

**POLICY 3.31**

**5-H** I recommend the Board approve the proposed revisions to Policy 3.31, entitled "Grievance Procedure for Employees."

[CONTACT: Dr. MaryAnn DuPont, 434-8963; or JulieAnn Rico Allison, 434-8500]

Development

- The DOE's Education Equity Monitoring Plan has requested that this Policy allow 60 days for initial reporting of alleged discrimination or harassment, in order to reflect the recent recommendations of the federal Office for Civil Rights.
- The new Section (4) provides a procedure tailored to discrimination and harassment grievances, which includes the aforementioned 60-day limit and is based on the employee-related portions of Policies 5.001 and 5.81.

CONSENT ITEM

**PROPOSED REVISIONS TO POLICY 3.31**

**GRIEVANCE PROCEDURE FOR EMPLOYEES**

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2 1. A. ~~DEFINITIONS~~ **Purpose.--** The purpose of this procedure is to secure, at the  
3 lowest administrative level, equitable solutions to claim(s) arising from a violation,  
4 misapplication, or misinterpretation of School Board Policies or Administrative  
5 Directives, which may include harassment prohibited by Policy 3.19, and to  
6 establish an orderly succession of procedures wherein these solutions may be  
7 pursued.

8 2. B. ~~PURPOSED~~ **Definitions.--** As used herein, the following terms have these  
9 meanings:

10 ~~The purpose of this procedure is to secure, at the lowest administrative level,~~  
11 ~~equitable solutions to claim(s) arising from a violation, misapplication, or~~  
12 ~~misinterpretation of School Board Policies and Administrative Directives and to~~  
13 ~~guarantee an orderly succession of procedures wherein these solutions may be~~  
14 ~~pursued.~~

15 a. A "grievance" is a complaint which alleges a violation, misinterpretation, or  
16 misapplication of School Board Policy or Administrative Directives, including  
17 discrimination or harassment prohibited by Policy 3.19.

18 b. The term "employee" includes every employee, instructional or non-  
19 instructional, of the School Board of Palm Beach County.

20 c. The terms "grievant" and "complainant" refer to an employee (including an  
21 applicant as defined in Section (2)(e)) who alleges that he/she has been  
22 subjected to discrimination or harassment as prohibited by Policy 3.19.

23 d. "Accused/employee" refers to an employee who is alleged to have subjected  
24 another employee to discrimination or harassment as prohibited by Policy  
25 3.19.

26 e. The term "applicant," as used herein, means a current District employee who  
27 applies for another instructional or non-instructional position within the District.

28 ~~f. The term "days" in this procedure shall mean work days.~~

29 g. The term "supervisor" means the Pprincipal, Ddirector, Aarea Executive  
30 ~~Director~~ superintendent, Assistant Superintendent, ~~Deputy Superintendent,~~  
31 Superintendent of Schools or other ~~D~~department Administrator who has the  
32 direct responsibility of supervising or managing the aggrieved employee and  
33 who has the authority to take action necessary to resolve the grievance. For  
34 purposes of this Policy, this term may also include a consultant retained by the  
35 Board to provide interim management assistance.

36 h. The term "superior" as used herein refers to the supervisor of the aggrieved  
37 employee's immediate supervisor.

38 i. A "chief officer" is the Chief Academic Officer or the Chief Operating Officer.

39 j. The term "days" in this Policy shall mean work days unless calendar days are  
40 specified.

41 3. G. **Procedure for Grievances Other than Alleged Harassment or**  
42 **Discrimination.**-- The following grievance procedure applies when the grievance  
43 is based on an allegation other than discrimination, or harassment under Policy  
44 3.19. (However, when the grievance is based on allegations of discrimination, or  
45 harassment as prohibited by Policy 3.19, the procedures of Section (4) shall apply,  
46 instead.)

47 a. **Level One: Informal Conference**

48 Within ten (10) work days after the employee first knows or reasonably should  
49 have known, of the grievable incident, the employee shall initially discuss the  
50 matter with the immediate supervisor with the objective of informally resolving  
51 the matter.

52 A. ~~For an allegation of discrimination by one's supervisor, an employee~~  
53 ~~may refer a complaint to the District's Equal Employment Opportunity~~  
54 ~~(EEO) office in the Division of Personnel Services.~~

55 b. **Level Two: Filing a Written Grievance**

56 i. Within ten (10) work days after the informal conference described in Level  
57 One, if no satisfactory disposition is made, the employee may file a  
58 written grievance with the supervisor. The written grievance shall set  
59 forth specifically the event(s) upon which the grievance is based, citing

60 the Policy and/or Directive alleged to be violated, the date the alleged  
61 infraction took place, and grounds upon which the grievance is made.  
62 The employee must sign and date the grievance.

63 ii. Within ten (10) work days after receiving the written grievance, the  
64 supervisor shall schedule another meeting with the employee. Within ten  
65 (10) work days of the second meeting, and after investigating the  
66 allegations, the supervisor shall issue a written decision to the employee.

67 c. Level Three: Review by the Supervisor's Superior or Chief Officer

68 i. Within ten (10) work days after the supervisor's decision, if the employee  
69 is not satisfied with the supervisor's decision or if no decision has been  
70 made issued, the employee may forward the grievance and the  
71 supervisor's decision to the supervisor's superior or to the applicable chief  
72 officer ~~Department of Employee relations~~. The written grievance shall set  
73 forth the event(s) upon which the grievance is based. If the grievance is  
74 not forwarded to the superior or chief officer within the designated time,  
75 the grievance is considered withdrawn from the grievance process and  
76 shall be so noted in the grievance file.

77 ii. Within ten (10) work days after receiving the grievance, the superior or  
78 chief officer ~~Department of Employee relations~~ will schedule a meeting  
79 with the employee. Within ten (10) work days of the said that meeting,  
80 meeting, and after further investigating the allegations as appropriate, the  
81 superior or chief officer ~~Department of Employee Relations~~ shall issue a  
82 written decision to the employee. A copy shall be provided to the  
83 supervisor.

84 d. Level Four: Appeal to the Superintendent

85 i. Within ten (10) work days after the superior or chief officer ~~Department of~~  
86 ~~Employee~~ issues its written decision, if the employee is not satisfied with  
87 the decision or if no decision is has been issued within ten (10) work days  
88 of the meeting, the employee may appeal the decision, in writing, to the  
89 Superintendent, ~~or to the decision of the Department of Employee~~  
90 ~~Relations.~~ ~~If the grievant does not pursue the grievance past Level~~  
91 ~~three, the grievant is encouraged to forward written correspondence to~~  
92 ~~the Department of Employee Relations indicating that he/she is~~

- 93            ~~withdrawing the grievance from the grievance process.~~ If the grievance is  
94            not forwarded to the Superintendent within the designated time, the  
95            grievance is considered withdrawn from the grievance process and shall  
96            be so noted in the grievance file.
- 97            ii.    The Superintendent/~~or~~ designee, shall appoint an ad hoc Grievance  
98            Review Committee. The chair of the committee will be the highest-  
99            ranking District official on the committee. The committee will consist of
- 100            A.    one (1) member from District management, selected by the  
101            Superintendent;
- 102            B.    one (1) member selected by the grievant; and
- 103            C.    ~~the~~ a third member selected by agreement of the first two (2)  
104            members. If the third member is not selected by the other committee  
105            members within seven (7) calendar days, the  
106            Superintendent/~~designee~~, shall appoint a third member to serve on  
107            the committee.
- 108            ~~iii.    The highest ranking official in the District among the three (3) committee~~  
109            ~~members shall be the Committee Chairperson.~~
- 110            iv.    In an effort to resolve the grievance, ~~W~~within ten (10) work days after the  
111            Committee is designated, the Committee shall meet with the grievant  
112            and the supervisor or superior of the person alleged to have violated,  
113            misinterpreted, or misapplied a Policy or Directive. ~~in an effort to resolve~~  
114            ~~the grievance.~~ Other persons may be presented as witnesses at the  
115            meeting by either the grievant or the supervisor/superior. The committee  
116            shall issue a written decision recommendation within ~~five (5)~~ ten (10) work  
117            days after the meeting, determining whether any violation has occurred,  
118            and if so, an appropriate remedy. A copy of the ~~decision~~  
119            recommendation shall be provided to the grievant, supervisor or superior,  
120            the Director of Employee Labor Relations, and the Superintendent.
- 121            v.    ~~The decision of the Committee shall be final and binding.~~ The  
122            recommendation of the committee shall be forwarded to the  
123            Superintendent for review. The Superintendent/designee shall review the  
124            recommendation of the committee and the record of the grievance. If the

125 Superintendent/ designee finds that a meeting with the grievant would  
126 assist in the final determination, the Superintendent/ designee may  
127 schedule a meeting for the purposes of this review. The  
128 Superintendent/designee's decision is final and binding and is not subject  
129 to appeal.

130 **4. Reporting and Resolving Allegations of Harassment or Discrimination.--**

131 When the cause for the grievance is an allegation of discrimination or harassment  
132 of an employee (including applicant, as defined in Section (2)(e)), the following  
133 procedures shall apply:

134 **a. Level One: Reporting to the Supervisor or EEO Coordinator and**  
135 **Investigation by the EEO Coordinator/Designee**

136  
137 **i. Reporting Discrimination or Harassment.-- Any employee (including**  
138 an applicant as defined in Section (2)(e)) who believes he/she is a victim  
139 of discrimination or harassment as prohibited by Policy 3.19, may report  
140 the incident(s) to the principal or other immediate supervisor, as  
141 applicable. Due to the sensitive nature of sexual harassment complaints,  
142 or in the event of an allegation of harassment or discrimination by one's  
143 supervisor, the complaint may be filed directly with the District's Equal  
144 Employment Opportunity Coordinator ("EEO Coordinator"). The EEO  
145 Coordinator is located at: 3370 Forest Hill Boulevard, Suite A-115, West  
146 Palm Beach, Florida, 33406; Telephone: (561) 434-8637.

147  
148 **ii. Complaints should be filed as soon as possible after the alleged incident,**  
149 but must be filed within sixty (60) calendar days after the employee  
150 (including an applicant as defined in Section (2)(e)) first knows or should  
151 have known of the grievable incident. Failure on the part of the  
152 complainant to initiate and/or follow up on a complaint in a timely manner  
153 may result in the complaint being deemed abandoned.

154  
155 **iii. The principal/designee or other immediate supervisor (as applicable) or**  
156 EEO Coordinator may assist the individual in putting the complaint in  
157 writing, if its has not yet been recorded in writing; reviewing it with the  
158 complainant; and obtaining the complainant's signature. The complainant  
159 will be requested to provide signed, specific information regarding the  
160 alleged discrimination or harassment, the alleged offender(s), witnesses,

161 and other relevant information. All complaints filed with the  
162 principal/designee or other supervisor must be reported to the area  
163 superintendent (if applicable) and the EEO Coordinator.

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165 iv. It is the responsibility of the principal or other supervisor, as applicable, to  
166 forward all harassment or discrimination complaints to the area  
167 superintendent (if applicable) and EEO Coordinator.

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169 **b. Investigation by EEO Coordinator.-- The EEO Coordinator/designee shall**  
170 **document and promptly and thoroughly investigate all complaints of**  
171 **harassment or discrimination, including the following steps:**

172  
173 i. promptly talk with the complainant. The complainant shall have an  
174 opportunity to describe the incident, present any evidence, name  
175 witnesses, and put his/her complaint in writing, if he/she has not already  
176 done so;

177  
178 ii. talk with any witnesses or others who may have relevant information; and

179  
180 iii. conduct an investigative meeting with the accused/employee, and the  
181 accused/employee's representative, if applicable, to discuss the  
182 allegations and allow the accused/employee to respond to the allegations.

183  
184 iv. During the investigation, the EEO Coordinator may recommend to the  
185 Chief Personnel Officer/designee any action deemed necessary to protect  
186 the complainant or other employees, consistent with the requirements of  
187 applicable laws.

188  
189 v. When necessary to carry out the investigation or for other good reasons,  
190 and consistent with federal and state privacy laws, the EEO Coordinator  
191 should discuss the complaint with any of the following persons, as  
192 appropriate:

193  
194 A. Superintendent/designee;

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196 B. chief officer;

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198 C. area superintendent/designee ;

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D. associate superintendents;

E. chief of School Police;

F. chief personnel officer;

G. director of labor relations;

H. another employee whose knowledge of the persons involved may help determine the truth;

I. legal counsel for the Board;

J. exclusive bargaining representative or their legal counsel, if appropriate; and

K. the accused/employee.

c. **Decision of the EEO Coordinator.**--Upon completion of the investigation, the EEO Coordinator/designee shall make a decision about the validity of the allegations in the complaint. The EEO Coordinator shall discuss the determination and any recommended corrective action with the principal/designee, or other immediate supervisor as applicable. In reaching a decision about the complaint, the following should be taken into account:

i. statements made by the persons identified above Section (4)(b);

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

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

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



- 236 v. evidence of past harassment or discrimination complaints that were found  
237 to be untrue (provided that, if evidence of past accusations or complaints  
238 are to be considered, the principal/designee/supervisor must review in  
239 their entirety the files regarding those past incidents); and  
240
- 241 vi. case law, state and federal laws and regulations, and Board Policies  
242 prohibiting harassment and discrimination.  
243
- 244 d. To determine the severity of the harassment or discrimination, factors such as  
245 the following may be considered:  
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- 247 i. how the misconduct affected an employee's work;  
248
- 249 ii. the type, frequency, and duration of the misconduct;  
250
- 251 iii. the number of persons involved;  
252
- 253 iv. the subject(s) of harassment or discrimination;  
254
- 255 v. the place and situation where the incident occurred; and  
256
- 257 vi. other incidents at the site.  
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- 259 e. The recommendations for action(s) to be taken, consistent with any applicable  
260 collective-bargaining agreement provisions, to resolve a complaint of  
261 harassment or discrimination by an employee include, but are not limited to,  
262 the following:  
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- 264 i. no action, if the complaint is unsubstantiated;  
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- 266 ii. training requirements for the accused/employee;  
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- 268 iii. oral reprimand of the accused/employee;  
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- 270 iv. written reprimand of the accused/employee;  
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- 272 v. suspension of the accused/employee; or  
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274 vi. termination of the accused/employee.

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276 **f. Level Two: Appeal to the Chief Operating Officer.--** If the complainant or  
277 accused/employee wishes to appeal the action taken in resolution of the  
278 complaint, such appeal shall be filed in accordance either with this Policy or  
279 relevant collective bargaining agreement, as applicable. For those employees  
280 not in a bargaining unit, the appeal shall be filed in accordance with the  
281 following procedures:

282  
283 i. If the grievant or accused/employee desires to appeal the EEO  
284 Coordinator's decision, it may be appealed in writing to the Chief  
285 Operating Officer within ten (10) work days after receipt of the decision.

286  
287 ii. If the Chief Operating Officer is directly involved with a complaint or with  
288 the parties to the complaint complainant or accused/employee, then the  
289 Chief Academic Officer shall be asked to review the matter.

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291 iii. Notice of the appeal shall be given to the opposite party within two (2)  
292 work days of receipt of appeal.

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294 iv. The Chief Operating Officer/designee shall review the written complaint,  
295 the accused/employee's response to the complaint, and all  
296 documentation pertaining to the alleged sexual harassment or  
297 discrimination, including the EEO Coordinator's decision.

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299 v. The Chief Operating Officer/designee, in his/her discretion, may request  
300 additional information. The Chief Operating Officer/designee shall issue a  
301 written decision to the parties within twenty (20) calendar days of request  
302 of the appeal.

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304 **g. Level Three: Appeal to the Superintendent.--** Within ten (10) work days  
305 after the Chief Operating Officer/designee issues a written decision, if a party  
306 is not satisfied with the decision (or if no decision has been issued within ten  
307 (10) work days of the meeting), the party may appeal the decision in writing to  
308 the Superintendent. If the grievance is not forwarded to the Superintendent  
309 within the designated time, the grievance is considered withdrawn from the  
310 grievance process and shall be so noted in the grievance file.

- 311 i. Notice of the appeal shall be given to the opposite party within two (2)  
312 work days of receipt of appeal.
- 313 ii. The Superintendent/designee shall appoint an ad hoc grievance review  
314 committee as specified in Section (3)(d)(ii), above.
- 315 A. In an effort to resolve the grievance, within ten (10) work days after  
316 the committee is designated, the committee shall meet with the  
317 appealing party and, if deemed appropriate, may also meet with the  
318 opposite party. Other persons may be presented as witnesses at the  
319 meeting by either the appealing party or the opposite party.
- 320 B. The committee shall issue a written recommendation within ten (10)  
321 work days after the meeting, determining whether any violation has  
322 occurred, and if so, recommending an appropriate remedy. A copy  
323 of the recommendation shall be provided to both parties, the  
324 grievant's supervisor and the director of labor relations (if  
325 appropriate), and the Superintendent.
- 326 iii. The Superintendent/designee shall review the recommendation of the  
327 grievance review committee and the record of the grievance. If the  
328 Superintendent/designee finds that a meeting with the grievant and/or  
329 accused/employee would assist in the final determination, the  
330 Superintendent/ designee may schedule a meeting for the purposes of  
331 this review. The Superintendent/designee's decision is final and binding  
332 and not subject to appeal.
- 333 h. If the complainant is not satisfied with the results of the procedures contained  
334 in this Section, he/or she may utilize other means for resolution as provided by  
335 law, including seeking recourse through the federal Office for Civil Rights  
336 ("OCR") or Equal Employment Opportunity Commission ("EEOC").

337 **5. Rights of Employees (Including Applicants as Defined in Section (2)(e))**

- 338 a. During any of the grievance levels, the employee (including an applicant as  
339 defined in Section (2)(e)) may be represented by a person of the  
340 employee's/applicant's choice once the grievance is filed with the supervisor.  
341 Department of Employee Labor relations For grievances governed by Section  
342 (3) that are filed by employees/applicants who choose to be represented by

343                   legal counsel, the process will begin at the chief officer phase of Level 3 under  
344                   Section (3)(c).

345           b.    No retaliation or reprisals of any kind shall be taken by any member of the  
346                   administration against the employee, representative, or any other participant in  
347                   the grievance procedure by reason of such participation.

348    6.    General Provisions

349           a.    Grievance report forms for filing a grievance shall be available in the  
350                   Department of Employee labor relations.

351           b.    Failure of the employee/applicant to advance the grievance through the  
352                   procedure within the time lines designated will result in immediate dismissal of  
353                   the grievance.

354           c.    All records pertaining to a grievance shall be filed in a separate grievance file  
355                   and will not be kept in the official personnel file of the employee/applicant, but  
356                   this grievance file will be treated as provided by §§ 119.07 and 231.291, Fla.  
357                   Stat. All decisions of management are to be forwarded to the labor relations  
358                   department, which is designated as the custodian of those records for  
359                   grievances involving a bargaining unit member. However, said This file is  
360                   subject to disclosure pursuant to the Public Records law.

361           d.    If a grievance is filed under the grievance procedure in a collective bargaining  
362                   agreement, the employee may not pursue a the grievance under this  
363                   procedure.

364           e.    The grievant is precluded from processing a grievance when the subject of the  
365                   grievance and/or the relief requested has been, or currently is, the subject of  
366                   another administrative action or appeal before a governmental body or agency  
367                   or a court proceeding.

368           f.    The filing of a grievance shall not interfere with the right of the School Board to  
369                   carry out its responsibilities, subject to the final decision on a grievance.

370           g.    Employees who report directly to the Board (Superintendent, Internal Auditor,  
371                   and Chief Counsel) shall file any grievance with the Board chair.

372           h.    Employees of the Officer of Internal Auditor and Officer of Chief Counsel shall



Legal Signoff:

The Legal Department has reviewed proposed Policy 3.31 and finds it legally sufficient for development by the Board.

\_\_\_\_\_  
Attorney

\_\_\_\_\_  
Date