



## POLICY 3.05

5-A I recommend that the Board approve development of the proposed revised Policy 3.05, entitled "Equal Employment Opportunity Policy."

[Contact: Darron Davis, PX 48953 and Sonia Hill-Howard, PX 48873.]

### Development

### CONSENT ITEM

- This proposed revision will:
  - Reaffirm the School Board's commitment to equal employment opportunities for all persons in conformity with applicable law and related board policies, including in particular, the policy on nondiscrimination.
  - Assure the recruitment, employment, training, promotion and retention of qualified staff without discrimination, while making efforts to provide diversity based on race, ethnicity and gender.
  - Establish procedures for the reporting, the investigation, and the resolution of equal employment complaints in the School District.
- This revision allows for the superintendent/designee to maintain records by sex, race and ethnicity of employees and to provide an annual report to the Board regarding same.
- This revision will also update statutory references.

## POLICY 3.05

### EQUAL EMPLOYMENT OPPORTUNITY POLICY

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3 1. **Purpose.** The School Board recognizes that eliminating all forms of unlawful  
4 discrimination, harassment and retaliation in the workplace will create a better work  
5 and learning environment for employees and students. Thus, the purpose of this  
6 policy is to:
  - 7 a. Reaffirm the School Board's commitment to equal employment opportunities  
8 for all persons in conformity with applicable law and related board policies,  
9 including in particular, the policy on nondiscrimination.
  - 10 b. Assure the recruitment, employment, training, promotion and retention of  
11 qualified staff without discrimination, while making efforts to provide diversity  
12 based on race, ethnicity and gender.
  - 13 c. Establish procedures for the reporting, the investigation, and the resolution of  
14 equal employment complaints in the School District.
- 15 2. **Scope.** This policy is applicable to all applicants and employees of the School  
16 District.
- 17 3. **Policy.** It is the policy of The School Board of Palm Beach County to prohibit  
18 discrimination on the basis of religion, race, ethnicity, national origin, color, sex,  
19 marital status, age, parental status, or disability, sexual orientation or gender  
20 identity or expression or any other characteristic protected by federal and state law  
21 in all employment practices of the district. Such employment practices include, but  
22 are not limited to, the recruitment, hiring, compensation, assignment, training,  
23 promotion, transfers, retention, demotion, discipline or dismissal of employees. As  
24 used in this policy, discrimination means treating an individual adversely in  
25 employment decisions based on religion, race, ethnicity, national origin, color, sex,  
26 marital status, age, parental status, disability, sexual orientation or gender identity  
27 or expression or any other characteristic protected by federal and state law.
  - 28 a. The board is committed to the principle of fostering diversity in order to enrich  
29 the educational experiences of all students through exposure to adults from  
30 many backgrounds, thereby providing educational settings that promote an  
31 understanding of diversity and contribute to the quality exchange of ideas  
32 inherent in the educational setting.
  - 33 b. The board is also committed to re-mediating any significant under-  
34 representation on the basis of a particular race, ethnicity, national origin or  
35 sex, within appropriate district job categories, if it exists and where there have

36 been past employment practices that adversely affected current opportunities  
37 of individuals based on race, ethnicity, national origin or sex.

38 4. **Annual Notification to the Board.**

39 a. Content of Report. To assist the board in monitoring implementation of this  
40 policy, the superintendent/designee shall maintain records by sex, race and  
41 ethnicity of employees. Annually, the superintendent/designee shall provide  
42 diversity data based on the composition of the workforce in accordance with  
43 EEOC guidelines.

44 b. Maintenance of Records. States are required to report aggregated data to the  
45 U.S. Department of Education based on the following categories:  
46 Hispanic/Latino of any race, American Indian or Alaskan Native, Asian, Black  
47 or African-American, native Hawaiian or other Pacific Islanders, White, and  
48 two or more races. The Superintendent/designee shall maintain District  
49 records consistent with the requirements of the U.S. Department of Education.

50 ~~4. To assist the board in monitoring implementation of this policy, the~~  
51 ~~superintendent/designee shall maintain records and shall submit to the board an~~  
52 ~~annual report. The report shall provide the following information:~~

53 ~~a. The composition of the entire workforce, in accordance with U.S. Equal~~  
54 ~~Employment Opportunity Commission ("EEOC") Guidelines found in 29 Code~~  
55 ~~of Federal Regulations ("CFR") 1607~~

56 ~~b. The composition of the entire workforce, broken down by job category, in~~  
57 ~~accordance with EEOC Guidelines.~~

58 ~~c. The composition of the workforce of each school and department, in~~  
59 ~~accordance with EEOC Guidelines.~~

60 ~~d. The composition of the workforce of each school and department, broken~~  
61 ~~down by job category, in accordance with EEOC Guidelines.~~

62 ~~e. The composition of the eligible applicant pool, where such pools exist, for each~~  
63 ~~job category and job position, in accordance with EEOC Guidelines.~~

64 ~~f. The composition of the group of hired applicants as a whole and for each job~~  
65 ~~category and job position, in accordance with EEOC Guidelines.~~

66 ~~g. The composition of the group of employees, who were promoted, in~~  
67 ~~accordance with EEOC Guidelines.~~

68 ~~5. For the purpose of this policy, the EEOC Guidelines as specified in 29 CFR~~  
69 ~~1607.4(B) referred to herein require employers to maintain records by sex and by~~

70 the following races and ethnic groups:

71 a. ~~American Indians (including Alaskan natives);~~

72 b. ~~Asians (including Pacific Islanders);~~

73 c. ~~Blacks (Negroes, African Americans);~~

74 d. ~~Hispanic (including persons of Mexican, Puerto Rican, Cuban, Central or~~  
75 ~~South American or other Spanish origin or culture regardless of race);~~

76 e. ~~Whites (Caucasians other than Hispanics); and~~

77 f. ~~Blacks (Haitian Americans)~~

78 5. **Disparity Study.** Upon receipt of the above data in section 4 herein, the board  
79 may authorize an outside consultant to conduct a disparity study to determine if  
80 there is any statistically significant under- representation in specific job categories  
81 on the basis of race, ethnicity, national origin or sex and that may suggest that  
82 employment practices adversely affect the current employment opportunities of  
83 these individuals and, further, to identify any job opportunity barriers that may exist.  
84 Based on this study, the superintendent may ~~shall~~ develop any strategies  
85 necessary for improving district performance diversity.

86 6. **Complaints of Discrimination.** ~~Grievance Procedure for Filing Complaints of~~  
87 ~~Discrimination as Defined in Section 1.~~

88 a. Supervisors and managers are responsible for assuring that no employee is  
89 subjected to conduct that constitutes discrimination as defined in Section 3 4  
90 herein.

91 b. Any employee, who believes that he/she has been the subject of  
92 discrimination as defined in Section 3 4 herein by anyone at the district or by  
93 anyone who does business with the district, should, and is encouraged to,  
94 bring the matter to the attention of his/her supervisor except when the  
95 supervisor is the offending party or to the Equal Employment Opportunity  
96 Coordinator ~~to the superintendent's designee for equal employment~~  
97 ~~opportunity pursuant to procedures outlined in Policy 3.31.~~

98 c. Any employee who is aware of behavior toward another employee which they  
99 feel may constitute discrimination as defined in Section 3 4 herein shall also  
100 report the matter to their supervisor or the to the Equal Employment  
101 Opportunity Coordinator ~~superintendent's designee for equal employment~~  
102 ~~opportunity, 3300 Forest Hill Blvd., West Palm Beach, FL 33406.~~

103 d. If warranted, a prompt and thorough investigation of the alleged discrimination

104 will be conducted and appropriate corrective action will be taken. Complaints  
105 of discrimination will be treated as confidential throughout the investigation.  
106 Once the investigation is completed, confidentiality shall be determined by the  
107 applicable state and federal laws.

108 e. Any individual found to have engaged in discrimination as defined in Section 3  
109 4 herein will be disciplined up to and including termination.

110 f. ~~The district will not retaliate~~ Retaliation against an employee, potential  
111 employee, or former employee who, in good faith, makes a complaint or report  
112 of discrimination as defined in Section 3\_4 herein or participates in the  
113 investigation of such a complaint or report is strictly prohibited. ~~Retaliation~~  
114 ~~against any individual for good faith reporting of a claim of harassment or~~  
115 ~~cooperating in the investigation will not be tolerated and will itself be subject to~~  
116 ~~appropriate discipline~~. Incidents of retaliation shall be reported in the manner  
117 discussed above. Acts of retaliation shall subject an employee to discipline up  
118 to and including dismissal.

119 g. All employees must file the grievance complaint pursuant to ~~the procedure in~~  
120 Section 6 of this policy. The exception is the superintendent, internal auditor or  
121 chief counsel to the school board, who must file the ~~grievance/complaint~~ with  
122 the board chair.

123 7. Limitations. Nothing in this policy is intended nor shall be construed to create a  
124 private right of action against the Board or any of its employees. The provisions  
125 herein do not affect the right of any person to file a charge of discrimination with  
126 any agency having jurisdiction over such claims.

127 STATUTORY AUTHORITY: Fla. Stat. §§ 1001.41; 1001.42 ~~230.22(2); 230.23(17), (22);~~  
128 ~~230.23005~~

129 LAWS IMPLEMENTED: Fla. Stat. §§ 29 U.S.C. § 621, *et. seq.* (Age Discrimination in  
130 Employment Act of 1967, as amended); 42 U.S.C. § 12101 *et. seq.* (Americans with  
131 Disabilities Act Amendments Act of 2008); Title VII, 42 U.S.C. § 2000e *et. seq.* (Title VII  
132 of the Civil Rights Act); 29 U.S.C. § 201 *et. seq.* (Fair Labor Standards Act) ~~§ 230.23(5);~~  
133 ~~§ 760.02, et. seq.~~

134 HISTORY: 3/3/76; 8/17/77; 6/16/82; 1/8/86; 9/22/99; 02/25/02; \_\_\_/\_\_\_ 2010

Legal Signoff:

The Legal Department has reviewed proposed Policy 3.05 and finds it legally sufficient for development by the Board.

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Attorney \_\_\_\_\_ Date \_\_\_\_\_