



SCHOOL BOARD OF BREVARD COUNTY, FLORIDA
School Board Policy Executive Summary
 Form D

Policy Number:	2260
Title of Policy:	Nondiscrimination and Access to Equal Educational Opportunity
Cabinet Member:	Dr. Beth Thedy and Valerie Londono
Purpose of Revisions:	The purpose of the proposed replacement policy is to ensure compliance with all applicable federal and state laws, Florida State Board of Education Rules, Board policies, administrative rules, procedures, and guidelines. In addition, the proposed revisions promote transparency and accountability.
Tentative Schedule:	<ul style="list-style-type: none"> • Cabinet – 11/15/2021 • Work Session – 12/14/21 • Rule Development Workshop – 01/18/2022 • School Board Meeting Information – 01/18/2022 • School Board Meeting Approval – 02/08/2022 • Effective Date – upon approval
Summary of Proposed Policy Revisions:	<ul style="list-style-type: none"> • This policy is a replacement policy. • Particular areas of revision include the following: Complete replacement with NEOLA language. • These proposed revisions do encompass the suggested language from NEOLA.
Specific Authority:	§§ 553.501 et seq., 760.021, 760.08, 1000.05, 1002.311; F.S.; F.A.C. 6A-19.001, Fourteenth Amendment, U.S. Constitution; 20 U.S.C. Section 1681, Title IX of Education Amendment Act, 20 U.S.C. Section 1701 et seq., 20 U.S.C. Section 7905, 42 U.S.C. 2000ff et seq., 29 U.S.C. Section 794, 42 U.S.C. Section 2000 et seq., 42 U.S.C. 12101 et seq., 42 U.S.C. 6101 et seq., 34 C.F.R. Part 110 (7/27/93), 29 C.F.R. Part 1635
Next Steps:	<ul style="list-style-type: none"> • Revisions to internal procedures • Training for BPS employees regarding revisions to policy and revised procedures

**Current
Version**

2260 - NONDISCRIMINATION AND ACCESS TO EQUAL EDUCATIONAL OPPORTUNITY

The Board declares it to be the policy of this District to provide an equal opportunity for all students, regardless of race, color, creed, disability, religion, gender, ancestry, age, national origin, place of residence within the boundaries of the District, or social or economic background, or any other legally protected characteristics, to learn through the curriculum offered in this District. Additionally, this District will not discriminate in its employment policies and practices.

The Board provides the following:

A. Curriculum Content

Current and proposed courses of study and textbooks are reviewed to detect any bias based upon race, color, gender, disability, religion, national origin, ancestry, or culture; ascertaining whether or not supplemental materials, singly or taken as a whole, fairly depict the contribution of both genders, various races, ethnic groups, disability groups etc., toward the development of human society.

B. Staff Training

An ongoing program of in-service training for school personnel designed to identify and resolve problems of racial, gender, religious, national, cultural, disability or other bias in all aspects of the program.

C. Student Access

Current and proposed programs, activities, facilities, and practices are reviewed to ensure that all students have equal access thereto and are not segregated, denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination on the basis of race, color, creed, gender, disability, or national origin in any duty, work, play, classroom, program or school practice. Exceptions may be permitted under State regulations.

In accordance with Florida statute, the Board may establish and maintain a single-gender nonvocational class, extra- curricular activity, or school for elementary, middle, or high school students.

D. District Support

Like aspects of the District's programs receive like support as to staff size and compensation; purchase and maintenance of facilities and equipment; access to such facilities and equipment; and related matters.

E. Student Evaluation

Tests, procedures, or guidance and counseling materials, which are designed to evaluate student progress, rate aptitudes, analyze personality, or in any manner establish or tend to establish a category by which a student may be judged, are not differentiated or stereotyped on the basis of disability, race, color, creed, gender, or national origin.

The Superintendent shall appoint an Equity Coordinator whose responsibility it will be to ensure that Federal and State regulations are complied with and that any complaints are dealt with promptly in accordance with law. S/He shall also ensure that proper notice of nondiscrimination for Title II, Title VI, and VII of the Civil Rights Act of 1964; Title IX of the Education Amendment Act of 1972; Section 504 of the Rehabilitation Act

of 1973; the Americans with Disabilities Act; the American with Disabilities Act Amendments Act of 2008 (ADAAA); and the Age Act is provided to students, their parents, staff members, and the general public.

The District shall identify, evaluate and provide a free public education to students that are disabled, ages 3-22, who reside in the District. Section 504 of the Rehabilitation Act of 1973 and the ADAAA prohibit discrimination against students with a disability. No discrimination against any student with a disability will knowingly be permitted in any of the programs or activities of the School District. The District will provide non-academic extra-curricular services and activities in such a manner as is necessary to afford qualified students with disabilities an equal opportunity for participation in such services and activities.

The District has procedures to identify students who are English Language Learners (ELL), including immigrant child and youth,; to assess their ability to participate in District programs; and develop and administer a program that meets the English language and academic needs of these students. This program shall include procedures for student identification, evaluation, placement, services, and exit procedures and shall be designed to provide students with effective instruction that leads to academic achievement and timely acquisition of proficiency in English. As a part of this program, the District will evaluate the progress of students in achieving English language proficiency in the areas of listening, speaking, reading, and writing, on an annual basis.

The Superintendent shall develop and update administrative procedures as necessary to implement this policy.

Legal

F.S. 1000.05

F.S. 1001.43

Fourteenth Amendment, U.S. Constitution

20 U.S.C. Section 1681, Title IX of Education Amendment Act

20 U.S.C. Section 1701 et seq., Equal Educational Opportunities Act of 1974

29 U.S.C. Section 794, Rehabilitation Act of 1973

42 U.S.C. Section 2000 et seq., Civil Rights Act of 1964

42 U.S.C. 12101 et seq., The Americans with Disabilities Act of 1990

42 U.S.C. 6101 et seq.

34 C.F.R. Part 110 (7/27/93)

Vocational Education Program Guidelines for Eliminating Discrimination and Denial of Services,

Department of Education, Office of Civil Rights, March 1979

Title III of the No Child Left Behind Act of 2001

Americans with Disabilities Act Amendments Act of 2008 (ADAAA)

Revised 7/20/04

Revised 4/22/08

Revised 4/28/09

Revised 11/16/10

Revised 7/22/14

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Book: Florida Policies for Update

Section: Vol. 21, No. 2 - Nondiscrimination Policies - Feb. 2021

Title: REVISED POLICY - VOL. 21, NO. 2 - NONDISCRIMINATION AND ACCESS TO EQUAL EDUCATIONAL OPPORTUNITY

Number: po2260

REVISED POLICY - VOL. 21, NO. 2

2260 - NONDISCRIMINATION AND ACCESS TO EQUAL EDUCATIONAL OPPORTUNITY

General Statement

Any form of discrimination or harassment can be devastating to an individual's academic progress, social relationship and/or personal sense of self-worth. As such, the School Board will not discriminate nor tolerate harassment in its educational programs or activities 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").

The Board also does not discriminate on the basis of protected classes in its employment policies and practices as they relate to students.

Equal educational opportunities shall be available to all students, without regard to the protected classes, age (unless age is a factor necessary to the normal operation or the achievement of any legitimate objective of the program/activity), place of residence within the boundaries of the District, or social or economic background, to learn through the curriculum offered in this District. Educational programs shall be designed to meet the varying needs of all students.

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.

In order to achieve the aforesaid goal, the Superintendent shall:

Curriculum Content

review current and proposed courses of study and textbooks to detect any bias based upon the protected classes; ascertaining whether or not supplemental materials, singly or taken as a whole, fairly depict the contribution of both genders, various races, ethnic groups, etc., toward the development of human society;

Staff Training

develop an ongoing program of in-service training for school personnel designed to identify and solve problems of bias based upon the protected classes in all aspects of the program;

Student Access

review current and proposed programs, activities, facilities, and practices to verify that all students have equal access thereto and are not segregated on the basis of the protected classes in any duty, work, play, classroom, or school practice, except as may be permitted under State and Federal laws and regulations;

verify that facilities are made available for non-curricular student activities that are initiated by parents or other members of the community, including but not limited to any group that is officially affiliated with the Boy Scouts of America or any other youth group listed in Title 36 of the United States Code as a patriotic society, pursuant to Board Policy 7510 - Use of District Facilities;

[] In accordance with Florida statute, the Board may establish and maintain a single-gender nonvocational class, extra-curricular activity, or school for elementary, middle, or high school students. **[END OF OPTION]**

District Support

verify that like aspects of the District's program receive like support as to staff size and compensation, purchase and maintenance of facilities and equipment, access to such facilities and equipment, and related matters;

Student Assessment

verify that tests, procedures, or guidance and counseling materials, which are designed to evaluate student progress, rate aptitudes, analyze personality, or in any manner establish or tend to establish a category by which a student may be judged, are not differentiated or stereotyped on the basis of the protected classes.

Definitions

Words used in this policy shall have those meanings defined herein; words not defined herein shall be construed according to their plain and ordinary meanings.

Complainant is the individual who alleges, or is alleged, to have been subjected to unlawful discrimination/retaliation, regardless of whether the person files a formal complaint or is pursuing an informal resolution to the alleged discrimination/retaliation.

Respondent is the individual who has been alleged to have engaged in unlawful discrimination/retaliation, regardless of whether the reporting party files a formal complaint or is seeking an informal resolution to the alleged discrimination/retaliation.

School District community means students and Board employees (i.e., administrators, and professional and classified staff), as well as Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Board.

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 District property).

Day(s): Unless expressly stated otherwise, the term “day” or “days” as used in this policy means business day(s) (i.e., a day(s) that the Board office is open for normal operating hours, Monday – Friday, excluding State-recognized holidays).

District Compliance Officer(s)

Compliance Officers

The Board designates the following individuals to serve as the District's "Compliance Officers" (also known as "Civil Rights Coordinators"; hereinafter referred to as the "COs").

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

[NOTE: School districts are advised to appoint both a male and a female CO 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 may also serve as the District's Section 504 Compliance Officer/ADA Coordinator and Title IX Coordinator. 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.]

(Name)

(School District Title)

(Telephone Number)

(E-mail Address)

(Name)

(School District Title)

(Telephone Number)

(E-mail Address)

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

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

(Name)

(School District Title)

(Telephone Number)

(E-mail Address)

(Name)

(School District Title)

(Telephone Number)

(E-mail Address)

Title IX Coordinator

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

[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.]

(Name)

(School District Title)

(Telephone Number)

(E-mail Address)

(Name)

(School District Title)

(Telephone Number)

(E-mail Address)

Publication

The name(s), title(s), and contact information of this/these individual(s) will be published annually:

in the staff handbooks.

in the School District annual report to the public.

on the School District's website.

on each individual school's website.

in the School District's calendar.

_____.

Duties and Responsibilities

The CO(s), Section 504 Compliance Officer/ADA Coordinator(s), and Title IX Coordinator(s) are responsible

for coordinating the District's efforts to comply with applicable Federal and State laws and regulations, including the District's duty to address in a prompt and equitable manner any inquiries or complaints regarding discrimination or denial of equal access. The CO(s) shall also verify that proper notice of nondiscrimination for Title II of the Americans with Disabilities Act (as amended), Title VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendment Act of 1972, Section 504 of the Rehabilitation Act of 1973 (as amended), the Age Discrimination Act of 1975, the Florida Civil Rights Act of 1992, the Florida Educational Equity Act, and/or their implementing regulations is provided to students, their parents, staff members, and the general public. A copy of each of the acts and regulations on which this notice is based may be found in the CO's office.

Students with Disabilities, Limited English Proficiency, or Other Needing Additional Services

The Superintendent shall annually attempt to identify children with disabilities, ages 3-22, who reside in the District but do not receive a public education. In addition, s/he shall establish procedures to identify students who are Limited English Proficient (LEP), including immigrant children and youth, to assess their ability to participate in District programs, and develop and administer a program that meets the English language and academic needs of these students. This program shall include procedures for student placement, services, evaluation, and exit procedures and shall be designed to provide students with effective instruction that leads to academic achievement and timely acquisition of proficiency in English. As a part of this program, the District will evaluate the progress of students in achieving English language proficiency in the areas of listening, speaking, reading, and writing, on an annual basis (see AP 2260F). **The Superintendent is responsible for verifying that a concentration of students who are Limited English Proficient (LEP) in one or more programs is not the result of discrimination.**

The Board is committed to educating (or providing for the education of) each qualified person with a disability with persons who are not disabled to the maximum extent appropriate. Generally, the District will place a person with a disability in the regular educational environment unless it is demonstrated that the education of the person in the regular environment, even with the use of supplementary aids and services cannot be achieved satisfactorily. If the Board operates a separate class or facility that is identifiable as being for persons with disabilities, the facility, program, and activities and services must be comparable to the facilities, programs, and activities and services offered to students without a disability.

Reports and Complaints of Unlawful Discrimination and Retaliation

Students and Board employees are required, and all other members of the School District community and Third Parties~~third parties~~ are encouraged to promptly report incidents of unlawful discrimination and/or retaliation to a teacher, administrator, supervisor, or other District official so that the Board may address the conduct. Any teacher, administrator, supervisor, or other District employee or official who receives such a complaint shall file it with the CO ~~(-) at his/her first convenience (-)~~ within two (2) ~~business~~ days.

Members of the School District community, which includes students or Third Parties~~third parties~~, who believe they have been unlawfully discriminated/retaliated against are entitled to utilize the complaint process set forth below. Initiating a complaint, whether formally or informally, will not adversely affect the Complainant's ~~complaining individual's~~ employment or participation in educational or extra-curricular programs. While there are no time limits for initiating complaints 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 alleged bullying, aggressive behavior and/or harassment in accordance with Policy 5517.01 – Bullying and Harassment, the Principal believes that the reported misconduct may constitute unlawful discrimination based on a protected class, the Principal shall report the act to one of the COs who shall investigate the allegation in accordance with this policy. While the CO investigates the allegation, the Principal shall suspend ~~the his/her~~ Policy 5517.01 investigation to await the CO's written report. The CO shall keep the Principal informed of the status of the Policy 2260 investigation and provide ~~the Principal~~ ~~him/her~~ with a copy of the resulting written report.

The COs will be available during regular school/work hours to discuss concerns related to unlawful discrimination/retaliation. COs shall accept ~~reports~~ ~~complaints~~ of unlawful discrimination/retaliation directly from any member of the School District community or a Third Party, or receive reports that are initially filed with another Board employee. ~~visitor to the District, or receive complaints that are initially filed with a school building administrator. Upon receipt of a complaint~~ Upon receipt of a report of alleged discrimination/retaliation, the CO will contact the Complainant and begin either an informal or formal complaint process (depending on the Complainant's request and the nature of the alleged discrimination/retaliation), ~~either directly or through a school building administrator, a CO will begin either an~~

~~informal or formal process (depending on the request of the person alleging the discrimination/retaliation or the nature of the alleged discrimination/retaliation);~~ or the CO will designate a specific individual to conduct such a process. The CO will provide a copy of this policy to **the Complainant and the Respondent**~~any person who files a complaint~~. In the case of a formal complaint, the CO will prepare recommendations for the Superintendent or oversee the preparation of such recommendations by a designee. All members of the School District community must report incidents of discrimination/retaliation that are reported to them to the CO within two (2) business days of learning of the incident/conduct.

Any Board employee who directly observes unlawful discrimination/retaliation of a student is obligated, in accordance with this policy, to report such observations to one of the COs within two (2) business days. Additionally, any Board employee who observes an act of unlawful discrimination/retaliation is expected to intervene to stop the misconduct, unless circumstances make such an intervention dangerous, in which case the staff member should immediately notify other Board employees and/or local law enforcement officials, as necessary, to stop the misconduct. Thereafter, the CO or designee must contact the **Complainant, if age eighteen (18) or older, or the Complainant's parents/guardians if the Complainant**~~student, if age eighteen (18) or older, or the student's parents if the student~~ is under the age eighteen (18), within two (2) ~~school~~ days to advise s/he/them of the Board's intent to investigate the alleged wrongdoing.

Nothing contained in this policy is intended to interfere with the rights of any individual to pursue a complaint of unlawful discrimination or retaliation with the U.S. Department of Education's Office for Civil Rights ("OCR"), the Florida Commission on Human Relations ("FCHR"), or the Equal Employment Opportunity Commission ("EEOC").

Investigation and Complaint Procedure

Except for sex discrimination and/or Sexual Harassment that is covered by Policy 2266 - Nondiscrimination on the Basis of Sex in Education Programs or Activities, any student who alleges to have been~~Any student who believes that s/he has been~~ subjected to unlawful discrimination or retaliation may seek resolution of the ~~his/her~~ complaint through the procedures described below. The formal complaint procedures involve an investigation of the individual's claims **of discrimination/retaliation** and a process for rendering a decision regarding whether the charges are substantiated.

Due to the sensitivity surrounding complaints of unlawful discrimination or retaliation, timelines are flexible for initiating the complaint process; however, individuals ~~are encouraged~~~~should make every effort~~ to file a complaint within thirty (30) ~~calendar~~ days after the conduct occurs. Once the formal complaint process is begun, the investigation will be completed in a timely manner (ordinarily, within fifteen (15) business days of the complaint being received).

Informal Complaint Procedure

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

The informal process is only available in those circumstances where the ~~Complainant and the Respondent mutually agree to participate in it~~~~parties (the alleged target of the discrimination and individual(s) alleged to have engaged in the discrimination) agree to participate in it~~.

Students who believe that they have been unlawfully discriminated/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.

All complaints involving a District employee or any other adult member of the School District community ~~and against~~ a student will be formally investigated.

As an initial course of action, if a ~~Complainant feels comfortable and safe~~~~student feels that s/he is being unlawfully discriminated/retaliated against and s/he is able and feels safe~~ doing so, the individual should tell or otherwise inform the ~~Respondent that~~~~person who engaged in~~ the allegedly discriminatory/retaliatory conduct ~~that it~~ is inappropriate and must stop. The ~~Complainant~~~~complaining individual~~ should address the alleged misconduct as soon after it occurs as possible. The COs are available to support and counsel ~~the Complainant~~~~individuals~~ when taking this initial step or to intervene on behalf of the individual if requested to

do so. A Complainant ~~An individual~~ who is uncomfortable or unwilling to directly approach the Respondent about the inappropriate conduct may file ~~inform the person who allegedly engaged in the unlawful conduct of his/her concerns is not prohibited from otherwise filing~~ an informal or a formal complaint. In addition, with regard to certain types of unlawful discrimination (e.g., sex discrimination), ~~such as sexual discrimination~~, the CO may advise against the use of the informal complaint process.

A Complainant who alleges unlawful discrimination/retaliation ~~A student who believes s/he has been unlawfully discriminated/retaliated against~~ may make an informal complaint, either orally or in writing: (1) to a teacher, other employee, or building administrator in the school the student attends; (2) to the Superintendent or other District-level employee; and/or (3) directly to one of the COs.

All informal complaints must be reported to one of the COs who will either facilitate an informal resolution as described below or appoint another individual to facilitate an informal resolution.

The School District's informal complaint procedure is designed to provide the Complainant ~~students who believe they are being unlawfully discriminated/retaliated against~~ with a range of options aimed at bringing about a prompt resolution of their concerns. Depending upon the nature of the Complainant's wishes ~~complaint and the wishes of the student claiming unlawful discrimination/retaliation~~, informal resolution may involve, but not be limited to, one (1) or more of the following:

Advising the Complainant ~~student~~ about how to communicate ~~his/her~~ concerns to the Respondent ~~person who allegedly engaged in the discriminatory/retaliatory behavior~~.

Distributing a copy of Policy 2260 – Nondiscrimination and Access to Equal Educational Opportunity ~~as a reminder~~ to the individuals in the school building or office where the Respondent ~~individual whose behavior is being questioned~~ works or attends.

If both parties agree, the CO may arrange and facilitate a meeting ~~or mediation between the Complainant and the Respondent to work out a mutual resolution~~ ~~between the student claiming discrimination/retaliation and the individual accused of engaging in the misconduct to work out a mutual resolution~~.

While there are no set time limits within which an informal complaint must be resolved, the CO or designee ~~is directed~~ ~~will exercise his/her authority~~ to attempt to resolve all informal complaints within fifteen (15) ~~business~~

days of receiving the informal complaint. ~~If the Complainant is dissatisfied with~~ ~~Parties who are dissatisfied with~~ ~~the results of~~ the informal complaint process, the Complainant may proceed to file a formal complaint. And, as stated above, ~~either party~~ ~~parties~~ may request that the informal process be terminated at any time to move to the formal complaint process.

Formal Complaint Procedure

If a complaint is not resolved through the informal complaint process, if one (1) of the parties requested that the informal complaint process be terminated to move to the formal complaint process, or if the Complainant, from the outset, elects to file a formal complaint, or the Compliance Officer(s) determines the allegations are not appropriate for resolution through the informal process, ~~student elects to file a formal complaint initially;~~ the formal complaint process shall be implemented.

The Complainant ~~A student who believes s/he has been subjected to unlawful discrimination/retaliation (hereinafter referred to as the "complainant")~~ may file a formal complaint, either orally or in writing, with a teacher, Principal, or other District ~~official~~ ~~employee~~ at the student's school, the CO, Superintendent, or another District ~~official~~ ~~employee~~ who works at another school or at the District level. Due to the sensitivity surrounding complaints of unlawful discrimination, timelines are flexible for initiating the complaint process; however, individuals should make every effort to file a formal complaint within thirty (30) ~~calendar~~ days after the conduct occurs. If a Complainant informs a teacher, Principal, or other District ~~official~~ ~~employee~~ at the student's school, Superintendent, or other District employee, either orally or in writing, about any complaint of discrimination/retaliation, that employee must report such information to the CO within two (2) ~~business~~ days.

Throughout the course of the process, the CO should keep the parties ~~reasonably~~ informed of the status of the investigation and the decision-making process.

All formal complaints must include the following information to the extent ~~known~~ ~~it is available~~: the identity of the ~~Respondent;~~ ~~individual believed to have engaged in, or be engaging in, the discriminatory/retaliatory~~ ~~conduct;~~ a detailed description of the facts upon which the complaint is based (~~i.e., when where, and what~~ ~~occurred~~); 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 CO shall ask for such details in an oral interview. Thereafter, the CO 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 CO will consider whether any action should be taken in the investigatory phase to protect the complainant from further discrimination or retaliation, including, but not limited to, a change of work assignment or schedule for the **Complainant and/or the Respondent**. ~~complainant and/or the person alleged to have engaged in the misconduct.~~ In making such a determination, the CO should consult the **Complainant to assess whether the individual agrees with** ~~complainant to assess his/her agreement to~~ the proposed action. If the **C**omplainant is unwilling to consent to the proposed change, the CO may still take whatever actions ~~deemed~~**s/he deems** appropriate in consultation with the Superintendent.

Within two (2) ~~business~~ days of receiving the complaint, the CO or designee will initiate a formal investigation to determine whether the complainant has been subjected to unlawful discrimination/retaliation. () **The A** Principal will not conduct an investigation unless directed to do so by the CO. **[END OF OPTION]**

Simultaneously, the CO will inform the **Respondent that a formal** ~~individual alleged to have engaged in the discriminatory or retaliatory 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 provided with a copy of any relevant policies and/or administrative guidelines, including Policy 2260 - Nondiscrimination and Access to Equal Educational Opportunity. The **R**espondent must also be informed of the opportunity to submit a written response to the complaint within five (5) business days.

Although certain cases may require additional time, the CO or designee will attempt to complete an investigation into the allegations of discrimination/retaliation within fifteen (15) business days of receiving the formal complaint. The investigation will include:

interviews with the complainant;

interviews with the respondent;

interviews with any other witnesses who may reasonably be expected to have any information relevant to the

allegations;

consideration of any documentation or other information presented by the complainant, respondent, or any other witness that is reasonably believed to be relevant to the allegations.

At the conclusion of the investigation, the CO or designee shall prepare and deliver a written report to the Superintendent that summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of unlawful discrimination/retaliation as provided in Board policy and State and Federal law as to whether the **Respondent has engaged in unlawful discrimination/retaliation of the Complainant**~~complainant has been subjected to unlawful discrimination/retaliation~~. The CO's recommendations must be based upon the totality of the circumstances, including the ages and maturity levels of those involved. In determining if unlawful discrimination or retaliation occurred, a preponderance of evidence standard will be used. () The CO may consult with the Board's legal counsel before finalizing the report to the Superintendent.

[END OF OPTION]

Absent extenuating circumstances, within five (5) business days of receiving the report of the CO or designee, the Superintendent must either issue a **written final** decision regarding whether the charges have 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 five (5) days. At the conclusion of the additional investigation, the Superintendent shall issue a final written decision as described above.

If the Superintendent determines the **Respondent engaged in unlawful discrimination/retaliation toward the Complainant, the Superintendent**~~complainant was subjected to unlawful discrimination/retaliation, s/he~~ must identify what corrective action will be taken to stop, remedy, and prevent the recurrence of the discrimination/retaliation. The corrective action should be reasonable, timely, age-appropriate and effective, and tailored to the specific situation.

[] 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 through a signed written statement to the Board within five (5) business days of the party's his/her receipt of the Superintendent's final decision.

In an attempt to resolve the complaint, the Board shall meet with the concerned parties and their representatives 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 Board reserves the right to investigate and resolve a complaint or report of unlawful discrimination/retaliation regardless of whether the student alleging the unlawful discrimination/retaliation pursues the complaint. The Board 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 Board or its designee.

The parties complainant may be represented, at their his/her own cost, at any of the above-described meetings/hearings.

The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies such as the filing of a complaint with the Office for Civil Rights, the filing of charges with local law enforcement, or the filing of a civil action in court. Use of this internal complaint process is not a prerequisite to the pursuit of other remedies.

~~The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies such as the filing of a complaint with the Office for Civil Rights or the filing of a court case. Use of this internal complaint procedure is not a prerequisite to the pursuit of other remedies.~~

Privacy/Confidentiality

The School District will employ all reasonable efforts to protect the rights of the complainant, the

respondent(s), 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 shall be maintained as confidential to the extent permitted by law. Confidentiality, however, cannot be guaranteed. **Additionally, the Respondent must be provided the Complainant's identity.**~~All complainants proceeding through the formal investigation process will be advised that their identities may be disclosed to the respondent(s).~~

During the course of a formal investigation, the CO or designee will instruct each person who is interviewed about the importance of maintaining confidentiality. Any individual who is interviewed as part of an investigation is expected not to disclose to third parties any information that **is learned or provided**~~s/he learns and/or provides~~ during the course of the investigation.

All records created as a part of an investigation of a complaint of discrimination/retaliation will be maintained by the CO in accordance with the Board's records retention policy. Any records that are considered student education records in accordance with the Family Educational Rights and Privacy Act or under Florida's student records law will be maintained in a manner consistent with the provisions of the Federal and State law.

Sanctions and Monitoring

The Board shall vigorously enforce its prohibitions against unlawful discrimination/retaliation by taking appropriate action reasonably calculated to stop and prevent further misconduct. 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 discrimination/retaliation is not substantiated, the Board may consider whether the alleged conduct nevertheless warrants discipline in accordance with other Board policies, consistent with the terms of the relevant collective bargaining agreement(s).

Where the Board 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.

Retaliation

Retaliation against a person who makes a report or files a complaint alleging unlawful discrimination/retaliation or participates as a witness in an investigation is prohibited. Neither the Board nor any other person may intimidate, threaten, coerce or interfere with any individual because the person opposed any act or practice made unlawful by any Federal or State civil rights law, or because that individual made a report, formal complaint, testified, assisted or participated or refused to participate in any manner in an investigation, proceeding, or hearing under those laws and/or this policy, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws and/or this policy.

Retaliation against a person for making a report of discrimination, filing a formal complaint, or participating in an investigation or meeting is a serious violation of this policy that can result in imposition of disciplinary sanctions/consequences and/or other appropriate remedies.

Formal complaints alleging retaliation may be filed according to the internal complaint process set forth above.

The exercise of rights protected under the First Amendment of the United States Constitution does not constitute retaliation prohibited under this policy.

~~Retaliation against a person who makes a report or files a complaint alleging unlawful discrimination, or participates as a witness in an investigation is prohibited. Specifically, the Board will not retaliate against, coerce, intimidate, threaten or interfere with any individual because the person opposed any act or practice made unlawful by any Federal or State civil rights law, or because that individual made a charge, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under those laws, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws.~~

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 the Board's policy and discrimination in general, will be age and content appropriate.

Retention of Investigatory Records and Materials

The Compliance Officer(s) is responsible for overseeing retention of all records that must be maintained pursuant to this policy. 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:

all written reports/allegations/complaints/statements;

narratives of all verbal reports/allegations/complaints/statements;

a narrative of all actions taken by District personnel;

any written documentation of actions taken by District personnel or individuals contracted or appointed by the Board to fulfill its responsibilities related to the investigation and/or the District's response to the alleged violation of this policy;

(+) written witness statements;

(+) narratives of, notes from, or audio, video, or digital recordings of witness statements;

(+) all documentary evidence;

(+) e-mails, texts, or social media posts pertaining to the investigation;

contemporaneous notes in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.) pertaining to the investigation;

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;

dated written determinations to the parties;

dated written descriptions of verbal notifications to the parties;

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

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;-

documentation of any supportive measures offered and/or provided to the Complainant and/or the Respondent, including no contact orders issued to both parties, the dates the no contact orders were issued, and the dates the parties acknowledged receipt of the no contact orders;

copies of the Board policy and/or procedures/guidelines used by the District to conduct the investigation, and any documents used by the District at the time of the alleged violation to communicate the Board's expectations to students and staff with respect to the subject of this policy (e.g., Student Codes of Conduct and/or Employee Handbooks);

copies of any documentation that memorializes any formal or informal resolutions to the alleged discrimination or harassment;

documentation of any training provided to District personnel related to this policy, including but not limited to, notification of the prohibitions and expectations of staff set forth in this policy and the role and responsibility of all District personnel involved in enforcing this policy, including their duty to report alleged

violations of this policy and/or conducting an investigation of an alleged violation of this policy.

[REMINDER: Documentation of training should be maintained regardless of whether there is an investigation of an alleged violation of this policy. It is best practice to maintain a log of all staff members who participate in a training, along with the date, time and location of the training, and a copy of the materials reviewed and/or presented during the training.]

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.

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Legal References

F.S. 553.501 et seq., Florida Americans with Disabilities Accessibility Implementation Act

F.S. 760.021

F.S. 760.08

F.S. 1000.05, Florida Educational Equity Act

F.S. 1002.311

F.A.C. 6A-19.001

Fourteenth Amendment, U.S. Constitution

20 U.S.C. Section 1681, Title IX of Education Amendment Act

20 U.S.C. Section 1701 et seq., Equal Educational Opportunities Act of 1974

20 U.S.C. Section 7905, Boy Scouts of America Equal Access Act

42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act

29 U.S.C. Section 794, Rehabilitation Act of 1973, as amended

42 U.S.C. Section 2000 et seq., Civil Rights Act of 1964

42 U.S.C. 12101 et seq., The Americans with Disabilities Act of 1990, as amended

42 U.S.C. 6101 et seq., Age Discrimination Act of 1975

34 C.F.R. Part 110 (7/27/93)

29 C.F.R. Part 1635

Vocational Education Program Guidelines for Eliminating Discrimination and Denial of Services, Department of Education, Office of Civil Rights, March 1979

Title III of the No Child Left Behind Act of 2001

Redline Draft

NONDISCRIMINATION AND ACCESS TO EQUAL EDUCATIONAL OPPORTUNITY

2260 - NONDISCRIMINATION AND ACCESS TO EQUAL EDUCATIONAL OPPORTUNITY

I. General Statement

Any form of discrimination or harassment can be devastating to an individual's academic progress, social relationships, and/or personal sense of self-worth. As such, the Board will not discriminate nor tolerate harassment in its educational programs or activities on the basis of race (including anti-Semitism [as defined in Bylaw 0100]), ethnicity, color, national origin, sex (including sexual orientation, gender 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").

The Board also does not discriminate on the basis of protected classes in its employment policies and practices as they relate to students.

Equal educational opportunities shall be available to all students, without regard to the protected classes, age (unless age is a factor necessary to the normal operation or the achievement of any legitimate objective of the program/activity), place of residence within the boundaries of the District, or social or economic background, to learn through the curriculum offered in this District. Educational programs shall be designed to meet the varying needs of all students.

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.

In order to achieve the aforesaid goal, the Superintendent or designee(s) shall:

A. Curriculum Content

Review current and proposed courses of study and textbooks to detect any bias based upon the protected classes; ascertaining whether or not supplemental materials, singly or taken as a whole, fairly depict the contribution of both genders, various races, ethnic groups, etc., toward the development of human society;

B. Staff Training

Develop an ongoing program of in-service training for school personnel designed to identify and solve problems of bias based upon the protected classes in all aspects of the program;

C. Student Access

1. Review current and proposed programs, activities, facilities, and practices to verify that all students have equal access thereto and are not segregated on the basis of the protected classes in any duty, work, play, classroom, or school practice, except as may be permitted under State and Federal laws and regulations;

2. Verify that facilities are made available for non-curricular student activities that are initiated by parents or other members of the community, including but not limited to any group that is officially affiliated with the Boy Scouts of America or any other youth group listed in Title 36 of the United States Code as a patriotic society, pursuant to Board Policy 7510 - Use of District Facilities;

~~In accordance with Florida statute, the Board may establish and maintain a single gender nonvocational class, extra-curricular activity, or school for elementary, middle, or high school students.~~

D. District Support

Verify that like aspects of the District's program receive like support as to staff size and compensation, purchase and maintenance of facilities and equipment, access to such facilities and equipment, and related matters; and

E. Student Assessment

Verify that tests, procedures, or guidance and counseling materials, which are designed to evaluate student progress, rate aptitudes, analyze personality, or in any manner establish or tend to establish a category by which a student may be judged, are not differentiated or stereotyped on the basis of the protected classes.

II. Definitions

Words used in this policy shall have those meanings defined herein; words not defined herein shall be construed according to their plain and ordinary meanings.

- A. **Complainant** is the individual who alleges, or is alleged, to have been subjected to unlawful discrimination/retaliation, regardless of whether the person files a formal complaint or is pursuing an informal resolution to the alleged discrimination/retaliation.
- B. **Respondent** is the individual who has been alleged to have engaged in unlawful discrimination/retaliation, regardless of whether the reporting party files a formal complaint or is seeking an informal resolution to the alleged discrimination/retaliation.
- C. **School District community** means students and Board employees (i.e., administrators, and professional and classified staff), as well as Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Board.
- D. **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 District property).
- E. **Day(s)**: Unless expressly stated otherwise, the term "day" or "days" as used in this policy means business day(s) (i.e., a day(s) that the Board office is open for normal operating hours, Monday – Friday, excluding State-recognized holidays).

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III. District Compliance Officer(s)

A. Compliance Officers

The Board designates the following individuals to serve as the District's "Compliance Officers" (also known as "Civil Rights Coordinators"; hereinafter referred to **individually** as the "CO" or **collectively** as the "COs").

1. For Employees:

~~1~~ The CO for Employees shall also serve as the District's Section 504 Compliance Officer/ADA Coordinator:

Director of Professional Standards & Labor Relations
District Compliance Officer – Employees
2700 Judge Fran Jamieson Way
Melbourne, Florida 32940
(321) 633-1000 Ext. 11265
pslr@brevardschools.org

2. For Students: The CO for Students shall also serve as the District's Section 504 Compliance Officer/ADA Coordinator and as the District Title IX Coordinator:

District Title IX Coordinator
District Compliance Officer – Students
2700 Judge Fran Jamieson Way
Melbourne, Florida 32940
(321) 633-1000, Ext. 11438
titleix@brevardschools.org

~~_____~~ **[END OF OPTION]**

[NOTE: School districts are advised to appoint both a male and a female CO 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 may also serve as the District's Section 504 Compliance Officer/ADA Coordinator and Title IX Coordinator. 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.]

(Name)

(School District Title)

(Telephone Number)

(E-mail Address)

(Name)

(School District Title)

(Telephone Number)

(E-mail Address)

-
_____ Section 504 Compliance Officer/ADA Coordinator () and Title IX Coordinator

~~The Board designates the following individuals to serve as the District's Section 504 Compliance Officer/ADA Coordinator () and Title IX Coordinator [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.]**~~

~~_____
(Name)~~

~~_____
(School District Title)~~

~~_____
(Telephone Number)~~

~~_____
(E-mail Address)~~

~~_____
(Name)~~

~~_____
(School District Title)~~

~~_____
(Telephone Number)~~

~~_____
(E-mail Address)~~

~~- _____
Title IX Coordinator~~

~~The Board designates the following individuals to serve as the District's Title IX Coordinator.~~

~~**[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.]**~~

~~_____
(Name)~~

~~_____
(School District Title)~~

~~_____
(Telephone Number)~~

~~_____
(E-mail Address)~~

(Name)

(School District Title)

(Telephone Number)

(E-mail Address)

B. Publication

The name(s), title(s), and contact information of ~~this~~/these individual(s) will be published annually:

1. ~~()~~ in the staff handbooks, ~~;~~
4. ~~in the Student Code of Conduct, () in the School District annual report to the public.~~
2. _____
3. _____ on the School District's website, ~~and;~~
~~() on each individual school's website.~~
~~() in the School District's calendar.~~
4. ~~() _____~~

C. Duties and Responsibilities

~~The CO(s), Section 504 Compliance Officer/ADA Coordinator(s), and Title IX Coordinator(s) are responsible for coordinating the District's efforts to comply with applicable Federal and State laws and regulations, including the District's duty to address in a prompt and equitable manner any inquiries or complaints regarding discrimination or denial of equal access. The CO(s) shall also verify that proper notice of nondiscrimination for Title II of the Americans with Disabilities Act (as amended), Title VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendment Act of 1972, Section 504 of the Rehabilitation Act of 1973 (as amended), the Age Discrimination Act of 1975, the Florida Civil Rights Act of 1992, the Florida Educational Equity Act, and/or their implementing regulations is provided to students, their parents, staff members, and the general public. A copy of each of the acts and regulations on which this notice is based may be found in the CO's office.~~

D. Students with Disabilities, Limited English Proficiency, or Other Needing Additional Services

1. The Superintendent ~~or designee(s)~~ shall annually attempt to identify children with disabilities, ages 3-22, who reside in the District but do not receive a public education. In addition, s/he shall establish procedures to identify students who are Limited English Proficient (LEP), including immigrant children and youth, to assess their ability to participate in District programs, and develop and administer

a program that meets the English language and academic needs of these students. This program shall include procedures for student placement, services, evaluation, and exit procedures and shall be designed to provide students with effective instruction that leads to academic achievement and timely acquisition of proficiency in English. As a part of this program, the District will evaluate the progress of students in achieving English language proficiency in the areas of listening, speaking, reading, and writing, on an annual basis (see AP 2260F). The Superintendent or designee(s) is responsible for verifying that a concentration of students who are Limited English Proficient (LEP) in one or more programs is not the result of discrimination.

2. The Board is committed to educating (or providing for the education of) each qualified person with a disability with persons who are not disabled to the maximum extent appropriate. Generally, the District will place a person with a disability in the regular educational environment unless it is demonstrated that the education of the person in the regular environment, even with the use of supplementary aids and services cannot be achieved satisfactorily. If the Board operates a separate class or facility that is identifiable as being for persons with disabilities, the facility, program, and activities and services must be comparable to the facilities, programs, and activities and services offered to students without a disability.

~~The Board is committed to educating (or providing for the education of) each qualified person with a disability with persons who are not disabled to the maximum extent appropriate. Generally, the District will place a person with a disability in the regular educational environment unless it is demonstrated that the education of the person in the regular environment, even with the use of supplementary aids and services cannot be achieved satisfactorily. If the Board operates a separate class or facility that is identifiable as being for persons with disabilities, the facility, program, and activities and services must be comparable to the facilities, programs, and activities and services offered to students without a disability.~~

IV. Reports and Complaints of Unlawful Discrimination and Retaliation

~~Students and Board employees are required, and all other members of the School District community and Third Parties are encouraged to promptly report incidents of unlawful discrimination and/or retaliation to a teacher, administrator, supervisor, or other District official so that the Board may address the conduct. Any teacher, administrator, supervisor, or other District employee or official who receives such a complaint shall file it with the CO within two (2) days.~~

- A. Students and Board employees are required, and all other members of the School District community and Third Parties are encouraged to promptly report incidents of unlawful discrimination and/or retaliation to a teacher, administrator, supervisor, or other District official so that the Board may address the conduct.
- B. All other members of the School District community, including students and Third Parties, are encouraged to promptly report incidents of unlawful discrimination and/or retaliation to a teacher, administrator, supervisor, or other District official so that the Board may address the conduct.
- C. Any teacher, administrator, supervisor, or other District employee or official who receives such a report or complaint shall file it with the CO within two (2) days.
- D. Members of the School District community, which includes including students or Third Parties, who believe they have been unlawfully discriminated/retaliated against are entitled to utilize the complaint process set forth below. Initiating a complaint, whether

formally or informally, will not adversely affect the Complainant's employment or participation in educational or extra-curricular programs. While there are no time limits for initiating complaints 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.

- E. If, during an investigation of reported act of bullying and/or harassment in accordance with Policy 5517.01 – Bullying and Harassment, the Principal or designee believes that the reported misconduct may have created a hostile learning environment and may have constituted unlawful discriminatory harassment based on sex, race, color, national origin, religion, or disability, the Principal or designee will report the act of bullying and/or harassment to one of the COs who shall investigate the allegation in accordance with this policy. **If the alleged harassment involves Sexual Harassment as defined by Policy 2266, the matter will be handled in accordance with the grievance process and procedures outlined in Policy 2266.** While the CO investigates the allegation, or while the matter is being addressed pursuant to Policy 2266, the Principal or designee shall suspend the Policy 5517.01 investigation to await the CO's written report or the determination or responsibility pursuant to Policy 2266. The CO shall keep the Principal or designee informed of the status of the Policy 5517 investigation and provide the Principal or designee with a copy of the resulting written report. Likewise, the Title IX Coordinator will provide the Principal or designee with the determination of responsibility that results from the Policy 2266 grievance process.
- F. The COs will be available during regular school/work hours to discuss concerns related to unlawful discrimination/retaliation. COs shall accept reports of unlawful discrimination/retaliation directly from any member of the School District community or a Third Party, or receive reports that are initially filed with another Board employee. Upon receipt of a report of alleged discrimination/retaliation, the CO will contact the Complainant and begin either an informal or formal complaint process (depending on the Complainant's request and the nature of the alleged discrimination/retaliation), or the CO will designate a specific individual to conduct such a process. The CO will provide a copy of this policy to the Complainant and the Respondent. In the case of a formal complaint, the CO will prepare recommendations for the Superintendent or oversee the preparation of such recommendations by a designee. All members of the School District community must report incidents of discrimination/retaliation that are reported to them to the CO within two (2) business days of learning of the incident/conduct.
- G. Any Board employee who directly observes unlawful discrimination/retaliation of a student is obligated, in accordance with this policy, to report such observations to one of the COs within two (2) business days. Additionally, any Board employee who observes an act of unlawful discrimination/retaliation is expected to intervene to stop the misconduct, unless circumstances make such an intervention dangerous, in which case the staff member should immediately notify other Board employees and/or local law enforcement officials, as necessary, to stop the misconduct. Thereafter, the CO or designee must contact the Complainant, if age eighteen (18) or older, or the Complainant's parents/guardians if the Complainant is under the age eighteen (18), within two (2) days to advise s/he/them of the Board's intent to investigate the alleged wrongdoing.
- H. Nothing contained in this policy is intended to interfere with the rights of any individual to pursue a complaint of unlawful discrimination or retaliation with the U.S. Department of Education's Office for Civil Rights ("OCR"), the Florida Commission on Human Relations ("FCHR"), or the Equal Employment Opportunity Commission ("EEOC").

V. Investigation and Complaint Procedure

Except for sex discrimination and/or Sexual Harassment that is covered by Policy 2266 - Nondiscrimination on the Basis of Sex in Education Programs or Activities, any student who alleges to have been subjected to unlawful discrimination or retaliation may seek resolution of the complaint through the procedures described below. The formal complaint procedures involve an investigation of the individual's claims of discrimination/retaliation and a process for rendering a decision regarding whether the charges are substantiated.

Due to the sensitivity surrounding complaints of unlawful discrimination or retaliation, timelines are flexible for initiating the complaint process; however, individuals are encouraged to file a complaint within thirty (30) days after the conduct occurs. Once the formal complaint process is begun, the investigation will be completed in a timely manner (ordinarily, within fifteen (15) business days of the complaint being received).

A. Informal Complaint Procedure

~~The goal of the informal complaint procedure is to promptly stop inappropriate behavior and facilitate resolution through an informal means, if possible. The informal complaint procedure is provided as a less formal option for a student who alleges unlawful discrimination/retaliation. This informal procedure is not required as a precursor to the filing of a formal complaint.~~

1. The goal of the informal complaint procedure is to promptly stop inappropriate behavior and facilitate resolution through an informal means, if possible. The informal complaint procedure is provided as a less formal option for a student who alleges unlawful discrimination/retaliation. This informal procedure is not required as a precursor to the filing of a formal complaint.
2. The informal process is only available in those circumstances where the Complainant and the Respondent mutually agree to participate in it.
3. Students who believe that they have been unlawfully discriminated/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.
4. All complaints involving a District employee or any other adult member of the School District community and a student will be formally investigated.
5. As an initial course of action, if a Complainant feels comfortable and safe doing so, the individual should tell or otherwise inform the Respondent that the allegedly discriminatory/retaliatory conduct is inappropriate and must stop. The Complainant should address the alleged misconduct as soon after it occurs as possible. The COs are available to support and counsel the Complainant when taking this initial step or to intervene on behalf of the individual if requested to do so. A Complainant who is uncomfortable or unwilling to directly approach the Respondent about the inappropriate conduct may file an informal or a formal complaint. In addition, with regard to certain types of unlawful discrimination (e.g., sex discrimination), the CO may advise against the use of the informal complaint process.
6. A Complainant who alleges unlawful discrimination/retaliation may make an informal complaint, either orally or in writing: (1) to a teacher, other employee, or building administrator in the school the student attends; (2) to the Superintendent or other District-level employee; and/or (3) directly to one of the COs.

7. All informal complaints must be reported to one of the COs who will either facilitate an informal resolution as described below or appoint another individual to facilitate an informal resolution.
8. The School District's informal complaint procedure is designed to provide the Complainant with a range of options aimed at bringing about a prompt resolution of their concerns. Depending upon the nature of the Complainant's wishes informal resolution may involve, but not be limited to, one (1) or more of the following:
 - a. Advising the Complainant about how to communicate concerns to the Respondent.
 - b. Distributing a copy of Policy 2260 – Nondiscrimination and Access to Equal Educational Opportunity to the individuals in the school building or office where the Respondent works or attends.
 - c. If both parties agree, the CO may arrange and facilitate a meeting or mediation between the Complainant and the Respondent to work out a mutual resolution.
9. While there are no set time limits within which an informal complaint must be resolved, the CO or designee is directed to attempt to resolve all informal complaints within fifteen (15) days of receiving the informal complaint. If the Complainant is dissatisfied with the informal complaint process, the Complainant may proceed to file a formal complaint. And, as stated above, either party may request that the informal process be terminated at any time to move to the formal complaint process.

~~Advising the Complainant about how to communicate concerns to the Respondent.~~

~~Distributing a copy of Policy 2260 – Nondiscrimination and Access to Equal Educational Opportunity to the individuals in the school building or office where the Respondent works or attends.~~

~~If both parties agree, the CO may arrange and facilitate a meeting or mediation between the Complainant and the Respondent to work out a mutual resolution. While there are no set time limits within which an informal complaint must be resolved, the CO or designee is directed to attempt to resolve all informal complaints within fifteen (15) days of receiving the informal complaint. If the Complainant is dissatisfied with the informal complaint process, the Complainant may proceed to file a formal complaint. And, as stated above, either party 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 (1) of the parties requested that the informal complaint process be terminated to move to the formal complaint process, or if the Complainant, from the outset, elects to file a formal complaint, or the Compliance Officer(s) determines the allegations are not appropriate for resolution through the informal process, the formal complaint process shall be implemented.~~

1. If a complaint is not resolved through the informal complaint process, if one (1) of the parties requested that the informal complaint process be terminated to move to the formal complaint process, or if the Complainant, from the outset, elects to file a formal complaint, or the Compliance Officer(s) determines the allegations

are not appropriate for resolution through the informal process, the formal complaint process shall be implemented.

2. The Complainant may file a formal complaint, either orally or in writing, with a teacher, Principal, or other District official at the student's school, the CO, Superintendent, or another District official who works at another school or at the District level. Due to the sensitivity surrounding complaints of unlawful discrimination, timelines are flexible for initiating the complaint process; however, individuals should make every effort to file a formal complaint within thirty (30) days after the conduct occurs. If a Complainant informs a teacher, Principal, or other District official at the student's school, Superintendent, or other District employee, either orally or in writing, about any complaint of discrimination/retaliation, that employee must report such information to the CO within two (2) days.
3. Throughout the course of the process, the CO should keep the parties reasonably informed of the status of the investigation and the decision-making process.
4. All formal complaints must include the following information to the extent known: the identity of the Respondent; a detailed description of the facts upon which the complaint is based (i.e., when where, and what occurred); a list of potential witnesses; and the resolution sought by the complainant.
5. If the complainant is unwilling or unable to provide a written statement including the information set forth above, the CO shall ask for such details in an oral interview. Thereafter, the CO 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.
6. Upon receiving a formal complaint, the CO will consider whether any action should be taken in the investigatory phase to protect the complainant from further discrimination or retaliation, including, but not limited to, a change of work assignment or schedule for the Complainant and/or the Respondent. In making such a determination, the CO should consult the Complainant to assess whether the individual agrees with the proposed action. If the Complainant is unwilling to consent to the proposed change, the CO may still take whatever actions deemed appropriate in consultation with the Superintendent or designee.
7. Within two (2) days of receiving the complaint, the CO or designee will initiate a formal investigation to determine whether the complainant has been subjected to unlawful discrimination/retaliation. ~~(-) The Principal will not conduct an investigation unless directed to do so by the CO. [END OF OPTION]~~
8. Simultaneously, the CO will inform the Respondent that a formal complaint has been received. The respondent will be informed about the nature of the allegations and provided with a copy of any relevant policies and/or administrative guidelines, including Policy 2260 - Nondiscrimination and Access to Equal Educational Opportunity. The Respondent must also be informed of the opportunity to submit a written response to the complaint within five (5) business days.
9. Although certain cases may require additional time, the CO or designee will attempt to complete an investigation into the allegations of discrimination/retaliation within fifteen (15) business days of receiving the formal

complaint. The investigation will include:

- a. interviews with the complainant;
- 1.a.
- b. interviews with the respondent;
- c. interviews with any other witnesses who may reasonably be expected to have any information relevant to the allegations; and
- d. consideration of any documentation or other information presented by the complainant, respondent, or any other witness that is reasonably believed to be relevant to the allegations.

10. At the conclusion of the investigation, the CO or designee shall prepare and deliver a written report to the Superintendent or designee that summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of unlawful discrimination/retaliation as provided in Board policy and State and Federal law as to whether the Respondent has engaged in unlawful discrimination/retaliation of the Complainant. The CO's recommendations must be based upon the totality of the circumstances, including the ages and maturity levels of those involved. In determining if unlawful discrimination or retaliation occurred, a preponderance of evidence standard will be used. (-)The CO may consult with the Board's legal counsel before finalizing the report to the Superintendent or designee. **FEND OF OPTION!**

11. Absent extenuating circumstances, within five (5) business days of receiving the report of the CO or designee, the Superintendent or designee must either issue a written decision regarding whether the charges have been substantiated or request further investigation. A copy of the Superintendent or designee's final decision will be delivered to both the complainant and the respondent.

12. If the Superintendent or designee requests additional investigation, the Superintendent or designee must specify the additional information that is to be gathered, and such additional investigation must be completed within five (5) days. At the conclusion of the additional investigation, the Superintendent or designee shall issue a final written decision as described above.

13. If the Superintendent or designee determines the Respondent engaged in unlawful discrimination/retaliation toward the Complainant, the Superintendent or designee must identify what corrective action will be taken to stop, remedy, and prevent the recurrence of the discrimination/retaliation. The corrective action should be reasonable, timely, age-appropriate and effective, and tailored to the specific situation.

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(-)The decision of the Superintendent or designee shall be final.

14. **OR**

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(-)A complainant or respondent who is dissatisfied with the final decision of the Superintendent may appeal through a signed written statement to the Board within five (5) business days of the party's receipt of the Superintendent's decision.

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~~In an attempt to resolve the complaint, the Board shall meet with the concerned parties and their representatives 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.~~

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~~**[END OF OPTIONS]**~~

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- ~~15. The Board reserves the right to investigate and resolve a complaint or report of unlawful discrimination/retaliation regardless of whether the student alleging the unlawful discrimination/retaliation pursues the complaint. The Board 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 Board or its designee.~~
 - ~~16. The parties may be represented, at their own cost, at any of the above-described meetings/hearings.~~
 - ~~17. The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies such as the filing of a complaint with the Office for Civil Rights, the filing of charges with local law enforcement, or the filing of a civil action in court. Use of this internal complaint process is not a prerequisite to the pursuit of other remedies.~~

I. Privacy/Confidentiality

The School District will employ all reasonable efforts to protect the rights of the complainant, the respondent(s), 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 shall be maintained as confidential to the extent permitted by law. Confidentiality, however, cannot be guaranteed. Additionally, the Respondent must be provided the Complainant's identity.

During the course of a formal investigation, the CO or designee will instruct each person who is interviewed about the importance of maintaining confidentiality. Any individual who is interviewed as part of an investigation is expected not to disclose to third parties any information that is learned or provided during the course of the investigation.

All records created as a part of an investigation of a complaint of discrimination/retaliation will be maintained by the CO or designee in accordance with the Board's records retention policy. Any records that are considered student education records in accordance with the Family Educational Rights and Privacy Act or under Florida's student records law will be maintained in a manner consistent with the provisions of the Federal and State law.

II. Sanctions and Monitoring

The Board shall vigorously enforce its prohibitions against unlawful discrimination/retaliation by taking appropriate action reasonably calculated to stop and prevent further misconduct. 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 or designee 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 discrimination/retaliation is not substantiated, the Board may consider whether the alleged conduct nevertheless warrants

discipline in accordance with other Board policies, consistent with the terms of the relevant collective bargaining agreement(s).

Where the Board 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 or designee shall be reasonably calculated to end such conduct, prevent its reoccurrence, and remedy its effects.

III. Retaliation

Retaliation against a person who makes a report or files a complaint alleging unlawful discrimination/retaliation or participates as a witness in an investigation is prohibited. Neither the Board nor any other person may intimidate, threaten, coerce or interfere with any individual because the person opposed any act or practice made unlawful by any Federal or State civil rights law, or because that individual made a report, formal complaint, testified, assisted or participated or refused to participate in any manner in an investigation, proceeding, or hearing under those laws and/or this policy, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws and/or this policy.

Retaliation against a person for making a report of discrimination, filing a formal complaint, or participating in an investigation or meeting is a serious violation of this policy that can result in imposition of disciplinary sanctions/consequences and/or other appropriate remedies.

Formal complaints alleging retaliation may be filed according to the internal complaint process set forth above.

The exercise of rights protected under the First Amendment of the United States Constitution does not constitute retaliation prohibited under this policy.

IV. 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 the Board's policy and discrimination in general, will be age and content appropriate.

V. Retention of Investigatory Records and Materials

~~The Compliance Officer(s) is responsible for overseeing retention of all records that must be maintained pursuant to this policy. 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. The COs are responsible for overseeing retention of all records that must be maintained pursuant to this policy. 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:~~

- ~~1. all written reports/allegations/complaints/statements;~~
- ~~2. narratives of all verbal reports/allegations/complaints/statements;~~

3. a narrative of all actions taken by District personnel;
4. any written documentation of actions taken by District personnel or individuals contracted or appointed by the Board to fulfill its responsibilities related to the investigation and/or the District's response to the alleged violation of this policy;
5. written witness statements;
6. narratives of, notes from, or audio, video, or digital recordings of witness statements;
7. all documentary evidence;
8. e-mails, texts, or social media posts pertaining to the investigation;
9. contemporaneous notes in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.) pertaining to the investigation;
10. 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;
11. dated written determinations to the parties;
12. dated written descriptions of verbal notifications to the parties;
13. 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;
14. 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;
15. documentation of any supportive measures offered and/or provided to the Complainant and/or the Respondent, including no contact orders issued to both parties, the dates the no contact orders were issued, and the dates the parties acknowledged receipt of the no contact orders;
16. copies of the Board policy and/or procedures/guidelines used by the District to conduct the investigation, and any documents used by the District at the time of the alleged violation to communicate the Board's expectations to students and staff with respect to the subject of this policy (e.g., Student Codes of Conduct and/or Employee Handbooks);
17. copies of any documentation that memorializes any formal or informal resolutions to the alleged discrimination or harassment;
18. documentation of any training provided to District personnel related to this policy, including but not limited to, notification of the prohibitions and expectations of staff set forth in this policy and the role and responsibility of all District personnel involved in enforcing this policy, including their duty to report alleged violations of this policy and/or conducting an investigation of an alleged violation of this policy. **REMINDER: Documentation of training should be maintained regardless of whether there is an investigation of an alleged violation of this policy. It is best practice to maintain a log of all staff members who**

~~participate in a training, along with the date, time and location of the training, and a copy of the materials reviewed and/or presented during the training.]~~

~~B. 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).~~

~~C. 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 or by law.~~

~~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.~~

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Legal References:

F.S. 553.501 et seq., Florida Americans with Disabilities Accessibility Implementation Act

F.S. 760.021

F.S. 760.08

F.S. 1000.05, Florida Educational Equity Act

F.S. 1002.311

F.A.C. 6A-19.001

Fourteenth Amendment, U.S. Constitution

20 U.S.C. Section 1681, Title IX of Education Amendment Act

20 U.S.C. Section 1701 et seq., Equal Educational Opportunities Act of 1974

20 U.S.C. Section 7905, Boy Scouts of America Equal Access Act

42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act

29 U.S.C. Section 794, Rehabilitation Act of 1973, as amended

42 U.S.C. Section 2000 et seq., Civil Rights Act of 1964

42 U.S.C. 12101 et seq., The Americans with Disabilities Act of 1990, as amended


42 U.S.C. 6101 et seq., Age Discrimination Act of 1975

34 C.F.R. Part 110 (7/27/93)

29 C.F.R. Part 1635

Vocational Education Program Guidelines for Eliminating Discrimination and Denial of Services, Department of Education, Office of Civil Rights, March 1979

Title III of the No Child Left Behind Act of 2001

Adoption Date:
Classification:
Revised Dates: 

**Clean
Version**

NONDISCRIMINATION AND ACCESS TO EQUAL EDUCATIONAL OPPORTUNITY**2260 - NONDISCRIMINATION AND ACCESS TO EQUAL EDUCATIONAL OPPORTUNITY****I. General Statement**

Any form of discrimination or harassment can be devastating to an individual's academic progress, social relationships, and/or personal sense of self-worth. As such, the Board will not discriminate nor tolerate harassment in its educational programs or activities on the basis of race (including anti-Semitism [as defined in Bylaw 0100]), ethnicity, color, national origin, sex (including sexual orientation, gender 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").

The Board also does not discriminate on the basis of protected classes in its employment policies and practices as they relate to students.

Equal educational opportunities shall be available to all students, without regard to the protected classes, age (unless age is a factor necessary to the normal operation or the achievement of any legitimate objective of the program/activity), place of residence within the boundaries of the District, or social or economic background, to learn through the curriculum offered in this District. Educational programs shall be designed to meet the varying needs of all students.

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.

In order to achieve the aforesaid goal, the Superintendent or designee(s) shall:

A. Curriculum Content

Review current and proposed courses of study and textbooks to detect any bias based upon the protected classes; ascertaining whether or not supplemental materials, singly or taken as a whole, fairly depict the contribution of both genders, various races, ethnic groups, etc., toward the development of human society;

B. Staff Training

Develop an ongoing program of in-service training for school personnel designed to identify and solve problems of bias based upon the protected classes in all aspects of the program;

C. Student Access

1. Review current and proposed programs, activities, facilities, and practices to verify that all students have equal access thereto and are not segregated on the basis of the protected classes in any duty, work, play, classroom, or school practice, except as may be permitted under State and Federal laws and regulations;
2. Verify that facilities are made available for non-curricular student activities that are initiated by parents or other members of the community, including but not limited to any group that is officially affiliated with the Boy Scouts of America or any other youth group listed in Title 36 of the United States Code as a patriotic society, pursuant to Board Policy 7510 - Use of District Facilities;

D. District Support

Verify that like aspects of the District's program receive like support as to staff size and compensation, purchase and maintenance of facilities and equipment, access to such facilities and equipment, and related matters; and

E. Student Assessment

Verify that tests, procedures, or guidance and counseling materials, which are designed to evaluate student progress, rate aptitudes, analyze personality, or in any manner establish or tend to establish a category by which a student may be judged, are not differentiated or stereotyped on the basis of the protected classes.

II. **Definitions**

Words used in this policy shall have those meanings defined herein; words not defined herein shall be construed according to their plain and ordinary meanings.

- A. **Complainant** is the individual who alleges, or is alleged, to have been subjected to unlawful discrimination/retaliation, regardless of whether the person files a formal complaint or is pursuing an informal resolution to the alleged discrimination/retaliation.
- B. **Respondent** is the individual who has been alleged to have engaged in unlawful discrimination/retaliation, regardless of whether the reporting party files a formal complaint or is seeking an informal resolution to the alleged discrimination/retaliation.
- C. **School District community** means students and Board employees (i.e., administrators, and professional and classified staff), as well as Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Board.
- D. **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 District property).
- E. **Day(s)**: Unless expressly stated otherwise, the term "day" or "days" as used in this policy means business day(s) (i.e., a day(s) that the Board office is open for normal operating hours, Monday – Friday, excluding State-recognized holidays).

III. **District Compliance Officers**

A. Compliance Officers

The Board designates the following individuals to serve as the District's "Compliance Officers" (also known as "Civil Rights Coordinators"; hereinafter referred to individually as the "CO" or collectively as the "COs").

1. For Employees: The CO for Employees shall also serve as the District's Section 504 Compliance Officer/ADA Coordinator:

Director of Professional Standards & Labor Relations
 District Compliance Officer – Employees
 2700 Judge Fran Jamieson Way
 Melbourne, Florida 32940

(321) 633-1000 Ext. 11265
pslr@brevardschools.org

2. For Students: The CO for Students shall also serve as the District's Section 504 Compliance Officer/ADA Coordinator and as the District Title IX Coordinator:

District Title IX Coordinator
District Compliance Officer – Students
2700 Judge Fran Jamieson Way
Melbourne, Florida 32940
(321) 633-1000, Ext. 11438
titleix@brevardschools.org

B. Publication

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

1. in the staff handbooks,
2. in the Student Code of Conduct,
3. on the School District's website, and
4. on each individual school's website.

C. Duties and Responsibilities

The COs are responsible for coordinating the District's efforts to comply with applicable Federal and State laws and regulations, including the District's duty to address in a prompt and equitable manner any inquiries or complaints regarding discrimination or denial of equal access. The COs shall also verify that proper notice of nondiscrimination for Title II of the Americans with Disabilities Act (as amended), Title VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendment Act of 1972, Section 504 of the Rehabilitation Act of 1973 (as amended), the Age Discrimination Act of 1975, the Florida Civil Rights Act of 1992, the Florida Educational Equity Act, and/or their implementing regulations is provided to students, their parents, staff members, and the general public. A copy of each of the acts and regulations on which this notice is based may be found in the CO's office.

D. Students with Disabilities, Limited English Proficiency, or Other Needing Additional Services

1. The Superintendent or designee(s) shall annually attempt to identify children with disabilities, ages 3-22, who reside in the District but do not receive a public education. In addition, s/he shall establish procedures to identify students who are Limited English Proficient (LEP), including immigrant children and youth, to assess their ability to participate in District programs, and develop and administer a program that meets the English language and academic needs of these students. This program shall include procedures for student placement, services, evaluation, and exit procedures and shall be designed to provide students with effective instruction that leads to academic achievement and timely acquisition of proficiency in English. As a part of this program, the District will evaluate the progress of students in achieving English language proficiency in the areas of listening, speaking, reading, and writing, on an annual basis. The Superintendent

or designee(s) is responsible for verifying that a concentration of students who are Limited English Proficient (LEP) in one or more programs is not the result of discrimination.

2. The Board is committed to educating (or providing for the education of) each qualified person with a disability with persons who are not disabled to the maximum extent appropriate. Generally, the District will place a person with a disability in the regular educational environment unless it is demonstrated that the education of the person in the regular environment, even with the use of supplementary aids and services cannot be achieved satisfactorily. If the Board operates a separate class or facility that is identifiable as being for persons with disabilities, the facility, program, and activities and services must be comparable to the facilities, programs, and activities and services offered to students without a disability.

IV. Reports and Complaints of Unlawful Discrimination and Retaliation

- A. Board employees are *required* to promptly report incidents of unlawful discrimination and/or retaliation to a teacher, administrator, supervisor, or other District official so that the Board may address the conduct.
- B. All other members of the School District community, including students and Third Parties, are *encouraged* to promptly report incidents of unlawful discrimination and/or retaliation to a teacher, administrator, supervisor, or other District official so that the Board may address the conduct.
- C. Any teacher, administrator, supervisor, or other District employee or official who receives such a report or complaint shall file it with the CO within two (2) days.
- D. Members of the School District community, including students or Third Parties, who believe they have been unlawfully discriminated/retaliated against are entitled to utilize the complaint process set forth below. Initiating a complaint, whether formally or informally, will not adversely affect the Complainant's employment or participation in educational or extra-curricular programs. While there are no time limits for initiating complaints 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.
- E. If, during an investigation of reported act of bullying and/or harassment in accordance with Policy 5517.01 – Bullying and Harassment, the Principal or designee believes that the reported misconduct may have created a hostile learning environment and may have constituted unlawful discriminatory harassment based on sex, race, color, national origin, religion, or disability, the Principal or designee will report the act of bullying and/or harassment to one of the COs who shall investigate the allegation in accordance with this policy. **If the alleged harassment involves Sexual Harassment as defined by Policy 2266, the matter will be handled in accordance with the grievance process and procedures outlined in Policy 2266.** While the CO investigates the allegation, or while the matter is being addressed pursuant to Policy 2266, the Principal or designee shall suspend the Policy 5517.01 investigation to await the CO's written report or the determination or responsibility pursuant to Policy 2266. The CO shall keep the Principal or designee informed of the status of the Policy 5517 investigation and provide the Principal or designee with a copy of the resulting written report. Likewise, the Title IX Coordinator will provide the Principal or designee with the determination of responsibility that results from the Policy 2266 grievance process.

- F. The COs will be available during regular school/work hours to discuss concerns related to unlawful discrimination/retaliation. COs shall accept reports of unlawful discrimination/retaliation directly from any member of the School District community or a Third Party, or receive reports that are initially filed with another Board employee. Upon receipt of a report of alleged discrimination/retaliation, the CO will contact the Complainant and begin either an informal or formal complaint process (depending on the Complainant's request and the nature of the alleged discrimination/retaliation), or the CO will designate a specific individual to conduct such a process. The CO will provide a copy of this policy to the Complainant and the Respondent. In the case of a formal complaint, the CO will prepare recommendations for the Superintendent or oversee the preparation of such recommendations by a designee. All members of the School District community must report incidents of discrimination/retaliation that are reported to them to the CO within two (2) business days of learning of the incident/conduct.
- G. Any Board employee who directly observes unlawful discrimination/retaliation of a student is obligated, in accordance with this policy, to report such observations to one of the COs within two (2) business days. Additionally, any Board employee who observes an act of unlawful discrimination/retaliation is expected to intervene to stop the misconduct, unless circumstances make such an intervention dangerous, in which case the staff member should immediately notify other Board employees and/or local law enforcement officials, as necessary, to stop the misconduct. Thereafter, the CO or designee must contact the Complainant, if age eighteen (18) or older, or the Complainant's parents/guardians if the Complainant is under the age eighteen (18), within two (2) days to advise s/he/them of the Board's intent to investigate the alleged wrongdoing.
- H. Nothing contained in this policy is intended to interfere with the rights of any individual to pursue a complaint of unlawful discrimination or retaliation with the U.S. Department of Education's Office for Civil Rights ("OCR"), the Florida Commission on Human Relations ("FCHR"), or the Equal Employment Opportunity Commission ("EEOC").

V. **Investigation and Complaint Procedure**

Except for sex discrimination and/or Sexual Harassment that is covered by Policy 2266 - Nondiscrimination on the Basis of Sex in Education Programs or Activities, any student who alleges to have been subjected to unlawful discrimination or retaliation may seek resolution of the complaint through the procedures described below. The formal complaint procedures involve an investigation of the individual's claims of discrimination/retaliation and a process for rendering a decision regarding whether the charges are substantiated.

Due to the sensitivity surrounding complaints of unlawful discrimination or retaliation, timelines are flexible for initiating the complaint process; however, individuals are encouraged to file a complaint within thirty (30) days after the conduct occurs. Once the formal complaint process is begun, the investigation will be completed in a timely manner (ordinarily, within fifteen (15) business days of the complaint being received).

A. Informal Complaint Procedure

1. The goal of the informal complaint procedure is to promptly stop inappropriate behavior and facilitate resolution through an informal means, if possible. The informal complaint procedure is provided as a less formal option for a student who alleges unlawful discrimination/retaliation. This informal procedure is not required as a precursor to the filing of a formal complaint.
2. The informal process is only available in those circumstances where the Complainant and the Respondent mutually agree to participate in it.

3. Students who believe that they have been unlawfully discriminated/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.
4. All complaints involving a District employee or any other adult member of the School District community and a student will be formally investigated.
5. As an initial course of action, if a Complainant feels comfortable and safe doing so, the individual should tell or otherwise inform the Respondent that the allegedly discriminatory/retaliatory conduct is inappropriate and must stop. The Complainant should address the alleged misconduct as soon after it occurs as possible. The COs are available to support and counsel the Complainant when taking this initial step or to intervene on behalf of the individual if requested to do so. A Complainant who is uncomfortable or unwilling to directly approach the Respondent about the inappropriate conduct may file an informal or a formal complaint. In addition, with regard to certain types of unlawful discrimination (e.g., sex discrimination), the CO may advise against the use of the informal complaint process.
6. A Complainant who alleges unlawful discrimination/retaliation may make an informal complaint, either orally or in writing: (1) to a teacher, other employee, or building administrator in the school the student attends; (2) to the Superintendent or other District-level employee; and/or (3) directly to one of the COs.
7. All informal complaints must be reported to one of the COs who will either facilitate an informal resolution as described below or appoint another individual to facilitate an informal resolution.
8. The School District's informal complaint procedure is designed to provide the Complainant with a range of options aimed at bringing about a prompt resolution of their concerns. Depending upon the nature of the Complainant's wishes informal resolution may involve, but not be limited to, one (1) or more of the following:
 - a. Advising the Complainant about how to communicate concerns to the Respondent.
 - b. Distributing a copy of Policy 2260 – Nondiscrimination and Access to Equal Educational Opportunity to the individuals in the school building or office where the Respondent works or attends.
 - c. If both parties agree, the CO may arrange and facilitate a meeting or mediation between the Complainant and the Respondent to work out a mutual resolution.
9. While there are no set time limits within which an informal complaint must be resolved, the CO or designee is directed to attempt to resolve all informal complaints within fifteen (15) days of receiving the informal complaint. If the Complainant is dissatisfied with the informal complaint process, the Complainant may proceed to file a formal complaint. And, as stated above, either party may request that the informal process be terminated at any time to move to the formal complaint process.

B. Formal Complaint Procedure

1. If a complaint is not resolved through the informal complaint process, if one (1) of the parties requested that the informal complaint process be terminated to move to the formal complaint process, or if the Complainant, from the outset, elects to file a formal complaint, or the Compliance Officer(s) determines the allegations are not appropriate for resolution through the informal process, the formal complaint process shall be implemented.
2. The Complainant may file a formal complaint, either orally or in writing, with a teacher, Principal, or other District official at the student's school, the CO, Superintendent, or another District official who works at another school or at the District level. Due to the sensitivity surrounding complaints of unlawful discrimination, timelines are flexible for initiating the complaint process; however, individuals should make every effort to file a formal complaint within thirty (30) days after the conduct occurs. If a Complainant informs a teacher, Principal, or other District official at the student's school, Superintendent, or other District employee, either orally or in writing, about any complaint of discrimination/retaliation, that employee must report such information to the CO within two (2) days.
3. Throughout the course of the process, the CO should keep the parties reasonably informed of the status of the investigation and the decision-making process.
4. All formal complaints must include the following information to the extent known: the identity of the Respondent; a detailed description of the facts upon which the complaint is based (i.e., when where, and what occurred); a list of potential witnesses; and the resolution sought by the complainant.
5. If the complainant is unwilling or unable to provide a written statement including the information set forth above, the CO shall ask for such details in an oral interview. Thereafter, the CO 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.
6. Upon receiving a formal complaint, the CO will consider whether any action should be taken in the investigatory phase to protect the complainant from further discrimination or retaliation, including, but not limited to, a change of work assignment or schedule for the Complainant and/or the Respondent. In making such a determination, the CO should consult the Complainant to assess whether the individual agrees with the proposed action. If the Complainant is unwilling to consent to the proposed change, the CO may still take whatever actions deemed appropriate in consultation with the Superintendent or designee.
7. Within two (2) days of receiving the complaint, the CO or designee will initiate a formal investigation to determine whether the complainant has been subjected to unlawful discrimination/retaliation.
8. Simultaneously, the CO will inform the Respondent that a formal complaint has been received. The respondent will be informed about the nature of the allegations and provided with a copy of any relevant policies and/or administrative guidelines, including Policy 2260 - Nondiscrimination and Access to Equal Educational Opportunity. The Respondent must also be informed of the opportunity to submit a written response to the complaint within five (5) business days.

9. Although certain cases may require additional time, the CO or designee will attempt to complete an investigation into the allegations of discrimination/retaliation within fifteen (15) business 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; and
 - d. consideration of any documentation or other information presented by the complainant, respondent, or any other witness that is reasonably believed to be relevant to the allegations.
10. At the conclusion of the investigation, the CO or designee shall prepare and deliver a written report to the Superintendent or designee that summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of unlawful discrimination/retaliation as provided in Board policy and State and Federal law as to whether the Respondent has engaged in unlawful discrimination/retaliation of the Complainant. The CO's recommendations must be based upon the totality of the circumstances, including the ages and maturity levels of those involved. In determining if unlawful discrimination or retaliation occurred, a preponderance of evidence standard will be used. The CO may consult with the Board's legal counsel before finalizing the report to the Superintendent or designee.
11. Absent extenuating circumstances, within five (5) business days of receiving the report of the CO or designee, the Superintendent or designee must either issue a written decision regarding whether the charges have been substantiated or request further investigation. A copy of the Superintendent or designee's final decision will be delivered to both the complainant and the respondent.
12. If the Superintendent or designee requests additional investigation, the Superintendent or designee must specify the additional information that is to be gathered, and such additional investigation must be completed within five (5) days. At the conclusion of the additional investigation, the Superintendent or designee shall issue a final written decision as described above.
13. If the Superintendent or designee determines the Respondent engaged in unlawful discrimination/retaliation toward the Complainant, the Superintendent or designee must identify what corrective action will be taken to stop, remedy, and prevent the recurrence of the discrimination/retaliation. The corrective action should be reasonable, timely, age-appropriate and effective, and tailored to the specific situation.
14. The decision of the Superintendent or designee shall be final.
15. The Board reserves the right to investigate and resolve a complaint or report of unlawful discrimination/retaliation regardless of whether the student alleging the unlawful discrimination/retaliation pursues the complaint. The Board 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 Board or its designee.

16. The parties may be represented, at their own cost, at any of the above-described meetings/hearings.
17. The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies such as the filing of a complaint with the Office for Civil Rights, the filing of charges with local law enforcement, or the filing of a civil action in court. Use of this internal complaint process is not a prerequisite to the pursuit of other remedies.

I. Privacy/Confidentiality

The School District will employ all reasonable efforts to protect the rights of the complainant, the respondent(s), 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 shall be maintained as confidential to the extent permitted by law. Confidentiality, however, cannot be guaranteed. Additionally, the Respondent must be provided the Complainant's identity.

During the course of a formal investigation, the CO or designee will instruct each person who is interviewed about the importance of maintaining confidentiality. Any individual who is interviewed as part of an investigation is expected not to disclose to third parties any information that is learned or provided during the course of the investigation.

All records created as a part of an investigation of a complaint of discrimination/retaliation will be maintained by the CO or designee in accordance with the Board's records retention policy. Any records that are considered student education records in accordance with the Family Educational Rights and Privacy Act or under Florida's student records law will be maintained in a manner consistent with the provisions of the Federal and State law.

II. Sanctions and Monitoring

The Board shall vigorously enforce its prohibitions against unlawful discrimination/retaliation by taking appropriate action reasonably calculated to stop and prevent further misconduct. 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 or designee 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 discrimination/retaliation is not substantiated, the Board may consider whether the alleged conduct nevertheless warrants discipline in accordance with other Board policies, consistent with the terms of the relevant collective bargaining agreement(s).

Where the Board 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 or designee shall be reasonably calculated to end such conduct, prevent its reoccurrence, and remedy its effects.

III. Retaliation

Retaliation against a person who makes a report or files a complaint alleging unlawful discrimination/retaliation or participates as a witness in an investigation is prohibited. Neither the Board nor any other person may intimidate, threaten, coerce or interfere with any individual because the person opposed any act or practice made unlawful by any Federal or State civil rights law, or because that individual made a report, formal complaint, testified, assisted or

participated or refused to participate in any manner in an investigation, proceeding, or hearing under those laws and/or this policy, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws and/or this policy.

Retaliation against a person for making a report of discrimination, filing a formal complaint, or participating in an investigation or meeting is a serious violation of this policy that can result in imposition of disciplinary sanctions/consequences and/or other appropriate remedies.

Formal complaints alleging retaliation may be filed according to the internal complaint process set forth above.

The exercise of rights protected under the First Amendment of the United States Constitution does not constitute retaliation prohibited under this policy.

IV. **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 the Board's policy and discrimination in general, will be age and content appropriate.

V. **Retention of Investigatory Records and Materials**

- A. The COs are responsible for overseeing retention of all records that must be maintained pursuant to this policy. 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:
1. all written reports/allegations/complaints/statements;
 2. narratives of all verbal reports/allegations/complaints/statements;
 3. a narrative of all actions taken by District personnel;
 4. any written documentation of actions taken by District personnel or individuals contracted or appointed by the Board to fulfill its responsibilities related to the investigation and/or the District's response to the alleged violation of this policy;
 5. written witness statements;
 6. narratives of, notes from, or audio, video, or digital recordings of witness statements;
 7. all documentary evidence;
 8. e-mails, texts, or social media posts pertaining to the investigation;
 9. contemporaneous notes in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.) pertaining to the investigation;
 10. 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;
11. dated written determinations to the parties;
 12. dated written descriptions of verbal notifications to the parties;
 13. 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;
 14. 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;
 15. documentation of any supportive measures offered and/or provided to the Complainant and/or the Respondent, including no contact orders issued to both parties, the dates the no contact orders were issued, and the dates the parties acknowledged receipt of the no contact orders;
 16. copies of the Board policy and/or procedures/guidelines used by the District to conduct the investigation, and any documents used by the District at the time of the alleged violation to communicate the Board's expectations to students and staff with respect to the subject of this policy (e.g., Student Codes of Conduct and/or Employee Handbooks);
 17. copies of any documentation that memorializes any formal or informal resolutions to the alleged discrimination or harassment;
 18. documentation of any training provided to District personnel related to this policy, including but not limited to, notification of the prohibitions and expectations of staff set forth in this policy and the role and responsibility of all District personnel involved in enforcing this policy, including their duty to report alleged violations of this policy and/or conducting an investigation of an alleged violation of this policy.
- B. 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).
- C. 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 or by law.

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Legal References:

- F.S. 553.501 et seq., Florida Americans with Disabilities Accessibility Implementation Act
- F.S. 760.021
- F.S. 760.08
- F.S. 1000.05, Florida Educational Equity Act
- F.S. 1002.311

F.A.C. 6A-19.001

Fourteenth Amendment, U.S. Constitution

20 U.S.C. Section 1681, Title IX of Education Amendment Act

20 U.S.C. Section 1701 et seq., Equal Educational Opportunities Act of 1974

20 U.S.C. Section 7905, Boy Scouts of America Equal Access Act

42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act

29 U.S.C. Section 794, Rehabilitation Act of 1973, as amended

42 U.S.C. Section 2000 et seq., Civil Rights Act of 1964

42 U.S.C. 12101 et seq., The Americans with Disabilities Act of 1990, as amended

42 U.S.C. 6101 et seq., Age Discrimination Act of 1975

34 C.F.R. Part 110 (7/27/93)

29 C.F.R. Part 1635

Vocational Education Program Guidelines for Eliminating Discrimination and Denial of Services, Department of Education, Office of Civil Rights, March 1979

Title III of the No Child Left Behind Act of 2001

Adoption Date:
Classification:
Revised Dates: