

POLICY 5.001

4-A I recommend the Board approve the proposed revisions to Policy 5.001, to be renamed "Protecting Students from Harassment and Discrimination."

[CONTACT: Dr. MaryAnn DuPont, 434-8963.]

Adoption

- At the first reading (development) on June 3, the Board approved this Policy for second reading (adoption) on July 8.

CONSENT ITEM

- 37
- 38 a. Complaint is defined as ~~A complaint means~~ allegations regarding any action,
- 39 policy, procedure, or practice prohibited by this policy.
- 40
- 41 b. Complainant is defined as ~~A complainant is~~ a student of, or applicant for
- 42 admission to, the School District who submits a complaint of harassment or
- 43 discrimination or an individual or group submitting a complaint on behalf of a
- 44 student(s).
- 45
- 46 c. Day is defined as ~~All days are~~ a working days and do not include weekends or
- 47 holidays unless noted as "calendar day."
- 48
- 49 d. Accused/student is defined as ~~The accused is~~ a student alleged to be responsible
- 50 for the violation that is alleged in the complaint.
- 51
- 52 e. Accused/employee is defined as ~~The accused is~~ a School District employee
- 53 alleged to be responsible for the violation alleged in the complaint.
- 54
- 55 f. Parties is defined as ~~Parties means~~ the accused student and/or accused/employee,
- 56 and the ~~C~~complainant.
- 57
- 58 g. Protected Categories include ~~Protected categories are~~ sex, race, color, religion,
- 59 sex, national origin, age, disability, ~~or and~~ marital status, pursuant to Title IX of
- 60 the Education Amendments of 1972; Section 504 of the Rehabilitation Act of
- 61 1973; the Americans with Disabilities Act; §§ 228.2001(2)(a) (the Florida
- 62 Education Equity Act); 760.01(2) (the Florida Civil Rights Act), Fla. Stat.; and Art.
- 63 1, § 2, Fla. Const.
- 64
- 65 h. School Official, for purposes of this Policy, is defined as ~~School Officials include~~
- 66 School Board employees, principals, assistant principals, teachers, and school
- 67 police officers who have the duty of reasonable supervision with respect to
- 68 student activities.
- 69
- 70 7. Title IX Coordinator and ADA/504 Specialist.– Equal educational opportunities are
- 71 guaranteed by Title VI of the Civil Rights Act of 1964, Title IX of the Education
- 72 Amendments of 1972, and Section 504 of the Rehabilitation Act of 1973. The District
- 73 has designated the ~~EE~~ Equal Employment Opportunity ("EEO") Coordinator as the

74 person responsible for ensuring that students and their custodial parent(s)/guardian
75 receive information related to discrimination and harassment.

- 76
- 77 8. The EEO/Title IX Coordinator is located at: 3370 Forest Hill Boulevard, Suite ~~A-128,~~
78 A-115, West Palm Beach, Florida 33406; Telephone: (561) 434-8637.
- 79
- 80 9. For those complaints concerning the Americans with Disabilities Act ("ADA") or
81 Section 504 of the Rehabilitation Act, the District has designated an ADA/504
82 Specialist.
- 83
- 84 10. The ADA/504 Specialist is located at ~~3336~~ 3308 Forest Hill Boulevard, Suite ~~B-102~~ C-
85 143, West Palm Beach, Florida, 33406; Telephone: (561) 434-8817.
- 86
- 87 11. This contact information is to be posted in highly visible locations at each school
88 including the main office, the guidance waiting area, and student services.
- 89
- 90 12. **Prohibited Harassment.**— For purposes of this Policy, Harassment occurs when
91 conduct is sufficiently severe, persistent, or pervasive that it has the purpose or effect
92 of unreasonably interfering with a student's performance or ability to benefit from
93 his/her education, or creates an intimidating, hostile, offensive, or abusive school
94 environment. Types of conduct which are prohibited in the District and which may
95 constitute harassment include, but are not limited to:
- 96
- 97 a. Demeaning or derogatory comments, name-calling, racial slurs, or jokes, threats,
98 abusive words, gestures, or harm to an individual.
- 99
- 100 b. Displaying visual or written material, including notes, stories, drawings, or
101 pictures, or defacing school property or materials to demean a person.
- 102
- 103 c. Damaging, defacing or destroying private property of any person.
- 104
- 105 d. Bullying.
- 106
- 107 e. Requests for sexual favors and other conduct of a sexual nature as set forth in
108 Policy 5.81.
- 109

- 110 f. Any act of retaliation against an individual who reports a violation of the
111 ~~District's~~ Board's harassment and discrimination policy or ~~who~~ participates in the
112 investigation of a discrimination or harassment complaint.
113

114 13. GRIEVANCE PROCEDURE FOR HARASSMENT OR DISCRIMINATION BY
115 STUDENTS -- Investigation and Resolution of Complaints Against an
116 (Accused/Student)
117

- 118 a. ~~Site Level Procedure~~ **Reporting Discrimination or Harassment.**-- Any student or
119 applicant for admission who believes he/~~or~~she is a victim of discrimination or
120 harassment (or any individual, including any student, teacher, or other employee
121 of the School D district, who has knowledge of any incident(s) involving
122 discrimination or harassment of students) is strongly encouraged to report the
123 incident(s) to the principal or other a-school official or the EEO/ Title IX
124 Coordinator or ADA/504 Specialist.
125
- 126 b. School officials must report any allegations of discrimination or harassment to the
127 ~~P~~principal and to the EEO/Title IX Coordinator or ADA/504 Specialist.
128
- 129 c. School officials must instruct students and their custodial parent(s)/guardian that
130 ~~they~~ the student, or custodial parent(s)/guardian on behalf of the student, may file
131 a complaint with the ~~P~~principal/~~or~~designee, EEO/Title IX Coordinator or
132 ADA/504 Specialist.
133
- 134 d. It is the responsibility of the principal to forward all complaints to the area
135 superintendent and EEO/Title IX Coordinator.
136
- 137 e. **Principal Involvement.**-- If the ~~P~~principal is directly and personally involved with
138 a complaint or is closely related to ~~with the a parties~~ party to the complaint, then
139 an ~~impartial~~ designee the area superintendent shall be asked to conduct the
140 investigation.
141
- 142 f. **Informal Resolution.**-- Where appropriate, the complainant and the
143 accused/student may agree to informally resolve the complaint.
144
- 145 i. The ~~P~~principal/~~or~~designee may arrange for the parties to resolve the
146 complaint informally.

147

148

149

150

151

152

153

154

155

156

157

158

159

160

161

162

163

164

165

166

167

168

169

170

171

172

173

174

175

176

177

178

179

180

181

182

ii. The student, or the custodial parent(s)/guardian on behalf of the student, who complained shall never be asked to work out the problem directly with the accused/student unless the assistance of a counselor, teacher, administrator, or mediator is provided and the complainant is willing.

iii. If the complaint is resolved informally, the ~~P~~principal/~~o~~rdesignee shall notify the EEO/Title IX Coordinator or ADA/504 Specialist of the resolution of the complaint.

g. **Filing the Complaint Report.**– If the matter cannot be resolved informally, the ~~P~~principal/~~o~~rdesignee shall assist the student, or custodial parent(s)/guardian on behalf of the student, in filing a complaint. ~~Individuals~~ The student or custodial parent(s)/guardian on behalf of the student may file a complaint, either orally or in writing with the ~~P~~principal/~~o~~rdesignee by using ~~the Harassment and Discrimination Complaint Student Complaint Report Form (PBSD 1615).~~ Said form is hereby incorporated by reference and made a part of this Policy and shall be filed with the Clerk of the School Board herewith and is available on the District's web site at <http://www.palmbeach.k12.fl.us/Records/Forms.htm>.

h. Complaints should be made as soon as possible but no later than sixty (60) calendar days of the alleged incident. Failure on the part of the complainant to initiate and/or follow up on a complaint in a timely manner may result in the complaint being deemed abandoned.

i. The complainant will be requested to provide signed, specific information regarding the alleged discrimination or harassment, the alleged offender(2), witnesses, and other relevant information.

j. If the student, or custodial parent(s)/guardian on behalf of the student, does not at first file a written complaint, the student, or custodial parent(s)/guardian on behalf of the student, will be requested to complete the complaint form. The principal/~~o~~rdesignee may assist the student, or custodial parent(s)/guardian on behalf of the student, in completing the form, or may complete the form for the student or for the custodial parent(s)/guardian who is acting on behalf of the student. In all instances, the student, or custodial parent(s)/guardian on behalf of

- 183 the student, shall review the form to ensure its accuracy and sign and date the
184 complaint.
- 185
- 186 k. All complaints filed with the ~~P~~principal/~~or~~ designee must be reported to the
187 ~~A~~area superintendent Executive Director and the EEO/Title IX Coordinator or
188 ADA/504 Specialist.
- 189
- 190 l. **Notice to Accused/Student.**— Within two (2) days of receipt of a complaint, the
191 ~~P~~principal/~~or~~designee will notify the accused/student of the allegations.
- 192
- 193 m. **Notice to Parent(s)/Guardians.**— Upon receiving a complaint, within two (2)
194 days of the allegations, and in accordance with federal and state privacy laws, the
195 principal/designee shall notify the custodial parent(s)/guardian of any student
196 under age eighteen (18) who is involved in alleged harassment or discrimination.
197 Notification may be made by telephone, letter, or personal conference. The
198 student(s) involved and his/her custodial parent(s)/guardian will also be notified
199 of events and decisions described in this Policy.
- 200
- 201 n. **Steps in the Investigation.**— The ~~P~~principal/~~or~~ designee shall promptly and
202 thoroughly investigate all complaints of harassment or discrimination ~~which shall~~
203 ~~mandate,~~ including, at minimum, the following steps:;
- 204
- 205 i. ~~P~~romptly talk with the complainant:;
- 206
- 207 ii. ~~T~~he complainant or custodial parent(s)/guardian thereof shall have an
208 opportunity to describe the incident, present witnesses and other evidence
209 of the harassment or discrimination, and put ~~his/her~~ the complaint in writing
210 if he/she has not already done so:;
- 211
- 212 iii. ~~P~~romptly talk with the accused/student, or custodial parent(s)/guardian
213 thereof on behalf of the accused/student:;
- 214
- 215 iv. ~~T~~he accused/student, or custodial parent(s)/guardian on behalf of the
216 accused/student, shall have an opportunity to describe the incident, present
217 witnesses and other evidence, and put his/her response in writing:;
- 218

- 219 v. ~~T~~talk with any person who saw the harassment, has knowledge of the
220 discrimination, or who may have related information; and
221
- 222 vi. Conduct a conference, if appropriate, with the complainant and custodial
223 parent(s)/guardian thereof and the accused/student and custodial
224 parent(s)/guardian and give notice of the date, time, place, and rules to the
225 parties.
226
- 227 o. The principal/designee shall document all complaints to ensure that problems are
228 appropriately addressed. Failure by the principal to respond to a complaint in a
229 timely manner will automatically allow the complainant to re-file the complaint
230 with the area superintendent.
231
- 232 p. **Pursuing the Investigation.**— During the investigation, the ~~P~~principal/~~o~~rdesignee
233 may take any action necessary to protect the complainant, or other ~~employees or~~
234 students or employees, consistent with the requirements of applicable regulations
235 and statutes. In general, complainants will continue attendance at the same
236 school and pursue their studies as directed while the investigation is conducted
237 and the complaint is pending resolution.
238
- 239 i. ~~The P~~principal/~~o~~r designee shall document all complaints to ensure that
240 ~~problems are appropriately addressed.~~
241
- 242 ii. The ~~P~~principal/ ~~o~~r designee is encouraged to ask open-ended questions to
243 enable students to describe what happened in their own words.
244
- 245 iii. The ~~P~~principal/~~o~~rdesignee may request that the accused/student or custodial
246 parent(s)/guardian thereof, on the accused/student's behalf, prepare a written
247 response to the complaint; or the ~~P~~principal/~~o~~rdesignee may prepare a
248 written statement of the accused/student's oral response to the complaint
249 based on their meeting and obtain the signature of the accused/student,
250 and/or custodial parent(s)/guardian thereof, after his/her review of the
251 statement.
252
- 253 iv. The ~~P~~principal/~~o~~rdesignee should ~~review and~~ dictate and then review
254 his/her notes with the complainant and accused/student after the interviews

255 to verify the facts and ensure accuracy, and then obtain signatures, but shall
 256 not tape the interviews.

257

258 v. When necessary to carry out ~~his/her~~ the investigation or for other good
 259 reasons, and consistent with federal and state privacy laws, the Principal/
 260 ~~or~~designee also may discuss the complaint with any of the following
 261 persons:

262

263 A. Superintendent/~~or~~ designee;

264

265 B. Chief Academic Officer;

266

267 C. ~~A~~ area superintendent/designee ~~Executive Directors~~;

268

269 D. ~~A~~ associate Superintendents;

270

271 E. Chief of School Police~~;~~

272

273 F. ~~T~~he custodial parent(s)/guardian of the complainant, if the complainant
 274 is under eighteen (18) years of age~~;~~

275

276 G. ~~T~~he custodial parent(s)/guardian of the accused/student, if the student
 277 is under eighteen (18) years of age~~;~~

278

279 H. ~~A~~ teacher or staff member whose knowledge of the students involved
 280 may help determine who is telling the truth~~;~~

281

282 I. ~~C~~hild protective agencies responsible for investigating child abuse~~;~~
 283 and/or

284

285 J. ~~L~~egal counsel for the ~~district~~ Board.

286

287 q. Written Decision of the Principal/Designee.-- Upon completion of the
 288 investigation, the Principal/~~or~~designee will make a decision about the validity of
 289 the allegations in the complaint and about any corrective action, if
 290 applicable/~~necessary~~. In reaching a decision about the complaint, the Principal/
 291 ~~or~~ designee should take into account:

- 292
- 293
- 294
- 295
- 296
- 297
- 298
- 299
- 300
- 301
- 302
- 303
- 304
- 305
- 306
- 307
- 308
- 309
- 310
- 311
- 312
- 313
- 314
- 315
- 316
- 317
- 318
- 319
- 320
- 321
- 322
- 323
- 324
- 325
- 326
- 327
- i. ~~S~~statements made by the persons identified in ~~Section 5~~ paragraph (13)(n), above;
 - ii. ~~T~~he details and consistency of each person's account;
 - iii. ~~E~~vidence of how the complainant reacted to the incident;
 - iv. ~~E~~vidence of past instances of harassment or discrimination by the accused/student (provided that, if evidence of harassment/ discrimination, accusations, or complaints are to be considered, the principal/designee must review the files regarding those past incidents in their entirety);
 - v. ~~E~~vidence of past harassment or discrimination complaints that were found to be untrue (provided that, if evidence of past accusations or complaints is to be considered, the principal/designee must review in their entirety the files regarding those past incidents); and
 - vi. ~~C~~ase law, state and federal laws and regulations, and the ~~District's~~ Board's ~~P~~Policy prohibiting harassment and discrimination.
- r. To determine the severity of the harassment or discrimination, the ~~P~~principal/~~or~~ designee should consider, among other things:
- i. ~~H~~ow the misconduct affected one or more student's education;
 - ii. ~~T~~he type, frequency, and duration of the misconduct;
 - iii. ~~T~~he number of persons involved;
 - iv. ~~T~~he subject(s) of harassment or discrimination;
 - v. ~~T~~he place and situation where the incident occurred; and/or
 - vi. ~~O~~ther similar incidents at the school.

- 328 s. Within thirty (30) calendar days of the filing of the complaint, the Pprincipal/~~or~~
329 designee shall give the Aarea superintendent/designee ~~Executive Director or~~
330 ~~designee~~ and the EEO/Title IX Coordinator or ADA/504 Specialist a written report
331 that describes the complaint and investigation and contains his/~~her~~ findings, a
332 decision, and reasons for the decision.
- 333
- 334 i. If ~~he/she~~ the principal/designee verifies that harassment or discrimination
335 occurred, this report shall describe the actions ~~he/she took~~ taken to end the
336 harassment or discrimination, address the effects of the harassment or
337 discrimination on the complainant, and prevent retaliation or further
338 harassment or discrimination.
- 339
- 340 ii. The Pprincipal/~~or~~ designee shall notify the parties and their custodial
341 parent(s)/guardians in writing of his/~~her~~ the decision and their right to review
342 by the Aarea superintendent/ ~~Executive Director or~~ designee.
- 343
- 344 t. No retaliation of any kind is permitted because of an individual's ~~hashaving~~
345 made a discrimination or harassment complaint.
- 346

347 14. **Appeal to Review by Area Superintendent ~~Executive Director~~ of a Complaint Against**
348 **an Accused/Student**– If the complaint is not resolved at the school-site level to the
349 satisfaction of the parties or their custodial parent(s)/guardian in the site-level process,
350 either party or their custodial parent(s)/guardian may seek review by the area
351 superintendent/designee through the following process:

352

- 353 a. The written complaint and request for review shall be sent to the Aarea
354 superintendent's ~~Executive Director's~~ office within ten (10) days of the
355 completion of the site-level process by the Pprincipal.
- 356
- 357 i. If the principal's designee conducted the investigation, the first level of
358 appeal is to the principal. If the complaint has been reviewed or conducted
359 by the principal, the next level of appeal is to the A area superintendent/
360 Executive Director or designee, by using the following procedures. (If the
361 complaint was originally filed with, and investigated by, the EEO/Title IX
362 Coordinator instead of the principal, the next level of appeal is to the Chief
363 Academic Officer/designee).
- 364

- 365 ii. If the ~~A~~area superintendent/designee ~~Executive Director~~ is directly involved
366 with a complaint or closely related to ~~with the a parties party~~ to the
367 complaint, then an ~~impartial designee~~ the Chief Academic Officer/designee
368 shall be asked to conduct the review and/or further investigation.
369
- 370 b. **Notice Requirement.**-- Notice will be given to all parties of a request for review
371 by the ~~A~~area superintendent/Executive Director ~~or designee~~ within ~~two (2)~~ days of
372 the request for review.
373
- 374 c. **Procedure.**-- The ~~A~~area superintendent ~~Executive Director~~ ~~or~~ designee shall
375 review the complaint, the answer to the complaint, the principal/designee's
376 report, and any other evidence in the record. The ~~A~~ area superintendent
377 ~~Executive Director~~ ~~or~~ designee may also conduct any further investigation ~~he/she~~
378 deems deemed necessary. ~~Time limits may be extended by written mutual~~
379 ~~agreement of the individuals and the person to whom the complaint is addressed.~~
380
- 381 i. During the investigation, the ~~A~~area superintendent/ ~~Executive Director~~ ~~or~~
382 designee may take any action necessary to protect the complainant, or other
383 ~~employees~~ ~~or~~ students or employees consistent with the requirements of
384 applicable regulations and statutes. No retaliation of any kind is permitted
385 because of an individual's having made a harassment or discrimination
386 complaint under this Policy.
387
- 388 ii. The ~~A~~area superintendent ~~Executive Director~~ ~~or~~ designee will review the
389 ~~P~~principal's decision as to the validity of the allegations and any corrective
390 action, and will make a decision within thirty (30) calendar days after receipt
391 of the request for review. Time limits may be extended by written mutual
392 agreement of the complainant or custodial parent(s)/guardian on behalf
393 thereof, and the accused/student or custodial parent(s)/guardian on behalf
394 thereof.
395
- 396 iii. The ~~A~~area ~~Executive Director~~ ~~or~~ superintendent/designee shall take action
397 deemed appropriate to resolve the situation, including, but not limited to,
398 warning, out-of-school suspension, ~~expulsion~~, transfer to alternative school,
399 recommendation for expulsion, or other disciplinary action by the school,
400 consistent with the requirements of applicable procedures outlined in each

401 Sschool's *Student-Parent Handbook*, ~~School District~~ Board Policy, and
 402 Florida law.

403

404 iv. The ~~A~~area ~~Executive Director or~~ superintendent/designee will inform the
 405 ~~parties~~ and their custodial parent(s)/guardian in writing of ~~his/her~~ the
 406 decision and the ~~parties'~~ right to appeal.

407

408 v. A copy of the decision will be sent to the ~~EEO~~/Title IX Coordinator (or
 409 ADA/504 Specialist, if the complaint relates to a disability).

410

411 15. Appeal Procedure to Chief Academic Officer/Designee

412

413 a. If the complainant or accused/student or their custodial parent(s)/guardian is
 414 dissatisfied with the ~~A~~area superintendent's ~~Executive Director's~~ decision, it may
 415 be appealed in writing to the ~~Superintendent~~Chief Academic Officer/designee
 416 within ten (10) days after receipt of the decision.

417

418 i. If the area superintendent's designee conducted the review, the next level of
 419 appeal is to the area superintendent rather than to the Chief Academic
 420 Officer.

421

422 ii. If the Chief Academic Officer/designee ~~superintendent~~ is directly involved
 423 with a complaint or closely related to ~~with~~ one of the parties to the
 424 complaint, then ~~an impartial designee~~ the Chief Operating Officer/designee
 425 shall be asked to review the matter.

426

427 b. **Notice.**— Notice of the appeal shall be given in writing to all the parties and their
 428 custodial parent(s)/guardian within two (2) days of ~~notice of~~ receipt of appeal.

429

430 c. **Procedure.**— ~~The Superintendent~~ Chief Academic Officer/~~or~~ designee shall
 431 review the written complaint, the accused/student's response to the complaint (or
 432 the response of the parent/guardian on behalf of the accused/student), and all
 433 documentation pertaining to the alleged harassment or discrimination including
 434 the ~~A~~area superintendent's ~~Executive Director's~~ decision.

435

436 i. The ~~Superintendent~~ Chief Academic Officer/~~or~~ designee, ~~in his/her~~
 437 ~~discretion~~, may request additional information.

438

439

440

441

442

443

16. Appeal to the Superintendent/Designee

444

445

446

447

448

449

a. If the complainant or accused/student (or their custodial parent(s)/guardian, on their behalf) is dissatisfied with the Chief Academic Officer's decision, it may be appealed in writing to the Superintendent within ten (10) days after receipt of the decision.

450

451

452

i. If the Chief Academic Officer's designee conducted the review, the next level of appeal is to the Chief Academic Officer rather than to the Superintendent.

453

454

455

456

ii. If the Superintendent is directly involved with a complaint or closely related to one of the parties to the complaint, then the Chief Counsel to the Board shall be asked to review the matter and report the findings to the Board.

457

458

459

b. Notice.-- Notice of the appeal shall be given in writing to all the parties and their custodial parent(s)/guardian within two (2) days of ~~notice of~~ receipt of appeal.

460

461

462

463

464

465

c. Procedure.-- The Superintendent/designee shall review the written complaint, the accused/student's response to the complaint (or the response of the parent/guardian on behalf of the accused/student), and all documentation pertaining to the alleged harassment or discrimination, including the Chief Academic Officer's decision.

466

467

468

469

470

471

472

i. The Superintendent may request additional information.

ii. The Superintendent/designee shall issue a written decision to the parties and their custodial parent(s)/guardian within twenty (20) calendar days of request of the appeal. The decision of the Superintendent/designee is the final decision of the District.

473

474

17. Other Means of Resolution.-- If the complainant is not satisfied with the results of the procedures contained in this policy, he/~~or~~she may utilize other means for resolution as

475 provided by law, including seeking recourse through the Federal Office for Civil
476 Rights ("OCR").

477

478 18. GRIEVANCE PROCEDURE FOR HARASSMENT OR DISCRIMINATION BY AN
479 EMPLOYEE – Investigation and Resolution of Complaints Against an
480 (Accused/Employee)

481

482 a. ~~Site Level Procedure.~~ **Reporting Discrimination or Harassment.**– Any student/
483 applicant for admission (or the custodial parent(s)/guardian on that complainant's
484 behalf) who believes he/~~or~~ she is a victim of discrimination or harassment (or any
485 individual, including any student, teacher, or other employee of the School
486 District who has knowledge of any incident(s) involving discrimination or
487 harassment of students) is strongly encouraged to report the incident(s) to a
488 school official or the EEO/Title IX Coordinator or ADA/504 Specialist.

489

490 b. School officials must report any allegations of discrimination or harassment to the
491 Pprincipal and to the EEO/Title IX Coordinator or ADA/504 Specialist.

492

493 c. School officials must instruct students that they may file a complaint with the
494 Pprincipal/~~or~~designee, EEO/Title IX Coordinator, or ADA/504 Specialist. If the
495 principal is directly involved with a complaint or closely related to a party to the
496 complaint, then the incident may be reported directly to the EEO/Title
497 Coordinator or ADA/504 Specialist.

498

499 d. It is the responsibility of the principal to forward all complaints to the area
500 superintendent and Title IX Coordinator or ADA/504 Specialist.

501

502 e. ~~If the Principal is directly involved with a complaint or with the parties to the~~
503 ~~complaint, then the incident may be reported directly to the EEO Coordinator or~~
504 ~~504 Specialist.~~

505

506 f. **Filing the Complaint Form.**– The complainant, or custodial parent(s)/guardian on
507 behalf thereof, may file a complaint, either orally or in writing, with the
508 Pprincipal/~~or~~designee, EEO/Title IX Coordinator, or ADA/504 Specialist by using
509 the Harassment and Discrimination Student Complaint Report Form (PBSD
510 1615), available on the District's web site at [www.palmbeach.k12.fl.us/](http://www.palmbeach.k12.fl.us/Records/Forms.htm)
511 Records/Forms.htm.

- 512
- 513
- 514
- 515
- 516
- 517
- 518
- 519
- 520
- 521
- 522
- 523
- 524
- 525
- 526
- 527
- 528
- 529
- 530
- 531
- 532
- 533
- 534
- 535
- 536
- 537
- 538
- 539
- 540
- 541
- 542
- 543
- 544
- 545
- 546
- 547
- 548
- i. Complaints should be filed as soon as possible after the alleged incident, but must be filed within sixty (60) calendar days of the alleged incident. Failure on the part of the complainant to initiate and/or follow up on a complaint in a timely manner may result in the complaint being deemed abandoned.
 - ii. The ~~P~~principal/ ~~or~~ designee may assist the individual in completing the ~~F~~form by recording information on the the ~~Harassment and Discrimination Student Complaint Report F~~orm, reviewing it with the complainant, and obtaining the complainant's signature. The complainant will be requested to provide signed, specific information regarding the alleged discrimination or harassment, the alleged offender(s), witnesses, and other relevant information.
 - iii. Complaints filed with the ~~P~~ principal/~~or~~ designee must be reported to the ~~A~~area superintendent ~~Executive Director~~ and the EEO/Title IX Coordinator or ADA/504 Specialist.
- g. Notice to Parent(s)/Guardians.-- Upon receiving a complaint, within two (2) days of the allegations, and in accordance with federal and state privacy laws, the principal/designee shall notify the custodial parent(s)/guardian of any student under age eighteen (18) who is involved in alleged harassment or discrimination. Notification may be made by telephone, letter, or personal conference. The students involved and their custodial parent(s)/guardians will also be notified of events and decisions described in this Policy.
- h. Investigation by EEO/Title IX Coordinator or ADA/504 Specialist.-- The EEO/Title IX Coordinator/~~or~~designee or ADA/504 Specialist shall document and promptly and thoroughly investigate all complaints of harassment or discrimination, including the following steps to ensure that problems are appropriately addressed:
- i. ~~P~~romptly talk with the complainant. The complainant and/or the custodial parent(s)/guardian of the complainant shall have an opportunity to describe the incident, present any evidence, name witnesses, and put his/her complaint in writing, if he/she has not already done so:z

- 549 ii. ~~T~~talk with any witnesses or others who may have relevant information; and
550
- 551 iii. ~~C~~conduct an investigation ave meeting with the accused/employee, and the
552 accused/employee's representative, if applicable, to discuss the allegations
553 and allow the accused/employee to respond to the allegations.
554
- 555 i. During the investigation, the EEO/Title IX Coordinator or ADA/504 Specialist
556 may recommend to the Chief Personnel Officer/ordesignee, any action necessary
557 to protect the complainant, or other employees or students, consistent with the
558 requirements of applicable ~~regulations or statutes~~, State Board of Education Rules,
559 School Board Policies, and collective bargaining agreements. In general,
560 complainants will continue attending the same school and pursuing their studies
561 as directed while the investigation is conducted and the complaint is pending
562 resolution.
563
- 564 ~~i.~~ ~~The EEO Coordinator or 504 Specialist shall document all complaints to~~
565 ~~ensure that problems are appropriately addressed.~~
566
- 567 ii. When necessary to carry out ~~his/her~~ the investigation or for other good
568 reasons, and consistent with federal and state privacy laws, the EEO/Title IX
569 Coordinator or ADA/504 Specialist also shall discuss the complaint with the
570 following persons, as appropriate:
571
- 572 A. Superintendent/ordesignee;
573
- 574 B. Chief Academic Officer and/or Chief Operating Officer;
575
- 576 C. ~~A~~ area superintendent/designee ~~Executive Directors;~~
577
- 578 D. ~~A~~ associate Ssuperintendents;
579
- 580 E. Chief of School Police;
581
- 582 F. Chief Personnel Officer;
583
- 584 G. Director of ~~Employee~~ Labor Relations;
585

- 586 H. ~~T~~the custodial parent(s)/guardian of the complainant, if the complainant
 587 is under eighteen (18) years of age;
 588
- 589 I. ~~A~~a teacher or staff member whose knowledge of the student(s) or
 590 employee(s) involved may help determine who is telling the truth;
 591
- 592 J. ~~C~~child protective agencies responsible for investigating child abuse;
 593
- 594 K. ~~L~~egal counsel for the ~~District Board;~~ and/or
 595
- 596 L. ~~E~~xclusive bargaining representative or ~~the~~ legal counsel thereof, if
 597 appropriate; and
 598
- 599 M. the accused/employee.
 600

601 19. ~~Resolution~~ **Decision of the EEO/Title IX Coordinator or ADA/504 Specialist.**— Upon
 602 completion of the investigation, the EEO/Title IX Coordinator or ADA/504 Specialist
 603 shall make a decision about the validity of the allegations in the complaint.
 604

- 605 a. The EEO/Title IX Coordinator or ADA/504 Specialist shall discuss the
 606 determination and any recommended corrective action with the
 607 ~~P~~principal/~~o~~r designee.
 608
- 609 b. In reaching a decision about the complaint, the following should be taken into
 610 account:
 611
- 612 i. ~~S~~statements made by the persons identified in Paragraphs (18)(h), (i) above;
 613
- 614 ii. ~~T~~he details and consistency of each person's account;
 615
- 616 iii. ~~E~~vidence of how the complainant reacted to the incident;
 617
- 618 iv. ~~E~~vidence of past instances of harassment or discrimination by the
 619 accused/employee (provided that, if evidence of past
 620 harassment/discrimination incidents are to be considered, the investigator
 621 must review in their entirety the files regarding those past incidents);
 622

- 623 v. ~~E~~vidence of past harassment or discrimination complaints that were found
624 to be untrue (provided that, if evidence of past harassment/discrimination
625 accusations or complaints are to be considered, the investigator must review
626 in their entirety the files regarding those past complaints); and
627
- 628 vi. ~~C~~ase law, state and federal laws and regulations, and the ~~District's~~ Board's
629 Policyies prohibiting harassment and discrimination.
630
- 631 c. To determine the severity of the harassment or discrimination the following may
632 be considered:
633
- 634 i. ~~H~~ow the misconduct affected one or more student's education;
635
- 636 ii. ~~T~~he type, frequency, and duration of the misconduct;
637
- 638 iii. ~~T~~he number of persons involved;
639
- 640 iv. ~~T~~he subject(s) of harassment or discrimination;
641
- 642 v. ~~T~~he place and situation where the incident occurred; and
643
- 644 vi. ~~O~~ther incidents at the school.
645
- 646 d. The following action(s) or discipline may be taken, consistent with any applicable
647 collective bargaining agreement provisions, to resolve a complaint of harassment
648 or discrimination:
649
- 650 i. ~~N~~o action if complaint is unsubstantiated;
651
- 652 ii. ~~T~~he training requirements for the employee;
653
- 654 iii. ~~O~~ral reprimand of the employee;
655
- 656 iv. ~~W~~ritten reprimand of the employee;;
657
- 658 v. ~~S~~suspension of the employee;
659

- 660 A. For the first verified offense of harassment of, or discrimination against,
 661 a student, suspension should be recommended for a minimum of thirty
 662 (30) days without pay up to and including termination.
 663
- 664 B. Suspension without pay ~~and/or termination~~ requires School Board
 665 action.
 666
- 667 vi. Termination of the employee should be recommended, subject to Board
 668 action, for the second offense of verified harassment of, or discrimination
 669 against, a student.
 670

671 **20. Appeal Procedure for an Accused/Employee**
 672

- 673 a. If the accused/employee wishes to appeal the action taken in resolution of the
 674 complaint, such appeal shall be filed either in accordance with District Board
 675 Policyes or pursuant to the relevant collective bargaining agreement.
 676
- 677 b. For those employees not in a bargaining unit, the appeal shall be filed in
 678 accordance with Board Policy 3.31.
 679

680 **21. Appeal Procedure for Student/Complainant When the Accused Is an Employee**
 681

- 682 a. If the complainant ~~or accused/student~~ (or custodial parent(s)/guardian on behalf
 683 of the complainant) is dissatisfied with the EEO/Title IX Coordinator's or
 684 ADA/504 Specialist's decision, it may be appealed in writing to the
 685 Superintendent Chief Operating Officer/designee within ten (10) days after
 686 receipt of the decision. However, if the Superintendent Chief Operating Officer
 687 is directly involved with a complaint or closely related to ~~with~~ one of the parties
 688 ~~to the complaint~~, then ~~an impartial designee~~ the Chief Academic Officer shall be
 689 asked to review the matter.
 690
- 691 b. **Notice.**-- Notice of the appeal shall be given to ~~all~~ the parties and the custodial
 692 parent(s)/guardian of the complainant within two (2) days of notice of receipt of
 693 appeal.
 694
- 695 c. **Procedure.**-- The Superintendent Chief Operating Officer/~~or~~designee shall
 696 review the written complaint, the ~~accused/student's~~ employee's response to the

697 complaint, and all documentation pertaining to the alleged harassment or
698 discrimination including the EEO/Title IX Coordinator's or ADA/504 Specialist's
699 decision.

700
701 i. The ~~Superintendent~~ Chief Operating Officer/~~or~~designee, ~~in his/her~~
702 ~~discretion~~, may request additional information.

703
704 ii. The ~~Superintendent~~ Chief Operating Officer/~~or~~designee shall issue a written
705 decision to the parties within twenty (20) calendar days of request of the
706 appeal.

707
708 d. If the complainant or custodial parent(s)/guardian of the complainant is not
709 satisfied with the results, appeal may be filed with the Superintendent/designee.
710 The decision of the Superintendent/~~or~~designee is the final decision of the District.
711 However, if the Superintendent is directly involved with a complaint or closely
712 related to one of the parties, then the Chief Counsel to the Board shall be asked
713 to review the matter, rather than the Superintendent, and report the results of the
714 review to the Board.

715
716 e. If the complainant is not satisfied with the results of the procedures contained in
717 this policy, he or she may utilize other means for resolution as provided by law,
718 including seeking recourse through the Federal Office for Civil Rights ("OCR").
719

720 22. Confidentiality

721
722 a. To the greatest extent possible, all complaints will be treated as confidential and
723 in accordance with Fla. Stat. § 228.093(3)(d); ~~§ 119.07(3)(p)~~ and the Family
724 Educational Rights and Privacy Act ("FERPA"); and any other applicable law, such
725 as §§ 119.07(3)(p) and 231.291(3) or 231.262(1), Fla. Stat.

726
727 b. ~~However,~~ limited disclosure may be necessary to complete a thorough
728 investigation as described above. The District's obligation to investigate and take
729 corrective action may supersede an individual's right to privacy.

730
731 c. The complainant's identity shall be ~~confidentially~~ protected, but absolute
732 confidentiality cannot be guaranteed.
733

734 23. ~~Notice~~ **Informing Students and Employees About this Policy.** - - Notice of the
735 existence of this ~~p~~Policy, prevention plan, and procedures shall be posted in
736 prominent locations in all District buildings, including information on how to receive
737 a copy. Notice shall be included annually in student, parent, and staff handbooks.

738
739 ~~a. Upon receiving a complaint, and in accordance with federal and state privacy~~
740 ~~laws, the Principal or designee shall notify the parent(s)/guardians of all students~~
741 ~~under age 18 involved in the alleged harassment or discrimination within two (2)~~
742 ~~days of the allegations. Notification may be made by telephone, letter, or~~
743 ~~personal conference. The students involved and their parent(s)/guardians will~~
744 ~~also be notified of events and decisions described in this policy.~~

745
746 24. **Retaliation Prohibited**

747
748 a. Retaliation includes, but is not limited to, any form of intimidation, reprisal or
749 harassment in connection with filing a complaint or assisting with an
750 investigation under this Policy.

751
752 b. Retaliatory or intimidating conduct against any individual who has made a
753 harassment or discrimination complaint or any individual who has testified,
754 assisted, or participated, in any manner, in an investigation is specifically
755 prohibited.

756
757 c. The Pprincipal/ordesignee, and EEO/Title IX Coordinaoatr or ADA/504 Specialist,
758 if applicable, shall inform ~~the~~ complainants that ~~he/she/they~~ is are protected by
759 law from retaliation.

760
761 25. **Additional Assistance Available**

762
763 a. In all cases, the District reserves the right to refer the results of its own
764 investigation to the State Attorney for the Fifteenth Judicial Circuit of Florida for
765 possible criminal charges, whether or not the District takes any other action.

766
767 b. The District will provide counseling services for students who have been
768 harassed or discriminated against.

769

- 770 c. Training will be provided to assist teachers and counselors who work with
771 students to prevent harassment and discrimination. Attendance is mandatory.
772
- 773 d. The Office for Civil Rights is the federal agency in the Department of Education
774 that monitors ensures that schools' compliance with Title IX, Title VI, Title II of
775 the Americans With Disabilities Act, and Section 504, and it can be contacted at
776 1-800-421-3481; by fax at (404) 562-6455; or by e-mail at OCR_Atlanta@ed.gov.
777
- 778 A. ~~For more information, contact: EEO Coordinator, 3370 Forest Hill~~
779 ~~Boulevard, Suite A-128, West Palm Beach, Florida 33406; Telephone: (561)~~
780 ~~434-8637 or the 504 Specialist, 3336 Forest Hill Boulevard, Suite B-102,~~
781 ~~West Palm Beach, Florida 33406; Telephone: (561) 434-8817.~~
782

783 **STATUTORY AUTHORITY:** §§ 230.22(2); 230.23 (17)(22); 230.23005(6), Fla. Stat.
784

785 **LAWS IMPLEMENTED:** §§ 119.07(3)(p); 228.2001(2)(a), (b) (Florida Education
786 Equity Act); 228.093(3)(d); 230.22(1), 230.23(6)(d)1, 8;
787 230.33(8); 231.001; 231.291(3)(a); 231.262(1),
788 760.01(2), Fla. Stat.; Title II of the Americans With
789 Disabilities Act (42 U.S.C. 12131, et. seq. (Title II of the
790 Americans with Disabilities Act); Title IX of the
791 Education Amendments of 1972 (20 U.S.C. § 1681-
792 1688 et. seq. (Title IX of the Education Amendments of
793 1972); Title VI of the Civil Rights Act of 1964 (42 U.S.C.
794 § 2000d et. seq. (Title VI of the Civil Rights Act of
795 1964); Section 504 of the Rehabilitation Act of 1973 (29
796 U.S.C. § 794 (Section 504 of the Rehabilitation Act of
797 1973); 20 U.S.C. § 1232g (Family Educational Rights
798 and Privacy Act ("FERPA")); § 228.2001(2)(a) Fla. Stat.,
799 ("Florida Education Equity Act"); § 228.093(3)(d);
800 230.23(6)(d)(1) and (8); 230.22(1) and (2);
801 230.33(8); 119.07(3)(p), Fla. Stat.
802

803 STATE BOARD RULES

804 SUPPLEMENTED: 6A-19.001, 6A-19.002, 6A-19.008, 6B-1.006(3)(a), (g)

805

806 HISTORY: 3/3/76; 8/17/77; 3/17/99; / /02

Legal Signoff:

Statement of Estimated Costs

Proof of Publication of Development Notice

Proof of Publication of Adoption Notice