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REVISED POLICY - VOL. 20, NO. 1 (SB 1136 & HB 741)

4362 - ANTI-HARASSMENT

I. General Policy Statement

It is the policy of the School Board to maintain an educational and work environment that is free from all forms of unlawful harassment, including sexual harassment. This commitment applies to all School 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 unlawful harassment. This policy applies to unlawful conduct occurring on school property or at another location if such conduct occurs during an activity sponsored by the Board.

The Superintendent will vigorously enforce its prohibition against discriminatory harassment on the basis of race (including anti-Semitism [as defined in Bylaw 0100]), ethnicity, color, national origin, sex (including sexual orientation transgender status, or gender identity), disability (including HIV, AIDS, or sickle cell trait), pregnancy, marital status, age (except as authorized by law), religion, military status, ancestry, or genetic information which are classes protected by State and/or Federal law (collectively, "protected classes") (hereinafter referred to as unlawful harassment), and encourages those within the School District community as well as third parties, who feel aggrieved to seek assistance to rectify such problems. The Superintendent will investigate all allegations of unlawful harassment and in those cases where unlawful harassment is substantiated, the Superintendent will take immediate steps to end the harassment, prevent its reoccurrence, and remedy its effects. Individuals who are found to have engaged in unlawful harassment will be subject to appropriate disciplinary action.

[☒] The District will offer counseling services to any staff member found to have been subjected to unlawful harassment, and, where appropriate, the person(s) who committed the unlawful harassment. **[END OF OPTION]**

For purposes of this policy, "School District community" means students, administrators, teachers, staff, as well as Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Board.

For purposes of this policy, "third parties" include, but are not limited to, guests and/or visitors on School 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 School District community at school-related events/activities (whether on or off School District property).

Further, nothing in this policy shall be construed to abridge the rights of students or school employees that are protected by the First Amendment to the Constitution of the United States.

II. Other Violations of the Anti-Harassment Policy

The Superintendent will also take immediate steps to impose disciplinary action on individuals engaging in any of the following prohibited acts:

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

III. Definitions

A. Bullying

Bullying rises to the level of unlawful harassment when one or more persons systematically and chronically inflict physical hurt or psychological distress on one (1) or more students or employees and that bullying is based upon sex, race (including anti-Semitism), color, national origin, religion, or disability, that is, characteristics that are protected by Federal civil rights laws. It is defined as any unwanted and repeated written, verbal, or physical behavior, including any threatening, insulting, or dehumanizing gesture, by an adult or student, that is severe or pervasive enough to create an intimidating, hostile, or offensive educational environment; cause discomfort or humiliation; or unreasonably interfere with the individual's school performance or participation. This unlawful harassment may include, but not be limited to, the following:

1. teasing;
2. threats;
3. intimidation;
4. stalking;
5. cyberstalking;
6. cyberbullying;
7. physical violence;
8. theft;
9. sexual, religious, or racial harassment;
10. public humiliation; or

11. destruction of property.

B. "Harassment" means any threatening, insulting, or dehumanizing gesture, use of data or computer software, or written, verbal, or physical conduct directed against a student or a school employee that:

1. places a student or school employee in reasonable fear of harm to his/her person or damage to his/her property;
2. has the effect of substantially interfering with a student's educational performance, opportunities, or benefits; or
3. has the effect of substantially disrupting the orderly operation of a school.

C. Sexual Harassment

Pursuant to Title VII of the Civil Rights Act of 1964 and Title IX of the Educational Amendments of 1972, "sexual harassment" is defined as:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when:

1. Submission to such conduct is made either implicitly or explicitly a term or condition of an individual's employment, or status in a class, educational program, or activity.
2. Submission or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individual.
3. Such conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity.

Sexual harassment may involve the behavior of a person of either gender against a person of the same or opposite gender.

Prohibited acts that constitute sexual harassment may take a variety of forms. Examples of the kinds of conduct that may constitute sexual harassment include, but are not limited to:

1. Unwelcome sexual propositions, invitations, solicitations, and flirtations.
2. Unwanted physical and/or sexual contact.
3. Threats or insinuations that a person's employment, wages, academic grade, promotion, classroom work or assignments, academic status, participation in athletics or extra-curricular programs or events, or other conditions of employment or education may be adversely affected by not submitting to sexual advances.
4. Unwelcome verbal expressions of a sexual nature, including graphic sexual commentaries about a person's body, dress, appearance, or sexual activities; the unwelcome use of sexually degrading language, jokes, or innuendoes; unwelcome suggestive or insulting sounds or whistles; obscene telephone calls.
5. Sexually suggestive objects, pictures, videotapes, audio recordings, or literature, placed in the work or educational environment, which may embarrass or offend individuals.
6. Unwelcome and inappropriate touching, patting, or pinching; obscene gestures.
7. A pattern of conduct, which can be subtle in nature, that has sexual overtones and is intended to create or has the effect of creating discomfort and/or humiliation to another.
8. Remarks speculating about a person's sexual activities or sexual history, or remarks about one's own sexual activities or sexual history.
9. Consensual sexual relationships where such relationship leads to favoritism of a subordinate employee with whom the superior is sexually involved and where such favoritism adversely affects other employees or otherwise creates a hostile work environment.
10. Verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping that does not involve conduct of a sexual nature.
11. Inappropriate boundary invasions by a District employee or other adult member of the School District community into a student's personal space and personal life.

Not all behavior with sexual connotations constitutes unlawful sexual harassment. Sex-based and gender-based conduct must be sufficiently severe, pervasive, and persistent such that it adversely affects, limits, or denies an individual's employment, or such that it creates a hostile or abusive employment or educational environment.

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

D. Sexual Cyberharassment

Pursuant to Florida law, "sexual cyberharassment" means to publish to an Internet website or disseminate through electronic means to another person a sexually explicit image of a person that contains or conveys the personal identification information of the depicted person ~~to an Internet website~~ without the depicted person's consent, contrary to the depicted person's reasonable expectation that the image would remain private, for no legitimate purpose, with the intent of causing substantial emotional distress to the depicted person. Evidence that the depicted person sent a sexually explicit image to another person does not, on its own, remove his/her reasonable expectation of privacy for that image. Sexual cyberharassment may be a form of sexual harassment.

E. Race/Color Harassment (Including Anti-Semitism)

Prohibited racial harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's race or color and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's race or color, such as racial slurs, nicknames implying stereotypes, epithets, and/or negative references relative to racial customs.

Prohibited anti-Semitism harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's Jewish heritage and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is based upon a certain perception of the Jewish people, which may be expressed as hatred toward Jewish people, rhetorical and physical manifestations of anti-Semitism directed toward a person, his/her property, or toward Jewish community institutions or religious facilities.

F. Disability Harassment

Prohibited disability harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's disability and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's disabling condition, such as negative comments about speech patterns, movement, physical impairments or defects/appearances, or the like. Such harassment may further occur where conduct is directed at or pertains to a person's genetic information.

G. Pregnancy Harassment

Prohibited pregnancy harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's pregnancy and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's pregnancy and condition of pregnancy.

IV. Reports and Complaints of Harassing Conduct

Members of the School District community and third parties, which includes all staff, are encouraged to promptly report incidents of unlawful harassing conduct to an administrator, supervisor or other School District official so that the Superintendent may address the conduct before it becomes severe, pervasive, or persistent. Any administrator, supervisor, or other District official who receives such a complaint shall file it with the District's Anti-Harassment Compliance Officer within [] **two (2)** [] _____ (_____) business days.

Members of the School District community or third parties who believe they have been unlawfully harassed by another member of the School District community or a third party are entitled to utilize the Board's complaint process that is set forth below. Initiating a complaint, whether formally or informally, 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 the knowledge that it is false. While there are no time limits for initiating complaints of harassment under this policy, individuals should make every effort to file a complaint as soon as possible after the conduct occurs while the facts are known and potential witnesses are available.

If, during an investigation of reported act of bullying and/or harassment in accordance with Policy 5517.01 – Bullying and Harassment, the principal or his/her designee believes that the reported misconduct may have created a hostile work environment and may have constituted unlawful discriminatory harassment based on sex, race, (including anti-Semitism), color, national origin, religion, or disability, the principal or his/her designee will report the act of bullying and/or harassment to one of the Compliance Officers who shall investigate the allegation in accordance with this policy. While the Compliance Officer investigates the allegation, the Principal shall suspend his/her Policy 5517.01 investigation to await the Compliance Officer's written report. The Compliance Officer shall keep the Principal informed of the status of the Policy 4362 investigation and provide him/her with a copy of the resulting written report.

A. Anti-Harassment Compliance Officers

The Board designates the following individuals to serve as the District's "Anti-Harassment Compliance Officers" (also known as "Civil Rights Coordinators"); for the District. ~~They are~~ hereinafter referred to as the "COs Compliance Officers".

[.] The COs shall also serve as the District's Section 504 Compliance Officer/ADA Coordinator and Title IX Coordinators. [END OF OPTION]

[NOTE: School districts are advised to appoint both a male and a female CO Compliance Officer in order to provide Complainants with the option to report their concerns to an individual of the gender with which they feel most comfortable. The COs Compliance Officers may also serve as the District's Section 504/ADA Coordinator and Title IX Coordinators. Additionally, by appointing two (2) COs, there should always be a CO available to investigate a claim of discrimination that pertains to the other CO.]

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(Name)

(School District Title)

(Telephone Number)

(Office Address)

(E-mail Address)

(Name)

(School District Title)

(Telephone Number)

(Office Address)

(E-mail Address)

B. Section 504 Compliance Officer/ADA Coordinator (.) and Title IX Coordinators

The Board designates the following individuals to serve as the District's Section 504 Compliance Officer/ADA Coordinators (.) and Title IX Coordinators [END OF OPTION].

[NOTE: School districts are advised to appoint both a male and a female Section 504 Compliance Officer/ADA Coordinator (.) and Title IX Coordinator in order to provide complainants with the option to report their concerns to an individual of the gender with which they feel most comfortable. (E-mail Address)]

(Name) _____ (School District
Title) _____ (Telephone
Number) _____ (Office
Address) _____ (E-mail
Address) _____ (Name) _____ (School
District Title) _____ (Telephone

Number) _____ (Office
Address) _____]

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C. Title IX Coordinators

The Board designates the following individuals to serve as **the District's Title IX Coordinators.**

[NOTE: School districts are advised to appoint both a male and a female Title IX Coordinator in order to provide complainants with the option to report their concerns to an individual of the gender with which they feel most comfortable. (E-mail Address)

(Name) _____ (School District
Title) _____ (Telephone
Number) _____ (Office
Address) _____ (E-mail
Address) _____ (Name) _____ (School
District Title) _____ (Telephone
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D. Publication Required

The names, titles, and contact information of these individuals will be published annually:

1. ~~() in the parent and staff handbooks.~~
2. ~~() in the School District Annual Report to the public.~~
3. (x) on the School District's website.
4. ~~() on each individual school's website.~~
5. ~~() in the School District's calendar.~~
6. ~~() _____~~

The names, titles, and/or contact information of the persons presently serving as Compliance Officers may change from time to time, and such changes shall be deemed technical corrections within the meaning of Bylaw 0131.1 and shall be made pursuant to that bylaw.

E. Duties and Responsibilities

A Compliance Officer will be available during regular school/work hours to discuss concerns related to unlawful harassment, to assist students, other members of the School District community, and third parties who seek support or advice when informing another individual about "unwelcome" conduct, or to intercede informally on behalf of the individual in those instances where concerns have not resulted in the filing of a formal complaint and where all parties are in agreement to participate in an informal process.

Any Board employee who directly observes unlawful harassment of a student is obligated, in accordance with this policy, to report such observations to one of the Anti-Harassment Compliance Officers within [x **two (2)**] ~~business days~~ business days. Thereafter, the Compliance Officer or designee must contact the student, if over age eighteen (18) or the student's parents if under the age eighteen (18), within [x **two (2)**] ~~business days~~ business days to advise s/he/them of the Superintendent's intent to investigate the alleged misconduct, including the obligation of the compliance officer or designee to conduct an investigation following all the procedures outlined for a formal complaint.

Compliance Officers are assigned to accept complaints of unlawful harassment directly from any member of the School District community or a visitor to the District or to receive complaints which are initially filed with a school building administrator. Upon receipt of a complaint either directly or through a school building administrator, the Compliance Officer will begin either an informal or formal process (depending on the request of the member of the School District community alleging harassment), or the Compliance Officer will designate a specific individual to conduct such a process. In the case of a formal complaint, the Compliance Officer will prepare, after consultation with (x) **the Board Attorney**, () **Superintendent**, recommendations for the Superintendent or will oversee the preparation of such recommendations by a designee. All members of the School District community must report incidents of unlawful harassment that are reported to them to a Compliance Officer within five (5) calendar days of learning of the incident.

VI. Investigation and Complaint Procedure

Any employee or other member of the School District community or visitor to the District who believes that s/he has been subjected to unlawful harassment may seek resolution of his/her complaint through either the informal or formal procedures as described below. Further, a process for investigating claims of harassment and a process for rendering a decision regarding whether the claim of legally prohibited harassment or retaliation was substantiated are set forth below.

Due to the sensitivity surrounding complaints of unlawful harassment or retaliation, time lines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within [x] **thirty (30)** ~~calendar days~~ calendar days after the conduct occurs while the facts are known and potential witnesses are available. Once the formal complaint process is begun, the investigation will be completed in a timely manner (ordinarily, within [x] **fifteen (15)** ~~calendar days~~ calendar days of the complaint being received).

The informal and formal procedures set forth below are not intended to interfere with the rights of any individual to pursue a complaint of unlawful harassment or retaliation with the United States Department of Education, Office for Civil Rights, the Florida Civil Rights Commission, or the Equal Employment Opportunity Commission.

A. Informal Complaint Procedure

The goal of the informal complaint procedure is to stop inappropriate behavior and to investigate and facilitate resolution through an informal means, if possible. The informal complaint procedure is provided as a less formal option for a student who believes s/he has been unlawfully harassed or retaliated against. This informal procedure is not required as a precursor to the filing of a formal complaint.

Employees, other members of the School District community, or third parties who believe that they have been unlawfully harassed or retaliated against may initiate their complaint through this informal complaint process, but are not required to do so. The informal process is only available in those circumstances where the parties (alleged target of harassment and alleged harasser(s)) agree to participate in the informal process.

Employees, other members of the School District community, or third parties who believe that they have been unlawfully harassed or retaliated against may proceed immediately to the formal complaint process and individuals who seek resolution through the informal procedure may request that the informal process be terminated at any time to move to the formal complaint process.

However, all complaints of harassment involving a District employee, any other adult member of the School District community, or a third party against a student will be formally investigated.

As an initial course of action, if an individual feels that s/he is being unlawfully harassed and s/he is able and feels safe doing so, the individual should tell or otherwise inform the harasser that the conduct is unwelcome and must stop. Such direct communication should not be utilized in circumstances involving sexual violence. The complaining individual should address the allegedly harassing conduct as soon after it occurs as possible. The Compliance Officers is available to support and counsel individuals when taking this initial step or to intervene on behalf of the individual if requested to do so. An individual who is uncomfortable or unwilling to inform the harasser of his/her complaint is not prohibited from otherwise filing an informal or a formal complaint. In addition, with regard to certain types of unlawful harassment, such as sexual harassment, the Compliance Officer may advise against the use of the informal complaint process.

An individual who believes s/he has been unlawfully harassed may make an informal complaint, either orally or in writing: (1) to a teacher, other employee, or building administrator; (2) to the Superintendent or other District-level employee; and/or (3) directly to one of the Compliance Officers.

All informal complaints must be reported to the Compliance Officers who will either facilitate an informal resolution as described below on his/her own or appoint another

individual to facilitate an informal resolution.

The School District's informal complaint procedure is designed to provide employees, other members of the School District community, or third parties who believe they are being unlawfully harassed by another individual with a range of options designed to bring about a resolution of their concerns. Depending upon the nature of the complaint and the wishes of the individual claiming unlawful harassment, informal resolution may involve, but not be limited to, one or more of the following:

1. Advising the individual about how to communicate the unwelcome nature of the behavior to the alleged harasser.
2. Distributing a copy of the anti-harassment policy as a reminder to the individuals in the school building or office where the individual whose behavior is being questioned works or attends.
3. If both parties agree, the Compliance Officers may arrange and facilitate a meeting between the individual claiming harassment and the individual accused of harassment to work out a mutual resolution. Such a meeting is not appropriate in circumstances involving sexual violence.

While there are no set time limits within which an informal complaint must be resolved, the Compliance Officers or designee will exercise his/her authority to attempt to resolve all informal complaints within ~~[x] fifteen (15)~~ calendar days of receiving the informal complaint. Parties who are dissatisfied with the results of the informal complaint process may proceed to file a formal complaint. And, as stated above, parties may request that the informal process be terminated at any time to move to the formal complaint process.

B. Formal Complaint Procedure

If a complaint is not resolved through the informal complaint process, if one of the parties has requested that the informal complaint process be terminated to move to the formal complaint process, or if the individual elects to file a formal complaint initially, the formal complaint process as described below shall be implemented.

This formal complaint process is not intended to interfere with the rights of an employee, other member of the School District community, or third party to pursue a complaint of unlawful harassment with the United States Department of Education, Office for Civil Rights, the Florida Civil Rights Commission, or the Equal Employment Opportunity Commission.

An individual who believes s/he has been subjected to offensive conduct/harassment hereinafter referred to as the "complainant", may file a formal complaint, either orally or in writing with a teacher, principal, or other District employee, the Compliance Officer, Superintendent, or other District employee. Due to the sensitivity surrounding complaints of unlawful harassment and retaliation, time lines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within ~~[x] thirty (30)~~ calendar days after the conduct occurs while the facts are known and potential witnesses are available. If a complainant informs a teacher, principal, or other District employee, the Compliance Officer, Superintendent, or other District employee, either orally or in writing, about any complaint of harassment, that employee must report such information to the Compliance Officer or designee within ~~[x] two (2)~~ business days.

Throughout the course of the process as described herein, the Compliance Officer should keep the parties informed of the status of the investigation and the decision-making process.

All formal complaints must include the following information to the extent it is available: the identity of the individual believed to have engaged in, or engaging in, offensive conduct/harassment/retaliation; a detailed description of the facts upon which the complaint is based; a list of potential witnesses; and the resolution sought by the complainant.

If the complainant is unwilling or unable to provide a written statement including the information set forth above, the Compliance Officer shall ask for such details in an oral interview. Thereafter the Compliance Officer will prepare a written summary of the oral interview, and the complainant will be asked to verify the accuracy of the reported charge by signing the document.

Upon receiving a formal complaint, the Compliance Officer will consider whether any action should be taken in the investigatory phase to protect the complainant from further harassment or retaliation including but not limited to a change of work assignment or schedule for the complainant and/or the alleged harasser. In making such a determination, the Compliance Officer should consult the complainant to assess his/her agreement to any action deemed appropriate. If the complainant is unwilling to consent to any change that is deemed appropriate by the Compliance Officer, the Compliance Officer may still take whatever actions s/he deems appropriate in consultation with the Superintendent and/or Board Attorney.

Within ~~[x] five (5)~~ business days of receiving a formal complaint, the Compliance Officer or a designee will initiate a formal investigation to determine whether the complainant has been subjected to offensive conduct/harassment/retaliation. A Principal will not conduct an investigation unless directed to do so by the Compliance Officer.

Simultaneously, the Compliance Officer will inform the individual alleged to have engaged in the harassing conduct, hereinafter referred to as the "respondent", that a complaint has been received. The respondent will be informed about the nature of the allegations and a copy of these administrative procedures and the Board's anti-harassment policy shall be provided to the respondent at that time. The respondent must also be informed of the opportunity to submit a written response to the complaint within ~~[x] five (5)~~ business days.

Although certain cases may require additional time, the Compliance Officer or a designee will attempt to complete an investigation into the allegations of harassment/retaliation within ~~[x] fifteen (15)~~ calendar days of receiving the formal complaint. The investigation will include:

1. interviews with the complainant;
2. interviews with the respondent;
3. interviews with any other witnesses who may reasonably be expected to have any information relevant to the allegations;
4. consideration of any documentation or other 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 Compliance Officer or the designee ~~() may (x) should () shall~~ consult with the ~~(x) Board Attorney ()~~. A written report shall then be prepared and delivered to the Superintendent which summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of unlawful harassment as provided in Board policy and State and Federal law as to whether the complainant has been subject to unlawful harassment. The Compliance Officer's recommendations must be based upon the totality of the circumstances, including the ages and maturity levels of those involved. In determining if discriminatory harassment or retaliation occurred, a preponderance of evidence standard will be used. The Compliance Officer may consult with the Board Attorney before finalizing the report to the Superintendent.

Absent extenuating circumstances, within ~~[x] ten (10)~~ business days of receiving the report of the Compliance Officer or the designee, the Superintendent must either issue a final decision regarding whether or not the complaint of harassment has been substantiated or request further investigation. A copy of the Superintendent's final decision will be delivered to both the complainant and the respondent.

If the Superintendent requests additional investigation, the Superintendent must specify the additional information that is to be gathered, and such additional investigation must be completed within ~~[x] ten (10)~~ business days. At the conclusion of the additional investigation, the Superintendent must issue a final written decision as described above.

~~[x]~~ The decision of the Superintendent shall be final.

OR

~~[] A complainant or respondent who is dissatisfied with the final decision of the Superintendent may appeal to the Board by filing a written notice of appeal with the Superintendent within ten (10) business days of the date of the Superintendent's final decision. In an attempt to resolve the complaint, the Board shall meet with the concerned parties and their representative within twenty (20) business days of the receipt of such an appeal. A copy of the Board's disposition of the appeal shall be sent to each concerned party within ten (10) business days of this meeting. The decision of the Board will be final.~~

[END OF OPTIONS]

The Superintendent reserves the right to investigate and resolve a complaint or report of unlawful harassment regardless of whether the member of the School District community or third party alleging the unlawful harassment pursues the complaint. The Superintendent also reserves the right to have the formal complaint investigation conducted by an external person in accordance with this policy or in such other manner as deemed appropriate by the Superintendent.

VII. Privacy/Confidentiality

The School District will employ all reasonable efforts to protect the rights of the complainant, the individual(s) against whom the complaint is filed, and the witnesses as much as possible, consistent with the Board's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations. All records generated under the terms of this policy and related administrative procedures shall be maintained as confidential to the extent permitted by law. Confidentiality, however, cannot be guaranteed. All complainants proceeding through the formal investigation process will be advised that their identities may be disclosed to the respondent.

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

All public records created as a part of an investigation of a complaint of harassment will be maintained by the Compliance Officer in accordance with the Board's records retention policy. Any records which are considered student records in accordance with the *Family Educational Rights and Privacy Act* will be maintained in a manner consistent with the provisions of the Federal and State laws.

VIII. Sanctions and Monitoring

The Superintendent shall vigorously enforce the Board's prohibitions against unlawful harassment by taking appropriate action reasonably calculated to stop the harassment and prevent further such 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 or the suspension/expulsion of a student. All disciplinary action will be taken in accordance with applicable State law and the terms of the relevant collective bargaining agreement(s). When imposing discipline, the Superintendent shall consider the totality of the circumstances involved in the matter, including the ages and maturity levels of those involved. In those cases where unlawful harassment is not substantiated, the Superintendent may consider whether the alleged conduct nevertheless warrants discipline in accordance with other Board policies, consistent with the terms of the relevant collective bargaining agreement(s).

Where the Superintendent becomes aware that a prior remedial action has been taken against a member of the School District community, all subsequent sanctions imposed by the Board and/or Superintendent shall be reasonably calculated to end such conduct, prevent its reoccurrence, and remedy its effects.

IX. Retaliation

Any act of retaliation against a person who has made a report or filed a complaint alleging unlawful harassment, or who has participated as a witness in a harassment investigation is prohibited.

X. Allegations Constituting Criminal Conduct: Child Abuse/Sexual Misconduct

State law requires any teacher or school employee who knows or suspects that a child under the age of eighteen (18) is a victim of child abuse or neglect to immediately report that knowledge or suspicion to the Department of Children and Family Services. If, during the course of a harassment investigation, the Compliance Officer or a designee has reason to believe or suspect that the alleged conduct reasonably indicates abuse or neglect of the complainant, a report of such knowledge must be made in accordance with State law and Board policy.

If the Compliance Officer or a designee has reason to believe that the complainant has been the victim of criminal conduct as defined under Florida law, 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 harassment. While the Compliance Officers or a designee may work cooperatively with outside agencies to conduct concurrent investigations, in no event shall the harassment investigation be inhibited by the involvement of outside agencies without good cause after consultation with the Superintendent.

XI. Mandatory Reporting of Misconduct by Certificated Employees

The Superintendent is required by State law and Board Policy 8141 to report alleged misconduct by certificated employees of the District that affects the health, safety, or welfare of a student. In accordance with Board policy and State law, the Superintendent shall investigate each allegation of such conduct and, if confirmed, shall report such misconduct pursuant to Policy 8141.

XII. Education and Training

In support of this policy, the Board promotes preventative educational measures to create greater awareness of unlawful discriminatory practices. The Superintendent or designee shall provide appropriate information to all members of the School District community related to the implementation of this policy and shall provide training for District students and staff where appropriate. All training, as well as all information provided regarding this policy and harassment in general, will be age and content appropriate.

XIII. Retention of Investigatory Records and Materials

All individuals charged with conducting investigations under this policy shall retain all information, documents, electronically stored information ("ESI"), and electronic media (as defined in Policy 8315) created and received as part of an investigation, including, but not limited to:

- A. all written reports/allegations/complaints/statements;
- B. narratives of all verbal reports/allegations/complaints/statements;
- C. a narrative of all actions taken by District personnel;
- D. any written documentation of actions taken by District personnel;
- E. () written witness statements;
- F. () narratives of, notes from, or audio, video, or digital recordings of witness statements;
- G. () all documentary evidence;
- H. () e-mails, texts, or social media posts pertaining to the investigation;
- I. contemporaneous notes in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.) pertaining to the investigation;

10/1/2019BoardDocs® PL

J. written disciplinary sanctions issued to students or employees and a narrative of verbal disciplinary sanctions issued to students or employees for violations of the policies and procedures prohibiting discrimination or harassment;

K. dated written determinations to the parties;

L. dated written descriptions of verbal notifications to the parties;

M. written documentation of any interim measures offered and/or provided to complainants, including no contact orders issued to both parties, the dates issued, and the dates the parties acknowledged receipt; and

N. documentation of all actions taken, both individual and systemic, to stop the discrimination or harassment, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects.

The information, documents, ESI, and electronic media (as defined in Policy 8315) 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 (as defined in Policy 8315) created or received as part of an investigation shall be retained in accordance with Policy 8310, Policy 8315, Policy 8320, and Policy 8330 for not less than three (3) years, but longer if required by the District's records retention schedule.

F.S. 110.1221
F.S. 250.481
F.S. 760.01
F.S. 760.10
F.S. 784.049
F.S. 1000.05
F.S. 1006.07
20 U.S.C. 1400 et seq., The Individuals with Disabilities Improvement Act of 2004, as amended (commonly known as the Individuals with Disabilities Act)
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
29 C.F.R. Part 1635
29 U.S.C. 6101, The Age Discrimination Act of 1975
38 U.S.C. 4301 et seq., The Uniformed Services Employment and Reemployment Rights Act
42 U.S.C. 12101 et seq., Americans with Disabilities Act of 1990, as amended
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., The Genetic Information Nondiscrimination Act
~~National School Board Association Inquiry and Analysis—May 2008~~

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Legal	F.S. 110.1221
	F.S. 250.481
	F.S. 760.01
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	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., The Genetic Information Nondiscrimination Act
Cross References	po0131.1 - TECHNICAL CORRECTIONS
	po4362 - ANTI-HARASSMENT
	po5517.01 - BULLYING AND HARASSMENT
	po8141 - MANDATORY REPORTING OF MISCONDUCT BY CERTIFICATED EMPLOYEES
	po8310 - PUBLIC RECORDS
	po8315 - INFORMATION MANAGEMENT
	po8320 - RECORDS MANAGEMENT