

POLICY 5.1816

4-F I recommend the Board adopt the proposed new Policy 5.1816, to be entitled "Student Records Correction and Appeals."

[Contact: Corey Smith, Esq., 434-8500.]

Adoption

CONSENT ITEM

- The Board approved development of this Policy on March 1, 2004.
- This new Policy will provide uniform guidelines regarding the rights of parents and adult students to request correction of information contained within the student's education records.

POLICY 5.1816

STUDENT RECORDS CORRECTION AND APPEALS

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6 **1. Purpose.--** The purpose of this Policy is to provide uniform guidelines and
7 procedures for the correction, deletion, expunction, or rebuttal of inaccurate,
8 misleading, or otherwise inappropriate data or material contained in a student's
9 education records, pursuant to Fla. Stat. § 1002.22(3)(c).

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11 a. *Definition.*-- For purposes of this Policy, the term "student records and reports"
12 is limited to "the types of records and reports, directly related to students . . .
13 maintained by the institution that the student attends or has attended," to which
14 the parent or adult student would have a right of access under Fla. Stat.
15 1002.22(2)(c) and (3)(a).

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17 b. *Limitation.*-- The other types of student-related records listed in Fla. Stat. §
18 1002.22(2)(c)1-8 are not subject to challenge under the education records law,
19 such as teachers' grade books; School Police records maintained solely for law
20 enforcement purposes; student-employment records; and records created or
21 maintained by a physician, psychiatrist, psychologist, or other recognized
22 professional or paraprofessional for treatment to the student.

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24 **2. Right of Challenge**

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26 a. A parent or adult student shall have the right to challenge the content of a
27 student's education records and reports, as defined in subsection (1)(a), in order
28 to ensure that the student's record or report is not inaccurate, misleading, or
29 otherwise in violation of the privacy or other rights of the student; but only for the
30 purpose of receiving "an opportunity for the correction, deletion, or expunction of
31 any inaccurate, misleading, or otherwise inappropriate data or material
32 contained therein." Fla. Stat. § 1002.22(3)(c).

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34 b. Only *textual* inaccuracy can be challenged under Fla. Stat. § 1002.22(3)(c). The
35 law does not allow challenging the underlying *reasons* for the information in the
36 record.

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38 i. For example, this Policy allows a challenge of the typographical or
39 mathematical accuracy of a grade report but not the teacher's reasoning in
40 deciding to give a certain grade.
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42 ii. For another example: a student's suspension may not be appealed under
43 Fla. Stat. § 1002.22(3)(c) based on the parent's disagreement with the
44 student's deserving of suspension or the principal's reasoning in deciding to
45 impose the suspension. However, a textual inaccuracy may be corrected
46 (e.g., if the record erroneously states the student was suspended for
47 computer misuse when in reality it was for fighting.)
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49 3. Informal Resolution

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51 a. Any challenge to a student's record may be resolved through informal meetings
52 or discussions between the parties (the parent/adult student and the appropriate
53 school officials, such as the principal).
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55 b. If the parties at such a meeting agree to make corrections, to make deletions, to
56 expunge material, or to add a statement of explanation or rebuttal to the file, such
57 agreement shall be reduced to writing and signed and dated by the parties; and
58 the appropriate school officials shall take the necessary actions to implement the
59 agreement. The agreement shall only indicate that the record has been
60 corrected, deleted or expunged, or that an explanatory/rebuttal statement will be
61 added, pursuant to Fla. Stat. § 1002.22(3)(c) and SBER 6A-1.0955(6)(k)3.
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63 4. Hearing Procedures.-- If the parties cannot reach an agreement through informal 64 resolution under section (3), either party may request a hearing on the challenge 65 before a committee of the Student Services Department. Student Services will 66 convene a hearing consistent with Fla. Stat. § 1002.22(3)(c) and SBER 6A- 67 1.0955(6)(k)2, 4: 68

69 a. the hearing shall be conducted within a reasonable period of time following the
70 request for the hearing;
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72 b. upon the request of the parent or student, the hearing shall be exempt from the
73 requirements of the Sunshine Law;
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75 c. the purpose of such a hearing shall be to correct, delete, or expunge information
76 that is *textually* inaccurate, misleading, or in violation of the student's privacy
77 rights--not to appeal the underlying basis or reasoning for the decision or action
78 reported in the records;
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80 d. the hearing shall be conducted, and the decision rendered, by District officials
81 who do not have a direct interest in the outcome of the hearing;
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83 e. the parent or student shall be afforded a full and fair opportunity to present

84 evidence relevant to the issues raised:

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86 f. the decision shall be rendered in writing within a reasonable period of time after
87 the conclusion of the hearing; and

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89 g. the appropriate school officials shall take the necessary actions to implement the
90 decision.

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92 h. The decision rendered by the Student Services committee shall be final. There
93 will be no appeal from the decision rendered by the Student Services committee.
94 However, the parent or adult student shall have the "right to place a statement in
95 the education record . . . if the decision of the hearing is that the records are not
96 inaccurate, misleading or otherwise in violation of privacy. The statement may
97 comment on the information in the education record and set forth any reasons for
98 disagreeing with the decision." SBER 6A-1.0955(6)(k)4.

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100 STATUTORY AUTHORITY: §§ 1001.41(2); 1001.43(6), (8), Fla. Stat.

101 LAWS IMPLEMENTED: §§ 1002.22(3)(c); 20 U.S.C. § 1232g(a)(2), (b)(1)(B), Fla. Stat.

102 STATE BOARD OF EDUCATION RULE SUPPLEMENTED: 6A-1.0955(6)(k)

103 HISTORY: NEW: ___ / ___ /04

Legal Signoff:

The Legal Department has reviewed proposed Policy 5.1816 and finds it legally sufficient for development by the Board.

Attorney

Date