. 1681 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
	42 U.S.C. 1983
	42 U.S.C. 2000d et seq.
	42 U.S.C. 2000e et seq.
	34 C.F.R. Part 106
	National School Boards Association Inquiry and Analysis – May 2008