



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

Policy Number:	8141
Title of Policy:	Mandatory Reporting of Misconduct by Employees
Cabinet Member:	Beth Thedy, Ed.D., Deputy Superintendent/Chief Human Resources Officer
Purpose of Revisions:	The purpose of the proposed revisions to the 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 – 10/11/21 • Work Session – 10/19/21 • Rule Development Workshop – 11/16/21 • School Board Meeting Information – 11/16/21 • School Board Meeting Approval – 12/8/21 • Effective Date – upon approval
Summary of Proposed Policy Revisions:	<ul style="list-style-type: none"> • This policy is being revised for technical changes only. • These proposed revisions encompass the suggested language from NEOLA.
Specific Authority:	F.S. 1001.10, 1012.795, 1001.51
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**

8141 - MANDATORY REPORTING OF MISCONDUCT BY CERTIFICATED EMPLOYEES

The Board recognizes its responsibilities to effectively address employee misconduct and, where determined appropriate, to provide a measured disciplinary response consistent with due process. In addition, with respect to certificated and/or certificated professional staff members, matters of misconduct, including conviction of certain crimes enumerated by law and/or conduct which is unbecoming to the teaching profession, will be reported by the Superintendent to the Florida Department of Education.

Reporting Professional Misconduct

District staff are required to report to the Superintendent or the Superintendent's designee alleged misconduct by District employees which affects the health, safety, or welfare of a student.

If the alleged misconduct to be reported is regarding the Superintendent, the District employee shall report the alleged misconduct to the Board attorney. Failure to report such alleged misconduct shall result in appropriate disciplinary action (F.S. 1012.796(d)). The report shall be made in accordance with Policy 9130 - Public Complaints.

The Superintendent shall investigate any allegation of misconduct by District employees which affects the health, safety, or welfare of a student, and shall report the alleged misconduct to the Department of Education as required in F.S. 1012.796, 1001.51(12)(b), 1001.42(7)(b).

Staff alleged to have committed such misconduct shall be reassigned pending the outcome of a misconduct investigation.

Filing a Complaint with the Department of Education

If it is alleged that an instructional staff member or administrator has committed a violation as provided in F.S. 1012.795, and defined by rule of the State Board of Education, the Superintendent shall file with the Department of Education a legally sufficient complaint within thirty (30) days after the date on which the subject matter of the complaint came to the attention of the Superintendent. A complaint is legally sufficient if it contains ultimate facts that show a violation has occurred as provided in F.S. 1012.795 and defined by rule of the State Board of Education. The Superintendent shall include all known information relating to the complaint with the filing of the complaint. This paragraph does not limit or restrict the power and duty of the Department of Education to investigate complaints, regardless of the District's untimely filing, or failure to file, complaints and follow-up reports (F.S. 1012.796(e)).

Report of Resignation or Termination

If the Superintendent determines that misconduct by an instructional staff member or an administrator who holds a certificate issued by the Florida Department of Education affects the health, safety, or welfare of a student and the misconduct warrants termination, the staff member may resign or be terminated and the Superintendent must report the misconduct to the

Department of Education in the format prescribed by the Department. The Department shall maintain each report of misconduct as a public record in the instructional personnel's certification files (F.S. 1012.796(d)).

Transmittal of False or Incorrect Report

The Superintendent shall not knowingly sign and transmit to any State official a report that the Superintendent knows to be false or incorrect.

Pursuant to F.S. 1001.42(7), a Board member may not knowingly sign and transmit to any State official a report of alleged misconduct by instructional personnel or school administrators which affects the health, safety, or welfare of a student which the Board member knows to be false or incorrect.

Requirement of Disclosure of Employee Misconduct

The Board, Superintendent, or any other District employee, may not enter into a confidentiality agreement regarding terminated or dismissed instructional personnel or school administrators, or personnel or administrators who resign in lieu of termination, based in whole or in part on misconduct that affects the health, safety, or welfare of a student, and may not provide instructional personnel with employment references or discuss the personnel's performance with prospective employers in another educational setting, without disclosing the personnel's or administrators' misconduct. Any part of an agreement or contract that has the purpose or effect of concealing misconduct by instructional personnel which affects the health, safety, or welfare of a student is void, is contrary to public policy, and may not be enforced (F.S. 1001.42(6)).

Posting Requirements

Pursuant to F.S. 1006.061(2), this policy shall be posted in a prominent place at each school site and on each school's internet website, so that the policy and procedures for reporting alleged misconduct by instructional personnel or school administrators which affects the health, safety, or welfare of a student; the contact person to whom the report is made; and the penalties imposed on instructional personnel or school administrators who fail to report suspected or actual child abuse or alleged misconduct by other instructional personnel or school administrators is effectively communicated to all.

F.S. 1001.42(6), 1001.42(7)(b), 1001.51(12)(b), 1006.061(2), 1012.795

F.S. 1012.796, 1012.796(d), 1012.796(e)

Adopted 4/28/09

Neola Template



Book: Florida Policies for Update

Section: Vol. 22, No. 1, Sept. 2021

Title: REVISED POLICY - VOL. 22, NO. 1 - MANDATORY REPORTING OF MISCONDUCT

Number: po8141

REVISED POLICY - VOL. 22, NO. 1

8141 - MANDATORY REPORTING OF MISCONDUCT

The School Board recognizes its responsibilities to effectively address employee misconduct and, where determined appropriate, to provide a measured disciplinary response consistent with due process.

For purposes of this policy, the term "employee(s)" [] includes instructional personnel, educational support personnel, administrative personnel, and school officers as those terms are defined in F.S. 1012.01 [END OF OPTION] [] all employees of the District and school officers as defined in F.S. 1012.01 [END OF OPTION].

Reporting Misconduct

All employees are required to report to the Superintendent alleged misconduct by District employees which affects the health, safety, or welfare of a student, including misconduct that involves engaging in or soliciting sexual, romantic, or lewd conduct with a student, including misconduct that involves engaging in or soliciting sexual, romantic, or lewd conduct with a student.

[] In matters involving alleged misconduct, no other employee will be designated to receive such a report.

If the alleged misconduct to be reported is regarding the Superintendent, the District employee shall report the alleged misconduct to the Board attorney. Failure to report such alleged misconduct shall result in appropriate disciplinary action (F.S. 1012.796(d)). The report shall be made in accordance with Policy 9130 - Public Complaints.

The Superintendent shall investigate any allegation of misconduct by District employees which affects the health, safety, or welfare of a student, including misconduct that involves engaging in or soliciting sexual, romantic, or lewd conduct with a student, and shall report the alleged misconduct to the Department of Education as required in F.S. 1012.796, 1001.51(12)(b), 1001.42(7)(b), and must notify the Florida Department of Education of the result of the investigation and whether the misconduct warranted termination, regardless of whether the person resigned or was terminated before the conclusion of the investigation.

The Superintendent shall report to law enforcement agencies with jurisdiction any misconduct that would result in disqualification from educator certification or employment as set forth in F.S. 1012.315.

Staff alleged to have committed such misconduct shall be reassigned pending the outcome of a misconduct investigation.

Parental Notification of Alleged Misconduct

Within thirty (30) days of the date on which the District learns of misconduct by () instructional personnel, educational support personnel, and school administrators [END OF OPTION] () any employee of the District [END OF OPTION] that~~which~~ affects the health, safety, or welfare of a student, including misconduct that involves engaging in or soliciting sexual, romantic, lewd conduct with a student, or any conduct that would result in disqualification from educator certification or employment as provided in F.S. 1012.315, the parent of a student who was subjected to or affected by such misconduct shall receive written notification informing the parent of the following:

- the alleged misconduct, including which allegations have been substantiated, if any;

- whether the District reported the misconduct to the FLDOE if required by F.S. 1012.796;

- the sanctions imposed by the District against the employee, if any; and

- support the District will make available to the student subjected to or affected by the misconduct.

Parental notification shall be provided consistent with the provisions set forth in Policy 1590, Policy 3590, and Policy 4590, including the statutory requirement that school administrators, educational support personnel, and instructional staff members be provided ten (10) days notice before the disclosure of derogatory material.

Filing a Complaint with the Department of Education

If it is alleged that an instructional staff member, **educational support personnel**, or administrator has committed a violation as provided in F.S. 1012.795, and defined by rule of the State Board of Education, the Superintendent shall file with the Department of Education a legally sufficient complaint within thirty (30) days after the date on which the subject matter of the complaint came to the attention of the Superintendent, regardless of whether the subject of the complaint is still an employee of the District. A complaint is legally sufficient if it contains ultimate facts that show a violation has occurred as provided in F.S. 1012.795 and defined by rule of the State Board of Education. The Superintendent shall include all known information relating to the complaint with the filing of the complaint. This paragraph does not limit or restrict the power and duty of the Department of Education to investigate complaints, regardless of the District's untimely filing, or failure to file, complaints and follow-up reports (F.S. 1012.796(e)).

Report of Resignation or Termination

If the Superintendent determines that a legally sufficient complaint of misconduct by an instructional staff member or an administrator who holds a certificate issued by the Florida Department of Education, **or by any educational support personnel that** affects the health, safety, or welfare of a student and the misconduct warrants termination, the staff member may resign or be terminated and the Superintendent must immediately report the misconduct to the Department of Education in the format prescribed by the Department even if the instructional staff member, **educational support personnel**, or administrator resigns or is terminated before the conclusion of the District's investigation. The Department shall maintain each report of misconduct as a public record in the instructional personnel's certification files (F.S. 1012.796(d)).

Transmittal of False or Incorrect Report

The Superintendent shall not knowingly sign and transmit to any State official a report that the Superintendent knows to be false or incorrect.

The superintendent may not knowingly sign and transmit to any State official a report that the superintendent knows to be false or incorrect or knowingly fail to complete the investigation of any allegation of misconduct,

that affects the health, safety, or welfare of a student, that would be a violation of F.S. 800.101 or that would be a disqualifying offense under F.S. 1012.315, or any allegation of sexual misconduct with a student. The superintendent may not knowingly fail to report the alleged misconduct to the Florida Department of Education as required in F.S. 1012.796, or knowingly fail to report misconduct to the law enforcement agencies with jurisdiction over the conduct pursuant to Board policy under F.S. 1001.42.

Pursuant to F.S. 1001.42(7), a Board member may not knowingly sign and transmit to any State official a report of alleged misconduct by instructional personnel, educational support personnel, or school administrators which affects the health, safety, or welfare of a student which the Board member knows to be false or incorrect.

Requirement of Disclosure of Employee Misconduct

The Board, Superintendent, or any other District employee, may not enter into a confidentiality agreement regarding terminated or dismissed instructional personnel, educational support personnel, or school administrators, or personnel or administrators who resign in lieu of termination, based in whole or in part on misconduct that affects the health, safety, or welfare of a student, and may not provide instructional or educational support personnel, or administrators with employment references or discuss the personnel's performance with prospective employers in another educational setting, without disclosing the personnel's or administrators' misconduct. Any part of an agreement or contract that has the purpose or effect of concealing misconduct by instructional or educational support personnel or administrators that which affects the health, safety, or welfare of a student is void, is contrary to public policy, and may not be enforced (F.S. 1001.42(6)).

Posting Requirements

Pursuant to F.S. 1006.061(2), this policy shall be posted in a prominent place at each school site and on each school's internet website, so that the policy and procedures for reporting alleged misconduct by instructional or educational support personnel or school administrators that which affects the health, safety, or welfare of a student; the contact person to whom the report is made; and the penalties imposed on instructional or educational support personnel or school administrators who fail to report suspected or actual child abuse or alleged misconduct by other instructional or educational support personnel or school administrators is effectively communicated to all.

Liability

Employees who report misconduct which affects the health, safety, or welfare of a student may be entitled to certain statutory liability protections as set forth in F.S. 39.203 and 768.095.

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Legal References

F.S. 1001.42(6)

F.S. 1001.42(7)(b)

F.S. 1001.51(12)(b)

F.S. 1006.061(2)

F.S. 1012.795

F.S. 1012.796

F.S. 1012.796(d)

F.S. 1012.796(e)

Redline Draft

8141 - MANDATORY REPORTING OF MISCONDUCT BY CERTIFICATED EMPLOYEES

The Board recognizes its responsibilities to effectively address employee misconduct and, where determined appropriate, to provide a measured disciplinary response consistent with due process. For purposes of this policy, the term "employee(s)" includes instructional personnel, educational support personnel, administrative personnel, and school officers as those terms are defined in F.S. 1012.01. In addition, with respect to certificated and/or certificated professional staff members, matters of misconduct, including conviction of certain crimes enumerated by law and/or conduct which is unbecoming to the teaching profession, will be reported by the Superintendent to the Florida Department of Education.

A. Reporting Professional Misconduct

1. District staff All employees are required to report to the Superintendent or the Superintendent's designee alleged misconduct by District employees which affects the health, safety, or welfare of a student, including misconduct that involves engaging in or soliciting sexual, romantic, or lewd conduct with a student. In matters involving alleged misconduct, no other employee will be designated to receive such a report.

2. If the alleged misconduct to be reported is regarding the Superintendent, the District employee shall report the alleged misconduct to the Board attorney. Failure to report such alleged misconduct shall result in appropriate disciplinary action (F.S. 1012.796(d)). The report shall be made in accordance with Policy 91303210 - Public Complaints Standards of Ethical Conduct; Policy 3139 – Employee Misconduct; or Policy 5517 – Anti-Harassment; Compliance Officers; Complaint and Investigation Procedures.

3. The Superintendent shall investigate any allegation of misconduct by District employees which affects the health, safety, or welfare of a student, including misconduct that involves engaging in or soliciting sexual, romantic, or lewd conduct with a student, and shall report the alleged misconduct to the Department of Education as required in F.S. 1012.796, 1001.51(12)(b), 1001.42(7)(b), and must notify the Florida Department of Education of the result of the investigation and whether the misconduct warranted termination, regardless of whether the person resigned or was terminated before the conclusion of the investigation.-

4. Staff alleged to have committed such misconduct shall be reassigned pending the outcome of a misconduct investigation.

B. Parental Notification of Alleged Misconduct

1. Within thirty (30) days of the date on which the District learns of misconduct by any employee of the District that affects the health, safety, or welfare of a student, including misconduct that involves engaging in or soliciting sexual, romantic or lewd conduct with a student, or any conduct that would result in disqualification from educator certification or employment as provided in F.S. 1012.315, the parent of a student who was subject to or affected by such misconduct shall receive written notification informing the parent of the following:

a. —the alleged misconduct, including which allegations have been substantiated, if any;

b. —whether the District reported the misconduct to FLDOE if required by F.S. 1012.796;

c. —the sanctions imposed by the District against the employee, if any; and

d. support the District will make available to the student subjected to or affected by the misconduct.

~~_____ support the District will make available to the student subjected to or affected by the misconduct.~~

2. Parental notification shall be provided consistent with the provisions set forth in Policy 3590, including the statutory requirement that school administrators, educational support personnel, and instructional staff members be provided ten (10) days' notice before the disclosure of derogatory material.

C. Filing a Complaint with the Department of Education

1. If it is alleged that an instructional staff member, educational support personnel, or administrator has committed a violation as provided in F.S. 1012.795, and defined by rule of the State Board of Education, the Superintendent shall file with the Department of Education a legally sufficient complaint within thirty (30) days after the date on which the subject matter of the complaint came to the attention of the Superintendent. A complaint is legally sufficient if it contains ultimate facts that show a violation has occurred as provided in F.S. 1012.795 and defined by rule of the State Board of Education. The Superintendent shall include all known information relating to the complaint with the filing of the complaint. This paragraph does not limit or restrict the power and duty of the Department of Education to investigate complaints, regardless of the District's untimely filing, or failure to file, complaints and follow-up reports (F.S. 1012.796(e)).

D. Report of Resignation or Termination

~~—If the Superintendent determines that misconduct by an instructional staff member or an administrator who holds a certificate issued by the Florida Department of Education, or by any educational support personnel that affects the health, safety, or welfare of a student and the misconduct warrants termination, the staff member may resign or be terminated, and the Superintendent must report the misconduct to the~~

1. Department of Education in the format prescribed by the Department even if the employee is terminated before the conclusion of the District's investigation. The Department shall maintain each report of misconduct as a public record in the instructional personnel's certification files (F.S. 1012.796(d)).

E. Transmittal of False or Incorrect Report

1. ~~The Superintendent shall not knowingly sign and transmit to any State official a report that the Superintendent knows to be false or incorrect.~~The Superintendent may not knowingly sign and transmit to any State official a report that the superintendent knows to be false or incorrect or knowingly fail to complete the investigation of any allegation of misconduct that affects the health, safety, or welfare of a student, that would be a violation of F.S. 800.101 or that would be a

disqualifying offense under F.S. 1012.315, or any allegation of sexual misconduct with a student. The Superintendent may not knowingly fail to report the alleged misconduct to the Florida Department of Education as required in F.S. 1012.796, or knowingly fail to report misconduct to the law enforcement agencies with jurisdiction over the conduct pursuant to Board Policy under F.S. 1001.42.

2. Pursuant to F.S. 1001.42(7), a Board member may not knowingly sign and transmit to any State official a report of alleged misconduct by instructional personnel, educational support personnel, or school administrators which affects the health, safety, or welfare of a student which the Board member knows to be false or incorrect.

F. Requirement of Disclosure of Employee Misconduct

1. The Board, Superintendent, or any other District employee, may not enter into a confidentiality agreement regarding terminated or dismissed instructional personnel, educational support personnel, or school administrators, or personnel or administrators who resign in lieu of termination, based in whole or in part on misconduct that affects the health, safety, or welfare of a student, and may not provide instructional personnel or educational support personnel or administrators with employment references or discuss the personnel's performance with prospective employers in another educational setting, without disclosing the personnel's or administrators' misconduct. Any part of an agreement or contract that has the purpose or effect of concealing misconduct by instructional or educational support personnel or administrators that ~~which~~ affects the health, safety, or welfare of a student is void, is contrary to public policy, and may not be enforced (F.S. 1001.42(6)).

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H. Liability

1. Employees who report misconduct that affects the health, safety, or welfare of a student may be entitled to certain statutory liability protections as set forth in F.S. 39.203 and 768.095.

F.S. 1001.42(6), 1001.42(7)(b), 1001.51(12)(b), 1006.061(2), 1012.795
F.S. 1012.796, 1012.796(d), 1012.796(e)

Adopted 4/28/09

Revised

**Clean
Version**

8141 - MANDATORY REPORTING OF MISCONDUCT BY EMPLOYEES

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2. If the alleged misconduct to be reported is regarding the Superintendent, the District employee shall report the alleged misconduct to the Board attorney. Failure to report such alleged misconduct shall result in appropriate disciplinary action (F.S. 1012.796(d)). The report shall be made in accordance with Policy 3210 - Standards of Ethical Conduct; Policy 3139 – Employee Misconduct; or Policy 5517 – Anti-Harassment; Compliance Officers; Complaint and Investigation Procedures.
3. The Superintendent shall investigate any allegation of misconduct by District employees which affects the health, safety, or welfare of a student, including misconduct that involves engaging in or soliciting sexual, romantic, or lewd conduct with a student, and shall report the alleged misconduct to the Department of Education as required in F.S. 1012.796, 1001.51(12)(b), 1001.42(7)(b), and must notify the Florida Department of Education of the result of the investigation and whether the misconduct warranted termination, regardless of whether the person resigned or was terminated before the conclusion of the investigation.
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1. Within thirty (30) days of the date on which the District learns of misconduct by any employee of the District that affects the health, safety, or welfare of a student, including misconduct that involves engaging in or soliciting sexual, romantic or lewd conduct with a student, or any conduct that would result in disqualification from educator certification or employment as provided in F.S. 1012.315, the parent of a student who was subject to or affected by such misconduct shall receive written notification informing the parent of the following:
 - a. the alleged misconduct, including which allegations have been substantiated, if any;
 - b. whether the District reported the misconduct to FLDOE if required by F.S. 1012.796;
 - c. the sanctions imposed by the District against the employee, if any; and
 - d. support the District will make available to the student subjected to or affected by the misconduct.

2. Parental notification shall be provided consistent with the provisions set forth in Policy 3590, including the statutory requirement that school administrators, educational support personnel, and instructional staff members be provided ten (10) days' notice before the disclosure of derogatory material.

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2. Pursuant to F.S. 1001.42(7), a Board member may not knowingly sign and transmit to any State official a report of alleged misconduct by instructional personnel, educational support personnel, or school administrators which affects the health, safety, or welfare of a student which the Board member knows to be false or incorrect.

F. Requirement of Disclosure of Employee Misconduct

1. The Board, Superintendent, or any other District employee, may not enter into a confidentiality agreement regarding terminated or dismissed instructional personnel, educational support personnel, or school administrators, or personnel or administrators who resign in lieu of termination, based in whole or in part on misconduct that affects the health, safety, or welfare of a student, and may not provide instructional personnel or educational support personnel or administrators with

employment references or discuss the personnel's performance with prospective employers in another educational setting, without disclosing the personnel's or administrators' misconduct. Any part of an agreement or contract that has the purpose or effect of concealing misconduct by instructional or educational support personnel or administrators that affects the health, safety, or welfare of a student is void, is contrary to public policy, and may not be enforced (F.S. 1001.42(6)).

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1. Employees who report misconduct that affects the health, safety, or welfare of a student may be entitled to certain statutory liability protections as set forth in F.S. 39.203 and 768.095.

F.S. 1001.42(6), 1001.42(7)(b), 1001.51(12)(b), 1006.061(2), 1012.795
F.S. 1012.796, 1012.796(d), 1012.796(e)

Adopted 4/28/09

Revised