



POLICY 5.001

5-D I recommend that the Board approve development of the proposed **revised** Policy 5.001, entitled “Protecting Students from Harassment and Discrimination.”

[Contact: Elizabeth McBride, PX 47673.]

Development

CONSENT ITEM

- Proposed amendments to the policy provide for:
 - “Gender identity or expression” to be added to the listings of protected classes. See paragraph 1.
 - Addition of the definition of “Gender identity or expression” See paragraph 5f.
 - Revisions to the definition of “Sexual orientation”. See paragraph 5i.

POLICY 5.001

PROTECTING STUDENTS FROM HARASSMENT AND DISCRIMINATION

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3 1. **General Provisions.**-- The School Board of Palm Beach County, Florida, as
4 governing body of the School District ("School District" or "District"), does not
5 condone harassment or discrimination against any of its students or applicants for
6 admission for any reason including, but not limited to, their real or perceived sex;
7 including gender expression and/or gender identity, race, color, religion, national
8 origin, age, disability, marital status, ancestry, ethnicity, gender, linguistic
9 preference, political beliefs, sexual orientation, or social/family background in its
10 education programs or admissions to education programs and therefore prohibits
11 such discrimination against, or harassment of, any student by any Board member,
12 District employee, consultant, contractor, agent, visitor, volunteer, student, or other
13 person in the school or outside the school at school-sponsored events, on school
14 buses, and at training facilities or training programs sponsored by the District.
- 15 2. In an effort to promote an environment free of discrimination and harassment, the
16 Board has adopted this policy prohibiting harassment of, or discrimination against,
17 Students in order to prevent, investigate, and take prompt, equitable, and
18 appropriate action with regard to alleged discrimination and harassment. In addition
19 to this policy, the Board has adopted a separate Policy prohibiting sexual
20 harassment of, or discrimination against, students (Policy 5.81).
- 21 3. The School Board believes that all students are entitled to a safe, equitable, and
22 harassment-free school experience. Discrimination and harassment will not be
23 tolerated and shall be just cause for disciplinary action.
- 24 4. This Policy shall be interpreted and applied consistent with all applicable state and
25 federal laws and the Board's collective-bargaining agreements.
- 26 5. **Definitions.**-- For purposes of this Policy, the following definitions shall apply:
 - 27 a. *Accused/employee* is defined as a School District employee alleged to be
28 responsible for the violation alleged in the complaint.
 - 29 b. *Accused/student* is defined as a student alleged to be responsible for the
30 violation that is alleged in the complaint.
 - 31 c. *Complaint* is defined as written allegations regarding any action, policy,
32 procedure, or practice prohibited by this policy.
 - 33 d. *Complainant* is defined as a student of, or applicant for admission to, the
34 District who submits a written complaint of harassment or discrimination or an

- 35 individual or group submitting a complaint on behalf of a student(s).
- 36 e. Day is defined as a working day and this term does not include weekends or
37 holidays unless noted as "calendar day."
- 38 f. Gender identity or expression means a gender-related identity, appearance,
39 expression or behavior of an individual, regardless of the individual's assigned
40 sex at birth.
- 41 g. ~~¶~~ *Minor, or minor student*, is defined as any student who has not yet attained
42 the age of eighteen (18). *For purposes of this policy*, the term should also be
43 construed to include an adult student who has been determined incompetent
44 or unable to give informed consent due to disability under state law. *Note: any*
45 *procedure in this Policy mentioning a minor student's parent/guardian should*
46 *also be construed to include an adult student's parent, if the adult student has*
47 *given consent.* For example, where the Policy requires giving notice to the
48 parent of a minor student, this requirement also includes notice to the parent
49 of an adult student who has given consent for the parent to receive the notice.
50 The notice would also be given to the parent of any adult student who has
51 been determined to be incompetent or unable to give informed consent due to
52 disability under state law.
- 53 h. ~~¶~~ *Parties* is defined as the accused student and/or accused/employee, and
54 the complainant.
- 55 i. ~~¶~~ *Sexual orientation* means actual or perceived homosexuality,
56 heterosexuality and bisexuality. ~~is defined as the direction of one's sexual or~~
57 ~~romantic interest toward persons of the opposite sex, same sex, or both~~
58 ~~sexes.~~
- 59 j. ~~¶~~ *School Official*, for purposes of this Policy, is defined as School Board
60 employees, principals, assistant principals, teachers, and school police officers
61 who have the duty of reasonable supervision with respect to student activities
- 62 6. **Title IX Coordinator and ADA/504 Specialist.**-- Equal educational opportunities
63 are guaranteed by Title VI of the Civil Rights Act of 1964, Title IX of the Education
64 Amendments of 1972, and Section 504 of the Rehabilitation Act of 1973. The
65 District has designated the Equal Employment Opportunity ("EEO") Coordinator as
66 the person responsible for ensuring that students and their custodial
67 parent(s)/guardian receive information related to discrimination and harassment.
- 68 7. The EEO/Title IX Coordinator is located at: 3370 Forest Hill Boulevard, Suite, A-
69 115, West Palm Beach, Florida 33406; Telephone: (561) 434-8637.
- 70 8. For those complaints concerning the Americans with Disabilities Act ("ADA") or
71 Section 504 of the Rehabilitation Act, the District has designated an ADA/504

72 Specialist.

73 9. The ADA/504 Specialist is located at 3308 Forest Hill Boulevard, Suite C-143,
74 West Palm Beach, Florida, 33406; Telephone: (561) 434-8817.

75 10. This contact information is to be posted in highly visible locations at each school
76 including the main office, the guidance waiting area, and student services.

77 11. **Prohibited Harassment.**-- For purposes of this Policy, harassment occurs when
78 conduct is sufficiently severe, persistent, or pervasive that it has the purpose or
79 effect of unreasonably interfering with a student's performance or ability to benefit
80 from his/her education, or creates an objectively intimidating, hostile, offensive, or
81 abusive school environment. Types of conduct which are prohibited in the District
82 and which may constitute harassment include, but are not limited to:

83 a. demeaning or derogatory comments, name-calling, racial slurs, or jokes,
84 threats, abusive words, gestures, or harm to an individual;

85 b. displaying visual or written material, including notes, stories, drawings, or
86 pictures, or defacing school property or materials to demean a person;

87 c. damaging, defacing or destroying private property of any person;

88 d. bullying;

89 e. requests for sexual favors and other conduct of a sexual nature as set forth in
90 Policy 5.81; or

91 f. any act of retaliation against an individual who reports a violation of the
92 Board's harassment and discrimination policy or participates in the
93 investigation of a discrimination or harassment complaint.

94 12. **GRIEVANCE PROCEDURE FOR HARASSMENT OR DISCRIMINATION BY**
95 **STUDENTS -- Investigation and Resolution of Complaints Against an**
96 **Accused/Student**

97 a. **Reporting Discrimination or Harassment.**-- Any student or applicant for
98 admission who believes he/she is a victim of discrimination or harassment (or
99 any individual, including any student, teacher, or other employee of the
100 District, who has knowledge of any incident(s) involving discrimination or
101 harassment of students) is strongly encouraged to report the incident(s) in
102 writing to the principal or other school official or the EEO/Title IX Coordinator
103 and ADA/504 Specialist.

104 b. School officials must report in writing any allegations of discrimination or
105 harassment to the principal and to the EEO/Title IX Coordinator and ADA/504

- 106 Specialist.
- 107 c. School officials must instruct students and their custodial parent(s)/guardian
108 that the student, or custodial parent(s)/guardian on behalf of the minor student,
109 as defined in paragraph (6)(f), may file a written complaint with the
110 principal/designee, EEO/Title IX Coordinator and/or ADA/504 Specialist.
- 111 d. The principal/designee shall document all complaints in writing to ensure that
112 problems are appropriately addressed. Although this Policy encourages
113 students to use the formal written complaint process, school officials "should
114 investigate all complaints and reports of harassment, whether or not the
115 complaint is in writing," as stated by the Office for Civil Rights in *Protecting*
116 *Students from Harassment and Hate Crime: A Guide for Schools, Part II*
117 (1999).
- 118 e. It is the responsibility of the principal to forward all complaints within two (2)
119 work days to the area superintendent, EEO/Title IX Coordinator, and ADA/504
120 Specialist. Failure by the principal to respond to a complaint within two (2)
121 work days will automatically allow the complainant to re-file the complaint with
122 the area superintendent.
- 123 f. **Principal Involvement.**-- If the principal is directly and personally involved
124 with a complaint or is closely related to a party to the complaint, then the area
125 superintendent shall be asked to conduct the investigation.
- 126 g. **Informal Resolution.**-- Where appropriate, the complainant and the
127 accused/student may agree to informally resolve the complaint. Complaints
128 should be made as soon as possible but no later than one hundred eighty
129 (180) calendar days after the alleged incident (that is, within 180 days after the
130 last act of harassment or discrimination). (Note: the principal must document,
131 in writing, any complaint, even if made informally; and the complainant must
132 be requested to sign the writing to verify its accuracy.)
- 133 i. The principal/designee may arrange for the parties to resolve the
134 complaint informally through a voluntary conversation between the
135 complainant and the accused/student, facilitated by the principal/designee
136 within two (2) work days of receiving the complaint. Both the complainant
137 and the accused/student may be accompanied by a person of their choice
138 for support and guidance.
- 139 ii. The parties shall never be asked to work out the problem directly with the
140 accused/student unless the assistance of a counselor, teacher,
141 administrator, or mediator is provided and both parties are willing.
- 142 iii. If the principal/designee and the complainant and the accused/student
143 (and/or their parents) agree that a satisfactory resolution has been

144 achieved through the informal conversation, then no further action need
145 be taken (besides notifying the area superintendent, EEO/Title IX
146 Coordinator, and ADA/504 Specialist that the matter has been resolved).
147 However, if a complete resolution has not been achieved, a formal written
148 complaint should be filed within ten (10) work days after the informal
149 meeting.

150 iv. If the complaint is satisfactorily resolved informally, the principal/designee
151 shall notify the area superintendent, EEO/Title IX Coordinator, and
152 ADA/504 Specialist of the resolution of the complaint.

153 h. **Filing a Formal Complaint Report.**-- If the matter is not satisfactorily
154 resolved informally, the principal/designee shall assist the student (or custodial
155 parent(s)/guardian on behalf of the minor student as defined in paragraph
156 (6)(f)), in filing a complaint (if it is not yet in writing). The student (or custodial
157 parent(s)/guardian on behalf of the student) may file a written complaint with
158 the principal/designee by using the *Student Complaint Report* form (PBSD
159 1615). Said form is hereby incorporated by reference and made a part of this
160 Policy and shall be filed with the Clerk of the School Board herewith and is
161 available on the District's web site at
162 <http://www.palmbeach.k12.fl.us/Records/Forms.htm>. The Witness Statement
163 form (PBSD 1616) is to be completed by witnesses to the alleged incident.

164 i. Complaints should be made as soon as possible but no later than one
165 hundred eighty (180) calendar days after the alleged incident (that is, within
166 180 days after the last act of harassment or discrimination). Failure on the part
167 of the complainant to initiate and/or follow up on the complaint within this
168 period may result in the complaint being deemed abandoned. The
169 principal/designee shall record in writing and document all complaints
170 regarding sexual harassment and discrimination to ensure that problems are
171 appropriately addressed, whether the report is made verbally or in writing.

172 j. The principal/designee may assist the student (or custodial parent(s)/guardian
173 on behalf of the student if the student is a minor, as defined in paragraph
174 (6)(f)) in completing the form, or may complete the form for the student or for
175 the custodial parent(s)/guardian who is acting on behalf of the student. In all
176 instances, the student (or custodial parent(s)/guardian on behalf of a minor)
177 shall review the form to ensure its accuracy and sign and date the complaint.

178 k. The complainant will be requested to provide signed, specific information
179 regarding the alleged discrimination or harassment, the alleged offender,
180 witnesses, and other relevant information. In all instances, the student (or
181 custodial parent(s)/guardian on behalf of the minor student as defined in
182 paragraph (6)(f)), shall review the form to ensure its accuracy and sign and
183 date the complaint.

- 184 I. All complaints filed with the principal/designee must be reported in writing to
185 the area superintendent and the EEO/Title IX Coordinator and ADA/504
186 Specialist.
- 187 m. **Notice to Accused/Student.**-- Within two (2) days of receipt of a complaint,
188 the principal/designee will notify the accused/student of the allegations.
- 189 n. **Notice to Parent(s)/Guardians.**-- Within two (2) days of receiving the
190 complaint, and in accordance with federal and state privacy laws, the
191 principal/designee shall notify the custodial parent(s)/guardian of any minor
192 student as defined in paragraph (6)(f)) who is allegedly subject to harassment
193 or discrimination. Notification may be made by telephone, letter, or personal
194 conference. The students involved (and their custodial parent(s)/guardians, if
195 the students are minors) will also be notified of events and decisions described
196 in this Policy.
- 197 o. **Steps in the Investigation.**-- The principal/designee shall begin an
198 investigation within two (2) work days and thoroughly investigate all complaints
199 of harassment or discrimination, including, at minimum, the following steps:
- 200 i. talk with the complainant within two (2) work days;
- 201 ii. give the complainant (or the custodial parent(s)/guardian thereof if the
202 complainant is a minor as defined in paragraph (6)(f)) an opportunity to
203 describe the incident, present witnesses and other evidence of the
204 harassment or discrimination, and ensure that the complaint is put in
205 writing;
- 206 iii. talk with the accused/student (or the custodial parent(s)/guardian thereof
207 if the accused/student is a minor as defined in paragraph (6)(f)) within two
208 (2) work days;
- 209 iv. give the accused/student (or the custodial parent(s)/guardian thereof if
210 the accused/student is a minor as defined in paragraph (6)(f)), an
211 opportunity to describe the incident, present witnesses and other
212 evidence, and put his/her response in writing;
- 213 v. talk with any person who saw the harassment, has knowledge of the
214 discrimination, or who may have related information; and
- 215 vi. conduct a conference, if appropriate, with the complainant (and custodial
216 parent(s)/guardian thereof, if the complainant is a minor as defined in
217 paragraph (6)(f)) and the accused/student (and custodial
218 parent(s)/guardian thereof, if the accused/student is a minor as defined in
219 paragraph (6)(f)) and give notice of the date, time, place, and rules to the
220 parties.

- 221 vii. The principal/designee is encouraged to ask open-ended questions to
222 enable students to describe what happened in their own words.
- 223 viii. The principal/designee may request that the accused/student (or the
224 custodial parent(s)/guardian on behalf thereof if the accused/student is a
225 minor as defined in paragraph (6)(f)) prepare a written response to the
226 complaint; or the principal/designee may prepare a written statement of
227 the accused/student's oral response to the complaint based on their
228 meeting and obtain the signature of the accused/student (and/or the
229 custodial parent(s)/guardian thereof, if the accused/student is a minor)
230 after his/her review of the statement.
- 231 ix. The principal/designee should dictate and then review his/her notes with
232 the complainant and accused/student after the interviews to verify the
233 facts and ensure accuracy, and then obtain signatures, but shall not tape
234 the interviews.
- 235 p. **Pursuing the Investigation.**-- During the investigation, the principal/designee
236 may take any action necessary to protect the complainant, or other students or
237 employees, consistent with the requirements of applicable regulations and
238 statutes.
- 239 i. In general, complainants will continue attendance at the same school and
240 pursue their studies as directed while the investigation is conducted and
241 the complaint is pending resolution.
- 242 ii. When necessary to carry out the investigation or for other good reasons,
243 and consistent with federal and state privacy laws, the principal/designee
244 also may discuss the complaint with any of the following persons:
- 245 A. Superintendent/designee;
- 246 B. Chief Academic Officer;
- 247 C. area superintendent/designee;
- 248 D. associate superintendents;
- 249 E. Chief of School Police;
- 250 F. the custodial parent(s)/guardian of the complainant, if the
251 complainant is under eighteen (18) years of age (or has given
252 consent or is an adult who has been determined to be incompetent
253 or unable to give informed consent due to disability);
- 254 G. the custodial parent(s)/guardian of the complainant, if the

- 255 complainant is a minor as defined in Section (6)(f);
- 256 H. a teacher or staff member whose knowledge of the students involved
257 may help determine who is telling the truth;
- 258 I. child protective agencies responsible for investigating child abuse;
259 and/or
- 260 J. legal counsel for the Board.
- 261 q. **Written Decision of the Principal/Designee.**-- Upon completion of the
262 investigation, the principal/designee will make a decision about the validity of
263 the allegations in the complaint and about any corrective action, if applicable,
264 consistent with the Matrix of Incidents and Actions in Policy 5.1812
265 (elementary) or Policy 5.1813 (secondary). In reaching a decision about the
266 complaint, the principal/designee should take into account:
- 267 i. statements made by the persons identified in paragraphs (13)(o), (p),
268 above;
- 269 ii. the details and consistency of each person's account;
- 270 iii. evidence of how the complainant reacted to the incident;
- 271 iv. evidence of past instances of harassment or discrimination by the
272 accused/student (provided that, if evidence of harassment/discrimination,
273 accusations, or complaints is to be considered, the principal/designee
274 must review in their entirety the files regarding those past incidents);
- 275 v. evidence of past harassment or discrimination complaints that were found
276 to be untrue (provided that, if evidence of past accusations or complaints
277 is to be considered, the principal/designee must review in their entirety
278 the files regarding those past incidents); and
- 279 vi. case law, state and federal laws and regulations, and the Board's Policies
280 prohibiting harassment and discrimination.
- 281 r. To determine the severity of the harassment or discrimination, the
282 principal/designee should consider, among other things:
- 283 i. how the misconduct affected one or more student's education;
- 284 ii. the type, frequency, and duration of the misconduct;
- 285 iii. the number of persons involved;
- 286 iv. the subject(s) of harassment or discrimination;

- 287 v. the place and situation where the incident occurred; and/or
- 288 vi. other similar incidents at the school.
- 289 s. Within thirty (30) calendar days of the filing of the complaint, the
290 principal/designee shall give the area superintendent/designee and the
291 EEO/Title IX Coordinator and ADA/504 Specialist a written report that
292 describes the complaint and investigation and contains findings, a decision,
293 and reasons for the decision.
- 294 i. If the principal/designee verifies that harassment or discrimination
295 occurred, this report shall describe the actions taken to end the
296 harassment or discrimination pursuant to the Matrix of Incidents and
297 Actions in Policy 5.1812 (elementary) or Policy 5.1813 (secondary);
298 address the effects of the harassment or discrimination on the
299 complainant; and prevent retaliation or further harassment or
300 discrimination.
- 301 ii. The principal/designee shall notify the parties (and their custodial
302 parent(s)/guardians, if the parties are minors as defined in paragraph
303 (6)(f)) in writing of the decision and their right to review by the area
304 superintendent/designee. (If the complaint was originally filed with, and
305 investigated by, the EEO/Title IX Coordinator or ADA/504 Specialist
306 instead of the principal, the Title IX Coordinator or ADA/504 Specialist
307 shall inform the parties of the right to appeal to the Chief Academic
308 Officer/designee within ten (10) days after receiving the
309 Coordinator's/Specialist's decision.)
- 310 t. No retaliation of any kind is permitted in connection with an individual's having
311 made a discrimination or harassment complaint.
- 312 **13. Appeal to Area Superintendent.--** If the complaint against an accused/student is
313 not resolved at the school-site level to the satisfaction of the parties, either party (or
314 their custodial parent(s)/guardian (if the party is a minor as defined in paragraph
315 (6)(f)) may seek review by the area superintendent/designee through the following
316 process:
- 317 a. The written complaint and request for review shall be sent to the area
318 superintendent's office within ten (10) days of the completion of the site-level
319 process by the principal.
- 320 i. If the principal's designee conducted the investigation, the first level of
321 appeal is to the principal. If the complaint has been reviewed or
322 investigated by the principal, the next level of appeal is to the area
323 superintendent/designee. (If the complaint was originally filed with, and
324 investigated by, the EEO/Title IX Coordinator or ADA/504 Specialist, the

- 325 next level of appeal is to the Chief Academic Officer/designee.)
- 326 ii. If the area superintendent/designee is directly involved with a complaint
327 or closely related to a party to the complaint, then the Chief Academic
328 Officer/designee shall be asked to conduct the review and/or further
329 investigation.
- 330 b. **Notice Requirement.**-- Notice will be given to all parties of a request for
331 review by the area superintendent/designee within two (2) business days of
332 the request for review.
- 333 c. **Procedure.**-- The area superintendent designee shall review the complaint,
334 the answer to the complaint, the principal/designee's report, and any other
335 evidence in the record. The area superintendent designee may also conduct
336 any further investigation deemed necessary.
- 337 i. During the investigation, the area superintendent/designee may take any
338 action necessary to protect the complainant or other students or
339 employees consistent with the requirements of applicable regulations and
340 statutes. No retaliation of any kind is permitted in connection with an
341 individual's having made a harassment or discrimination complaint under
342 this Policy.
- 343 ii. The area superintendent designee will review the principal's decision as
344 to the validity of the allegations and any corrective action, and will make a
345 decision within thirty (30) calendar days after receipt of the request for
346 review. Time limits may be extended by written mutual agreement of the
347 complainant (or custodial parent(s)/guardian on behalf thereof if the
348 complainant is a minor as defined in paragraph (6)(f)), and the
349 accused/student (or custodial parent(s)/guardian on behalf thereof if the
350 accused/student is a minor).
- 351 iii. The area superintendent/designee shall take action deemed appropriate
352 to resolve the situation, including, but not limited to, disciplinary action by
353 the school, consistent with the requirements of applicable procedures
354 outlined in each school's *Student-Parent Handbook*, the Matrix of
355 Incidents and Actions in Policy 5.1812 (elementary) or Policy 5.1813
356 (secondary), and Florida law, or transfer to alternative school.
- 357 iv. The area superintendent/designee will inform the (and their custodial
358 parent(s)/guardian if the parties are minors as defined in paragraph
359 (6)(f)). in writing of the decision and the right to appeal.
- 360 v. A copy of the decision will be sent to the EEO/Title IX Coordinator or and
361 ADA/504 Specialist.

362 14. **Appeal to Chief Academic Officer/Designee**

363 a. If the complainant or accused/student (or their custodial parent(s)/guardian if
364 the parties are minors as defined in paragraph (6)(f)) is dissatisfied with the
365 area superintendent's decision, it may be appealed in writing to the Chief
366 Academic Officer/designee within ten (10) days after receipt of the decision.

367 i. If the area superintendent's designee conducted the review, the next level
368 of appeal is to the area superintendent rather than to the Chief Academic
369 Officer.

370 ii. If the Chief Academic Officer/designee is directly involved with a
371 complaint or closely related to a party to the complaint, then the Chief
372 Operating Officer/designee shall be asked to review the matter.

373 b. **Notice.**-- Notice of the appeal shall be given in writing to the parties (and their
374 custodial parent(s)/guardian if the parties are minors as defined in paragraph
375 (6)(f)) within two (2) days of receipt of appeal.

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

381 i. The Chief Academic Officer/designee may request additional information.

382 ii. The Chief Academic Officer/designee shall issue a written decision to the
383 parties (and their custodial parent(s)/guardian if the parties are minors as
384 defined in paragraph (6)(f)) within twenty (20) calendar days of the
385 request of the appeal.

386 15. **Appeal to the Superintendent/Designee**

387 a. If the complainant or accused/student (or their custodial parent(s)/guardian if
388 the parties are minors as defined in paragraph (6)(f)) is dissatisfied with the
389 Chief Academic Officer's decision, it may be appealed in writing to the
390 Superintendent within ten (10) days after receipt of the decision.

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

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

- 397 b. **Notice.**-- Notice of the appeal shall be given in writing to the parties (and their
398 custodial parent(s)/guardian if the parties are minors as defined in paragraph
399 (6)(f)) within two (2) days of receipt of the appeal.
- 400 c. **Procedure.**-- The Superintendent/designee shall review the written complaint,
401 the accused/student's response to the complaint (or the response of the
402 parent/guardian on behalf of the accused/student), and all documentation
403 pertaining to the alleged harassment or discrimination, including the Chief
404 Academic Officer's decision.
- 405 i. The Superintendent may request additional information.
- 406 ii. The Superintendent/designee shall issue a written decision to the parties
407 (and their custodial parent(s)/guardian if the parties are minors as defined
408 in paragraph (6)(f)) within twenty (20) calendar days of request of the
409 appeal. The decision of the Superintendent/designee is the final decision
410 of the District.
- 411 16. **Other Means of Resolution.**-- If the complainant is not satisfied with the results of
412 the procedures contained in this policy, he/she may utilize other means for
413 resolution as provided by law, including seeking recourse through the federal Office
414 for Civil Rights ("OCR").
- 415 17. **GRIEVANCE PROCEDURE FOR HARASSMENT OR DISCRIMINATION BY AN**
416 **EMPLOYEE -- Investigation of Complaints Against an Accused/Employee**
- 417 a. **Reporting Discrimination or Harassment.**-- Any student/applicant for
418 admission (and/or the custodial parent(s)/guardian on that complainant's
419 behalf if the complainant is a minor as defined in paragraph (6)(f)) who
420 believes he/she is a victim of discrimination or harassment (or any individual,
421 including any student, teacher, or other employee of the District who has
422 knowledge of any incident(s) involving discrimination or harassment of
423 students) is strongly encouraged to report the incident(s) in writing to a school
424 official or the EEO/Title IX Coordinator and ADA/504 Specialist. Complaints
425 should be filed as soon as possible after the alleged incident, but must be filed
426 within one hundred eighty (180) calendar days after the alleged incident (i.e.
427 within 180 days of the last act of alleged harassment or discrimination).
- 428 b. School officials must report in writing any allegations of discrimination or
429 harassment to the principal and to the EEO/Title IX Coordinator and ADA/504
430 Specialist. If the principal is directly involved with a complaint or closely related
431 to a party to the complaint, then the incident may be reported directly to the
432 EEO/Title Coordinator and ADA/504 Specialist.
- 433 c. The principal/designee shall document all complaints in writing to ensure that
434 problems are appropriately addressed. It is the responsibility of the principal to

435 forward all complaints to the area superintendent, Title IX Coordinator, and
436 ADA/504 Specialist within two (2) work days. Failure by the principal to
437 respond to a complaint within two (2) work days will automatically allow the
438 complainant to re-file the complaint with the area superintendent.

439 d. **Filing the Complaint Form.**-- Consistent with OCR guidelines, a formal
440 complaint process is required for any complaint against an employee. The
441 complainant (or the custodial parent(s)/guardian if the complainant parties is a
442 minor as defined in paragraph (6)(f)) may file a complaint in writing with the
443 principal/designee, EEO/Title IX Coordinator, or ADA/504 Specialist by using
444 the Student Complaint Report form (PBSD 1615), available on the District's
445 web site at www.palmbeach.k12.fl.us/Records/Forms.htm. The Witness
446 Statement form (PBSD 1616) is to be completed by witnesses to the alleged
447 incident.

448 i. Complaints should be filed as soon as possible after the alleged incident,
449 but must be filed within one hundred eighty (180) calendar days after the
450 alleged incident (that is, within 180 days after the last act of alleged
451 harassment or discrimination). Failure on the part of the complainant to
452 initiate and/or follow up on the complaint within this period may result in
453 the complaint being deemed abandoned.

454 ii. The principal/designee may assist the individual in completing the form by
455 recording information on the Student Complaint Report form, reviewing it
456 with the complainant, and obtaining the complainant's signature. The
457 complainant will be requested to provide signed, specific information
458 regarding the alleged discrimination or harassment, the alleged
459 offender(s), witnesses, and other relevant information.

460 iii. Complaints filed with the principal/designee must be reported in writing to
461 the area superintendent and the EEO/Title IX Coordinator and ADA/504
462 Specialist for investigation.

463 e. **Notice to Parent(s)/Guardians.**-- Within two (2) days of receiving the
464 complaint, and in accordance with federal and state privacy laws, the
465 principal/designee shall notify the custodial parent(s)/guardian of any minor
466 student as defined in paragraph (6)(f)) who is allegedly subject to harassment
467 or discrimination. Notification may be made by telephone, letter, or personal
468 conference. The students involved (and their custodial parent(s)/guardians, if
469 the students are minors) will also be notified of events and decisions described
470 in this Policy.

471 f. **Investigation by EEO/Title IX Coordinator/designee or ADA/504**
472 **Specialist/designee.**-- The EEO/Title IX Coordinator/designee or ADA/504
473 Specialist/designee shall document and begin within (2) work days to

474 thoroughly investigate all complaints of harassment or discrimination, including
475 the following steps to ensure that problems are appropriately addressed:

476 i. talk with the complainant within two (2) work days after receiving the
477 complaint form. The complainant (and/or the custodial parent(s)/guardian
478 of the complainant if the complainant is a minor as defined in paragraph
479 (6)(f)) shall have an opportunity to describe the incident, present any
480 evidence, name witnesses, and ensure that the complaint is put in writing;

481 ii. talk with any witnesses or others who may have relevant information; and

482 iii. conduct an investigative meeting with the accused/employee, and the
483 accused/employee's representative if applicable, to discuss the
484 allegations and allow the accused/employee to respond to the allegations.

485 g. During the investigation, the EEO/Title IX Coordinator/designee or ADA/504
486 Specialist/designee may recommend to the Chief Personnel Officer/designee,
487 any action necessary to protect the complainant, or other students or
488 employees, consistent with the requirements of applicable statutes, State
489 Board of Education Rules, School Board Policies, and collective bargaining
490 agreements.

491 i. In general, complainants will continue attending the same school and
492 pursuing their studies as directed while the investigation is conducted and
493 the complaint is pending resolution.

494 ii. When necessary to carry out the investigation or for other good reasons,
495 and consistent with federal and state privacy laws, the EEO/Title IX
496 Coordinator/designee or ADA/504 Specialist/designee also shall discuss
497 the complaint with the following persons, as appropriate:

498 A. Superintendent/designee;

499 B. Chief Academic Officer and/or Chief Operating Officer;

500 C. area superintendent/designee;

501 D. associate superintendent;

502 E. Chief of School Police;

503 F. Chief Personnel Officer;

504 G. Director of Labor Relations;

505 H. the custodial parent(s)/guardian of the complainant, if the

- 506 complainant is a minor as defined in Section (6)(f);
- 507 I. a teacher or staff member whose knowledge of the student(s) or
508 employee(s) involved may help determine who is telling the truth;
- 509 J. child protective agencies responsible for investigating child abuse;
- 510 K. legal counsel for the Board;
- 511 L. exclusive bargaining representative or legal counsel thereof, if
512 appropriate; and
- 513 M. the accused/employee.

514 **18. Decision of the EEO/Title IX Coordinator or ADA/504 Specialist.--** Upon
515 completion of the investigation, within thirty (30) calendar days of receiving the
516 complaint if possible, the EEO/Title IX Coordinator/designee or ADA/504
517 Specialist/designee shall make a decision about the validity of the allegations in the
518 complaint.

519 a. The EEO/Title IX Coordinator/designee or ADA/504 Specialist/designee shall
520 discuss the determination and any recommended corrective action with the
521 principal/designee and Chief Personnel Officer.

522 b. In reaching a decision about the complaint, the following should be taken into
523 account:

524 i. statements made by the persons identified in Paragraphs (18)(h), (i)
525 above;

526 ii. the details and consistency of each person's account;

527 iii. evidence of how the complainant reacted to the incident;

528 iv. evidence of past instances of harassment or discrimination by the
529 accused/employee (provided that, if evidence of past
530 harassment/discrimination incidents are to be considered, the investigator
531 must review in their entirety the files regarding those past incidents);

532 v. evidence of past harassment or discrimination complaints that were found
533 to be untrue (provided that, if evidence of past harassment/discrimination
534 accusations or complaints are to be considered, the investigator must
535 review in their entirety the files regarding those past complaints); and

536 vi. case law, state and federal laws and regulations, and the Board's Policies
537 prohibiting harassment and discrimination.

- 538 c. To determine the severity of the harassment or discrimination, the following
539 may be considered:
- 540 i. how the misconduct affected one or more student's education;
- 541 ii. the type, frequency, and duration of the misconduct;
- 542 iii. the number of persons involved;
- 543 iv. the subject(s) of harassment or discrimination;
- 544 v. the place and situation where the incident occurred; and
- 545 vi. other incidents at the school.
- 546 d. The following action(s) or discipline may be taken, consistent with any
547 applicable collective bargaining agreement provisions, to resolve a complaint
548 of harassment or discrimination:
- 549 i. no action if complaint is unsubstantiated;
- 550 ii. training requirements for the employee;
- 551 iii. oral reprimand of the employee;
- 552 iv. written reprimand of the employee;
- 553 v. suspension of the employee; or
- 554 vi. Termination of the employee.
- 555 A. For the first verified offense of harassment of, or discrimination
556 against, a student, suspension should be recommended for a
557 minimum of thirty (30) days without pay. Termination should be
558 recommended for the second offense of verified harassment of, or
559 discrimination against, a student.
- 560 B. Suspension without pay and/or termination requires Board action.

561 **19. Appeal Procedure for an Accused/Employee**

- 562 a. If the accused/employee wishes to appeal the action taken in resolution of the
563 complaint, such appeal shall be filed either in accordance with Board Policy
564 3.31 or pursuant to the relevant collective bargaining agreement.
- 565 b. For those employees not in a bargaining unit, the appeal shall be filed in
566 accordance with Board Policy 3.31.

567 20. **Appeal Procedure for Student/Complainant When the Accused Is an**
568 **Employee**

569 a. **Appeal to Chief Operating Officer/Designee.**-- If the complainant (or the
570 custodial parent(s)/guardian if the complainant is a minor as defined in
571 paragraph (6)(f)) is dissatisfied with the EEO/Title IX Coordinator's or ADA/504
572 Specialist's decision, it may be appealed in writing to the Chief Operating
573 Officer/designee within ten (10) days after receipt of the decision. However, if
574 the Chief Operating Officer is directly involved with a complaint or closely
575 related to a party to the complaint, then the Chief Academic Officer shall be
576 asked to review the matter.

577 i. **Notice.**-- Notice of the appeal shall be given to the parties (and the
578 custodial parent(s)/guardian of the complainant, if a minor as defined in
579 paragraph (6)(f)) within two (2) days of notice of receipt of appeal.

580 ii. **Procedure.**-- The Chief Operating Officer/designee shall review the
581 written complaint, the accused/employee's response to the complaint,
582 and all documentation pertaining to the alleged harassment or
583 discrimination including the EEO/Title IX Coordinator's or ADA/504
584 Specialist's decision.

585 A. The Chief Operating Officer/designee, may request additional
586 information.

587 B. The Chief Operating Officer/designee shall issue a written decision
588 to the parties within twenty (20) calendar days of request of the
589 appeal.

590 b. **Appeal to the Superintendent.**-- If the complainant (or custodial
591 parent(s)/guardian of the minor complainant as defined in paragraph (6)(f)) is
592 dissatisfied with the Chief Operating Officer's decision, the decision may be
593 appealed in writing to the Superintendent within ten (10) days after receipt of
594 the decision.

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

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

601 iii. **Notice.**-- Notice of the appeal shall be given in writing to the parties (and
602 their custodial parent(s)/guardian if the parties are minors as defined in
603 paragraph (6)(f)) within two (2) days of receipt of the appeal.

604 iv. **Procedure.**-- The Superintendent/designee shall review the written
605 complaint, the accused/employee's response to the complaint, and all
606 documentation pertaining to the alleged harassment or discrimination,
607 including the Chief Operating Officer's decision.

608 A. The Superintendent may request additional information.

609 B. The Superintendent/designee shall issue a written decision to the
610 parties (and the complainant's custodial parent(s)/guardian, if the
611 complainant is a as defined in paragraph (6)(f)) within twenty (20)
612 calendar days of request of the appeal. The decision of the
613 Superintendent/designee is the final decision of the District.

614 c. **Other Means of Resolution.**-- If the complainant is not satisfied with the results
615 of the procedures contained in this policy, he or she may utilize other means
616 for resolution as provided by law, including seeking recourse through the
617 federal Office for Civil Rights ("OCR").

618 21. **GRIEVANCE PROCEDURE FOR SEXUAL HARASSMENT OR DISCRIMINATION**
619 **BY VOLUNTEERS, VISITORS, OR CONTRACTORS** -- Investigation of
620 Complaints Against a School Volunteer, Campus Visitor, Contractor/Consultant, or
621 Other Third Party.

622 a. The School Board will not tolerate harassment or discrimination by school
623 volunteers, consultants, independent contractors or subcontractors (or their
624 employees), or any third party in the school (or outside of the school at school-
625 sponsored events), on school buses, or at training facilities sponsored by the
626 School District. Any such alleged harassment or discrimination should be
627 reported immediately to the school principal, using the same formal written
628 complaint process as would be used to report harassment or discrimination by
629 a District employee. The complaint should be filed as soon as possible, at
630 least within one hundred eighty (180) calendar days of the alleged incident
631 (i.e. within 180 days of the last act of alleged harassment or discrimination).

632 b. It is the responsibility of the principal to forward all complaints to the area
633 superintendent and EEO/Title IX Coordinator and ADA/504 Specialist within
634 two (2) work days. Failure by the principal to respond to a complaint within two
635 (2) work days will automatically allow the complainant to re-file the complaint
636 with the area superintendent.

637 c. Within two (2) days of receiving the complaint, and in accordance with federal
638 and state privacy laws, the principal/designee shall notify the custodial
639 parent(s)/guardian of any minor student as defined in paragraph (6)(f) who is
640 allegedly subject to harassment or discrimination. Notification may be made by
641 telephone, letter, or personal conference. The students involved (and their
642 custodial parent(s)/guardians, if the students are minors) will also be notified of

643 events and decisions described in this Policy.

644 d. Within two (2) days of receiving the complaint, the EEO/Title IX
645 Coordinator/designee or ADA/504 Specialist/designee shall begin an
646 investigation, using procedures similar to those used for investigation of
647 allegations against District employees.

648 e. If the District's investigation substantiates a complaint of sexual harassment or
649 discrimination by a school volunteer, visitor, consultant/independent
650 contractor, vendor or other third party, the Superintendent shall promptly
651 recommend appropriate action. As stated in OCR's *Revised Sexual*
652 *Harassment Guidance* (2001):

653 The type of appropriate steps that the school should take will differ
654 depending on the level of control that the school has over the third party
655 harasser. For example, if athletes from a visiting team harass the home
656 school's students, the home school may not be able to discipline the
657 athletes. However, it could encourage the other school to take
658 appropriate action to prevent further incidents; if necessary, the home
659 school may choose not to invite the other school back.

660 f. Depending on the situation, an appropriate response may include, but not
661 limited to, revoking the volunteer's status under Policy 2.53; asking the visitor
662 to refrain from returning to the campus; requesting a contractor to remove an
663 employee from a project at a school site and discipline the employee; or
664 debarring a vendor pursuant to Policy 6.14(5). The District's response will be
665 designed to eliminate the harassment or discrimination and prevent its
666 reoccurrence. If the complainant is not satisfied with the District's response,
667 he/she (or the custodial parent(s)/guardian of a minor complainant as defined
668 in paragraph (6)(f)) may appeal according to the procedures used to appeal a
669 decision regarding alleged harassment or discrimination by an employee
670 under Section 21.

671 g. Other Means of Resolution.-- If the complainant is not satisfied with the
672 District's response under this Section, he/she may utilize other means for
673 resolution as provided by law, including seeking recourse through OCR.

674 22. Confidentiality

675 a. To the greatest extent possible, all complaints will be treated as confidential
676 and in accordance with Fla. Stat. § 1002.22(3)(d); the Family Educational
677 Rights and Privacy Act ("FERPA"); and any other applicable law, such as Fla.
678 Stat. §§ 119.07(3)(p) & (u); 1012.31(3)(a); or 1012.796(1)(c).

679 b. Limited disclosure may be necessary to complete a thorough investigation as
680 described above. The District's obligation to investigate and take corrective

681 action may supersede an individual's right to privacy.

682 c. The complainant's identity shall be protected, but absolute confidentiality
683 cannot be guaranteed.

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

688 **24. Retaliation Prohibited**

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

692 b. Retaliatory or intimidating conduct against any individual who has made a
693 harassment or discrimination complaint or any individual who has testified,
694 assisted, or participated, in any manner, in an investigation is specifically
695 prohibited.

696 c. The principal/designee, and EEO/Title IX Coordinator or ADA/504 Specialist, if
697 applicable, shall inform complainants that they are protected by law from
698 retaliation.

699 **25. Additional Assistance Available**

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

704 b. The District will provide counseling services for students who have been
705 harassed or discriminated against.

706 c. Training will be provided to assist teachers and counselors who work with
707 students to prevent harassment and discrimination. Attendance is mandatory.

708 d. The Office for Civil Rights is the federal agency in the Department of
709 Education that monitors schools' compliance with Title IX, Title VI, Title II of
710 the Americans With Disabilities Act, and Section 504, and it can be contacted
711 at 1-800-421-3481; by fax at (404) 562-6455; or by e-mail at
712 OCR_Atlanta@ed.gov.

713 STATUTORY AUTHORITY: Fla. Stat. §§ 1001.41(2); 1001.43(1), (6); 1006.07;
714 1012.23(1)

715 LAWS IMPLEMENTED: Fla. Stat. §§ 119.07(3)(p), (u); 1000.05(2)(a), (b) (Florida
716 Education Equity Act); 1002.22(3)(a), (d); 1001.41(1), (2); 1006.07(2)(h); 1006.08;
717 1012.31(3)(a); 1012.796(1)(c); 760.01(2), Fla. Stat.; 42 U.S.C. 12131, et. seq. (Title II of
718 the Americans with Disabilities Act); (20 U.S.C. § 1681-1688 (Title IX of the Education
719 Amendments of 1972); 42 U.S.C. § 2000d et. seq. (Title VI of the Civil Rights Act of
720 1964); 29 U.S.C. § 794 (Section 504 of the Rehabilitation Act of 1973); 20 U.S.C. §
721 1232g (Family Educational Rights and Privacy Act (“FERPA”))
722 STATE BOARD RULES SUPPLEMENTED: 6A-19.001, 6A-19.002, 6A-19.008,
723 6A-1.0404(5), (7); and 6B-1.006(3)(a), (g)
724 HISTORY: 3/3/76; 8/17/77; 3/17/99; 3/24/03; ___/___2011

Legal Signoff:

The Legal Department has reviewed proposed Policy 5.001 and finds it legally sufficient for development by the Board.

Attorney

Date