

Book	Policy Manual
Section	Catch Up V17N1 thru V20N2
Title	Copy of ANTI-HARASSMENT COMPLAINT PROCEDURE
Code	*po5517.02 DELETE (HG per HR 5/3/21)
Status	First Reading
Adopted	January 25, 2011
Last Revised	July 31, 2012

~~5517.02 — ANTI-HARASSMENT COMPLAINT PROCEDURE~~

~~The School Board establishes the following procedure to investigate complaints alleging a violation of the prohibitions against unlawful harassment set forth in Policy 5517.~~

~~Anti Harassment Compliance Officer~~

~~The individual who have the following position serve as "Anti Harassment Compliance Officer" for the School District. This staff member is hereinafter referred to as the "Compliance Officer".~~

~~Equity and ADA Coordinator
The School Board of Monroe County
241 Trumbo Road
Key West, Florida 33040
(305) 293-1400, ext. 53389~~

~~The Compliance Officer will be available during regular school/work hours to students who want to discuss concerns related to unlawful harassment and to students who seek support or advice when informing another individual about "unwelcome" conduct.~~

~~The Compliance Officer is assigned to accept complaints of unlawful harassment directly from any student, or to receive complaints that 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 student alleging harassment and whether the alleged perpetrator is another student or an adult member of the school community), 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 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 harassment that are reported to them to the Compliance Officer within five (5) calendar days of learning of the incident.~~

~~The title of this individual will be published annually on the School District's web site, and shall also appear in District publications such as announcements, bulletins, brochures, student applications and admission forms, catalogs and other recruitment materials that are made available to students, parents, staff and the general public.~~

~~Investigation and Complaint Procedure~~

~~Any student 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.~~

~~While there is a one hundred eighty (180) day time limit for initiating a complaint of harassment, individuals should make every effort to file an informal or a formal complaint as soon as possible after the harassing conduct occurs. Both the informal and formal procedures set forth below are established to provide a prompt and equitable process for resolving complaints of unlawful harassment.~~

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

~~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.~~

~~As set forth in Policy 5517, all complaints of harassment involving a District employee or any other adult member of the School District community against a student will be formally investigated.~~

~~The informal complaint procedure described in this section is provided as a less formal option for a student who believes s/he has been unlawfully harassed by another student. This informal procedure is not required as a precursor to the filing of a formal complaint. As required in Policy 5517, this 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.~~

~~As an initial course of action, if a student 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. The complaining individual should address the allegedly harassing conduct as soon after it occurs as possible. The Compliance Officer 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.~~

~~A student who believes s/he has been unlawfully harassed may make an informal complaint, either orally or in writing: (1) to a building administrator in the building where the student attends; (2) to the Superintendent if the individual is not employed in or attending a specific school building; and/or (3) to the Compliance Officer. All informal complaints must be reported to the Compliance Officer 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 members of the School District community and third parties who believe they are being unlawfully harassed 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 student claiming unlawful harassment, informal resolution may involve, but not be limited to, one or more of the following:~~

- ~~A. Advising the student about how to communicate the unwelcome nature of the behavior to the alleged harasser.~~
- ~~B. 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.~~
- ~~C. If both parties agree, the Compliance Officer may arrange and facilitate a meeting between the student claiming harassment and the individual accused of harassment to work out a mutual resolution.~~

~~While there are no set time limits within which an informal complaint must be resolved, the Compliance Officer will exercise his/her authority to attempt to resolve all informal complaints within two (2) weeks of receiving the informal complaint. Those members of the School District community or third parties who are dissatisfied with the results of the informal complaint process may proceed to file a formal complaint.~~

~~All materials generated, as part of the informal complaint process will be retained by the Compliance Officer in accordance with the Board's records retention policy. (See Policy 8310 and Policy 8320)~~

~~Formal Complaint Procedure~~

~~If a complaint is not resolved through the informal complaint process, or if the student elects to file a formal complaint initially, the formal complaint process as described below shall be implemented.~~

~~A student, who believes she/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 the Compliance Officer. If a complainant informs any other employee of the School District, either orally or in writing, about any complaint of harassment, that employee must immediately report such information to the Compliance Officer, thereafter the Compliance Officer must contact the complainant to determine whether the complainant wishes to file a formal or an informal complaint. If the allegation of harassment involves the Compliance Officer, the formal complaint shall be submitted to the Superintendent.~~

~~Throughout the course of the process as described herein, the Compliance Officer, or the Superintendent for complaints involving the Compliance Officer, should keep the complainant 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 be engaging in, offensive 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.~~

~~If the complainant is unwilling to provide a written statement including the information set forth above, the Compliance Officer, or the Superintendent for complaints involving the Compliance Officer, shall ask for such details in an oral interview. Thereafter the Compliance Officer, or the Superintendent for complaints involving the Compliance Officer, will prepare a written summary of the oral interview that will be presented to the complainant for verification by signature.~~

~~Upon receiving a formal complaint, the Compliance Officer, or the Superintendent for complaints involving 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 job assignment or a change of class schedule. 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 which is deemed appropriate by the Compliance Officer, or the Superintendent for complaints involving the Compliance Officer, the Compliance Officer, or the Superintendent for complaints involving the Compliance Officer, may still take whatever actions s/he deem appropriate in consultation with the Superintendent and/or School Board Attorney.~~

~~Within three (3) business days of receiving a formal complaint, the Compliance Officer, or the Superintendent for complaints involving 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 five (5) business days.~~

~~Within five (5) business days of receiving the complaint, the Compliance Officer or a designee, or the Superintendent for complaints involving the Compliance Officer, will initiate a formal investigation to determine whether the complainant has been subject to offensive conduct/harassment.~~

~~Although certain cases may require additional time, the Compliance Officer or a designee, or the Superintendent for complaints involving the Compliance Officer, will attempt to complete an investigation into the allegations of harassment within twenty one (21) calendar days of receiving the formal complaint. The investigation will include:~~

- ~~A. interviews with the complainant;~~
- ~~B. interviews with the respondent;~~
- ~~C. interviews with any other witnesses who may reasonably be expected to have any information relevant to the allegations;~~
- ~~D. 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, or the Superintendent for complaints involving the Compliance Officer, shall prepare and deliver a written report 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 Federal and State law as to whether the complainant has been subject to unlawful harassment. The Compliance Officer's recommendations, or the Superintendent's for complaints involving the Compliance Officer, must be based upon the totality of the circumstances, including the ages and maturity levels of those involved. The Compliance Officer, or the Superintendent for complaints involving the Compliance Officer, may consult with the School Board Attorney before finalizing the report to the Superintendent.~~

~~Absent extenuating circumstances, within 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 ten (10) business days. At the conclusion of the additional investigation, the Superintendent must issue a final written decision as described above.~~

~~The decision of the Superintendent shall be final.~~

~~If the complainant is not satisfied with the Superintendent's decision, the complainant will have an additional sixty (60) days to file a complaint with the United States Department of Education, Office for Civil Rights, the Florida Commission on Human Relations, or the Equal Employment Opportunity Commission.~~

~~Confidentiality~~

~~The School District will make all reasonable efforts to protect the rights of the complainant and the respondent. The School District will respect the privacy of the complainant, the respondent, and all witnesses in a manner consistent with the School District's legal obligations under Federal and State law. Confidentiality cannot be guaranteed however. All complainants proceeding through the formal investigation process should 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 that 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 law.~~

~~Allegations Constituting Criminal Conduct: Child Abuse/Sexual Misconduct~~

~~State law requires any school 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 school principal or Superintendent, who must notify the local child protection service. 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 Department of Children and Family Services 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 Officer 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.~~

~~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.~~

~~Technical Change 7/31/12~~

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Legal

F.S. 110.1221, 760.01, 760.10, 1000.05, 1006.07

20 U.S.C. 1681 et seq.

29 U.S.C. 621 et seq.

29 U.S.C. 794

42 U.S.C. 12101 et seq.

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

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

42 U.S.C. 1983

National School Boards Association Inquiry and Analysis - May 2008