

POLICY 5.81

- 4-B** I recommend the Board adopt the proposed revisions to Policy 5.81, to be re-named "Protecting Students from Sexual Harassment and Discrimination."

[Contact: Dr. MaryAnn DuPont, 434-8963]

Adoption

- At the first reading (development) on June 3, the Board approved this Policy for second reading (adoption) on July 8.

CONSENT ITEM

PROPOSED REVISION OF POLICY 5.81

**POLICY AGAINST PROTECTING STUDENTS FROM SEXUAL HARASSMENT AND
DISCRIMINATION OF STUDENTS**

1. **General Provisions.**— The School Board of Palm Beach County, as governing body for the District of Palm Beach County, Florida (“School District” or “District”), does not discriminate on the basis of sex in education programs and prohibits sexual harassment of, or gender-based discrimination against, any student or applicant for admission by any employee, student, or other person in the school, or outside the school, at school-sponsored events, on school buses, and at training facilities sponsored by the School District.
2. Sexual harassment and discrimination will not be tolerated and ~~will~~ shall be just cause for disciplinary action. Pursuant to § 230.23(6)(d)8, the Board hereby gives notice that "violation of the district school board's sexual harassment policy by a student is grounds for in-school suspension, out-of-school suspension, expulsion, or imposition of other disciplinary action by the school and may also result in criminal penalties being imposed."
3. In an effort to promote an environment free of sexual harassment and discrimination, the School District has adopted this Policy prohibiting ~~Against~~ Sexual Harassment of, and or Discrimination against, of Students, in order to prevent, investigate, and take prompt, equitable, and appropriate action with regard to alleged sexual harassment and discrimination.
4. Although Title IX does not prohibit discrimination on the basis of sexual orientation, sexual harassment directed at gay and lesbian students may constitute sexual harassment covered by Title IX. The School District believes that all students are entitled to a safe, equitable, and harassment-free school experience. The School ~~District Board~~ Board will not tolerate sexual harassment between members of the same or opposite sex.
5. This Policy shall be interpreted and applied consistent with all applicable state and federal laws and collective-bargaining agreements.
6. **Title IX Coordinator.** — Title IX of the Education Amendments (“Title IX”) and

39 regulations of the Department of Education's Office for Civil Rights ("OCR") require
 40 that the School District not discriminate on the basis of sex and that the School District
 41 designate a Title IX Coordinator who is responsible for compliance with Title IX and
 42 this Policy. The School District has designated the ~~EEO~~ Equal Employment
 43 Opportunity ("EEO") Coordinator as the person responsible for ensuring that students
 44 and their custodial parent(s)/guardian receive information related to sexual
 45 harassment.

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- 47 7. The EEO Coordinator is the District's Title IX Coordinator and Sexual Harassment
 48 Officer and is located at: 3370 Forest Hill Boulevard, Suite A-~~128~~-115, West Palm
 49 Beach, Florida, 33406; Telephone: (561) 434-8637.
- 50
- 51 8. Along with similar information required by Policy 5.001, this contact information is to
 52 be posted in highly visible locations at each school including the main office, the
 53 guidance waiting area, and student services.
- 54
- 55 9. **Definitions.**-- For purposes of this Policy, the following definitions shall apply:
- 56
- 57 a. ~~Complaint: A complaint means~~ is defined as allegations regarding any action,
 58 policy, procedure, or practice prohibited by Title IX, the Florida Education Equity
 59 Act, and/or this ~~p~~Policy.
- 60
- 61 b. ~~Complainant: A complainant is defined as~~ is defined as a student of, or applicant for
 62 admission to, the School District who submits a complaint of sexual harassment
 63 or discrimination or an individual or group submitting a complaint on behalf of a
 64 student(s).
- 65
- 66 c. ~~Day: All days are~~ is defined as a working days and does not include weekends
 67 or holidays unless noted as "calendar day."
- 68
- 69 d. ~~Accused/student: The accused~~ defined as a student alleged to be responsible for
 70 the violation that is alleged in the complaint.
- 71
- 72 e. ~~Accused/employee: The accused~~ is defined as a School District employee
 73 alleged to be responsible for the violation alleged in the complaint.
- 74
- 75 f. ~~Parties: Parties means~~ is defined as the accused student/applicant for admission
 76 and/or accused/employee, and the complainant.
- 77

- 78 g. ~~School Official: School Officials include~~ is defined for purposes of this Policy, as
 79 School Board employees, principals, assistant principals, teachers, and school
 80 police officers who have the duty of reasonable supervision with respect to
 81 student activities.

82
 83 **10. Prohibited Sexual Harassment**

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 85 a. There are two (2) types of sexual harassment: quid pro quo harassment and
 86 hostile environment harassment.
 87
 88 i. Quid pro quo harassment occurs when some advancement or opportunity,
 89 such as grades, credits, graduation, or other benefits are conditioned upon
 90 sexual favors or that an advancement or opportunity is withheld or
 91 punishment will result from a refusal to comply with a demand for sexual
 92 favors.
 93
 94 ii. Hostile environment harassment occurs when sexual conduct is sufficiently
 95 severe, persistent, or pervasive that it has the purpose or effect of
 96 unreasonably interfering with a student's performance or ability to benefit
 97 from his/her education, or creates an intimidating, hostile, offensive, or
 98 abusive school environment.
 99
 100 b. Prohibited sexual harassment includes, but is not limited to, requests for sexual
 101 favors, and other verbal, visual or physical conduct of a sexual nature when:
 102
 103 i. Submission to the conduct is explicitly or implicitly made a term or
 104 condition of an individual's academic status or progress;
 105
 106 ii. Submission to or rejection of the conduct by an individual is used as the
 107 basis for academic decisions affecting the individual. The conduct has the
 108 purpose or effect of having a negative impact on the individual's academic
 109 performance, unreasonably interfering with the individual's education, or
 110 creating an intimidating, hostile, or offensive educational environment; or
 111
 112 iii. Submission to or rejection of the conduct by the individual is used as the
 113 basis for any decision affecting the individual regarding benefits and
 114 services, honors, programs, or activities available at or through the school.
 115

- 116 c. Types of conduct which are prohibited in the District and which may constitute
 117 sexual harassment include, but are not limited to:
- 118
- 119 i. ~~G~~raphic verbal comments about an individual's body or appearance;
- 120
- 121 ii. ~~S~~exual jokes, notes, stories, drawings, pictures or gestures;
- 122
- 123 iii. ~~S~~exual slurs; sexually-suggestive leering, threats, abusive words, derogatory
 124 comments; or sexually-degrading descriptions;
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- 126 iv. ~~U~~nwelcome sexual flirtations or propositions for sexual activity or
 127 unwelcome demands for sexual favors, including but not limited to repeated
 128 unwelcome requests for dates;
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- 130 v. ~~S~~preading sexual rumors;
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- 132 vi. ~~T~~ouching an individual's body or clothes (including one's own) in a sexual
 133 way, including, but not limited to, grabbing, brushing against, patting,
 134 pinching, bumping, rubbing, kissing, and fondling;
- 135
- 136 vii. ~~C~~ornering or blocking normal movements, or bullying;
- 137
- 138 viii. ~~D~~isplaying sexually suggestive drawings, pictures, written materials, and
 139 objects in the educational environment; or
- 140
- 141 ix. ~~A~~ny act of retaliation against an individual who reports a violation of the
 142 ~~District's Board's~~ sexual harassment Policy or ~~who~~ participates in the
 143 investigation of a sexual harassment complaint.
- 144

145 11. ~~Site Level~~ GRIEVANCE PROCEDURE FOR SEXUAL HARASSMENT OR
 146 DISCRIMINATION BY STUDENTS -- Investigation and Resolution of Complaints
 147 Against an (Accused/Student)

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- 149 a. ~~Site Level Procedure~~ Reporting Discrimination or Harassment.— Any student or
 150 applicant for admission who believes he/ ~~or~~ she is a victim of sexual harassment
 151 or discrimination (or any individual, including any student, teacher, or other
 152 employee of the ~~School~~ District, who has knowledge of any incident(s) involving
 153 sexual harassment or discrimination of students or applicants for admission) is
 154 strongly encouraged to report the incident(s) to a ~~school official~~ the Principal.

155 Due to the sensitive nature of sexual harassment complaints, the complaint may
156 be filed directly with ~~or~~ the EEO/Title IX Coordinator.

- 157
- 158 b. School officials must report any allegations of harassment or discrimination to the
159 Pprincipal and to the EEO/Title IX Coordinator.
- 160
- 161 c. School officials must instruct students and their custodial parent(s)/guardian that
162 ~~they~~ the student (or custodial parent(s)/guardian on behalf of the student) may file
163 a complaint with the Pprincipal/~~or~~designee or EEO/Title IX Coordinator.
- 164
- 165 d. It is the responsibility of the principal to forward all complaints to the area
166 superintendent and EEO/Title IX Coordinator.
- 167
- 168 e. **Principal Involvement.**– If the P principal is directly and personally involved
169 with a complaint or is closely related to the a parties party to the complaint, then
170 ~~an impartial designee~~ the area superintendent shall be asked to conduct the
171 investigation.
- 172
- 173 f. **Informal Resolution.**– Where appropriate, the complainant and the
174 accused/student may agree to informally resolve the complaint.
- 175
- 176 i. The principal/designee may arrange for the parties to resolve the complaint
177 informally.
- 178
- 179 ii. The student or the custodial parent(s)/guardian on behalf of the student who
180 complained shall never be asked to work out the problem directly with the
181 accused/student unless the assistance of a counselor, teacher, administrator,
182 or mediator is provided and the complainant is willing.
- 183
- 184 iii. If the complaint is resolved informally, the Pprincipal/~~or~~ designee shall
185 notify the EEO/Title IX Coordinator of the resolution of the complaint.
- 186
- 187 g. **Filing the Complaint Report.**– If the matter cannot be resolved informally, the P
188 principal/ ~~or~~ designee shall assist the student (or custodial parent(s)/guardian on
189 behalf of the student) in filing a complaint. Individuals may file a complaint,
190 either orally or in writing with the Pprincipal/~~or~~designee or EEO/Title IX
191 Coordinator by using the Harassment and Discrimination Complaint Student
192 Complaint Report form (PBSD 1615). Said form is hereby incorporated by
193 reference and made a part of this Policy and shall be filed with the Clerk of the

194 School Board herewith and is available on the District's web site at
 195 <http://www.palmbeach.k12.fl.us/Records/Forms.htm>.
 196

- 197 h. Complaints should be made as soon as possible but no later than sixty (60)
 198 calendar days of the alleged incident. Failure on the part of the complainant to
 199 initiate and/or follow up on a complaint in a timely manner may result in the
 200 complaint being deemed abandoned. The P principal/ ~~or~~ designee shall record
 201 and document all complaints regarding sexual harassment and discrimination to
 202 ensure that problems are appropriately addressed.
 203
- 204 i. The complainant will be requested to provide signed, specific information
 205 regarding the alleged discrimination or harassment, the alleged offender(s),
 206 witnesses, and other relevant information.
 207
- 208 j. If the student does not at first file a written complaint, the student (or custodial
 209 parent(s)/guardian on behalf of the student) will be requested to complete the
 210 complaint form. The principal/ ~~or~~ designee may assist the student in completing
 211 the form or may complete the form for a student an individual who makes the
 212 report orally. In all instances, the student (or custodial parent(s)/guardian on
 213 behalf of the student) shall review the form to ensure its accuracy and sign and
 214 date the complaint.
 215
- 216 k. All complaints filed with the P principal/ ~~or~~ designee must be reported to the A
 217 area superintendent Executive Director and the EEO/Title IX Coordinator.
 218
- 219 l. **Notice to Accused/Student.** -- Within two (2) days of receipt of a complaint, the
 220 P principal/ ~~or~~ designee will notify the accused/student of the allegations.
 221
- 222 m. **Notice to Parent(s)/Guardians.**-- Upon receiving a complaint, within two (2) days
 223 of the allegations, and in accordance with federal and state privacy laws, the
 224 principal/designee shall notify the custodial parent(s)/ guardian of any student
 225 under age eighteen (18) who is involved in alleged harassment or discrimination.
 226 Notification may be made by telephone, letter, or personal conference. The
 227 students involved and their custodial parent(s)/ guardians will also be notified of
 228 events and decisions described in this pPolicy.
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- 230 n. **Steps in the Investigation.**-- The P principal/ ~~or~~ designee shall promptly and
 231 thoroughly investigate all complaints of sexual harassment or discrimination,
 232 including at a minimum the following steps:

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- i. ~~P~~romptly talk with the complainant~~;~~
 - ii. ~~T~~he complainant (or custodial parent(s)/guardian on behalf of a student complainant) shall have an opportunity to describe the incident, present witnesses and other evidence of the harassment or discrimination, and put his/her the complaint in writing if he/she has not already done so~~;~~
 - iii. ~~P~~romptly talk with the accused/student or custodial parent(s)/guardian on behalf of the accused/student;
 - iv. ~~T~~he accused/student shall have an opportunity to describe the incident, present witnesses and other evidence, and put his/her response in writing~~;~~
 - v. ~~T~~alk with any person who saw the harassment, has knowledge of the discrimination~~,~~ or who may have related information~~;~~ and
 - vi. ~~C~~onduct a conference, if appropriate, with the complainant and custodial parent(s)/guardian and the accused/student and custodial parent(s)/guardian and give with prior notice of the date, time, place and rules to the parties.
- ~~o. If the complainant and the accused/student agree, the Principal or designee may arrange for the parties to resolve the complaint informally.~~
- i. ~~The student who complained shall never be asked to work out the problem directly with the accused/student unless the assistance of a counselor, teacher, administrator, or mediator is provided.~~
 - ii. ~~If the matter cannot be resolved informally, the Principal/ or designee shall assist the student in filing a complaint. If the complaint is resolved informally, the Principal/ or designee shall notify the EEO Coordinator of the resolution of the complaint.~~
- p. Failure by a principal to respond to a complaint in a timely manner will automatically allow the complainant to re-file the complaint with the area superintendent.
 - q. **Pursuing the Investigation.**— During the investigation, the ~~P~~principal/or designee may take any action necessary to protect the complainant~~,~~ or other employees ~~or~~

272 students or employees, consistent with the requirements of applicable regulations
273 and statutes. In general, complainants shall continue attendance at the school
274 and pursue their studies as directed while the investigation is conducted and the
275 complaint is pending resolution.

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- 277 i. The Pprincipal/~~or~~ designee is encouraged to ask open-ended questions to
278 enable students to describe what happened in their own words.
- 279
- 280 ii. The Pprincipal/~~or~~ designee may request that the accused/student or custodial
281 parent/guardian on the student's behalf prepare a written response to the
282 complaint;~~;~~ or the Pprincipal/~~or~~ designee may prepare a written statement of
283 the accused/student's oral response to the complaint based on their meeting
284 and obtain the signature of the accused/student and/or custodial
285 parent(s)/guardian after his/her review of the statement.
- 286
- 287 iii. The Pprincipal/~~or~~ designee should ~~review and~~ dictate and then review
288 his/her notes with the complainant and accused/ student after the interviews
289 to verify the facts and ensure accuracy, and then obtain signatures, but shall
290 not tape the interviews.
- 291
- 292 iv. When necessary to carry out his/her investigation or for other good reasons,
293 and consistent with federal and state privacy laws, the Pprincipal/~~or~~
294 designee may discuss the complaint with any of the following persons:
- 295
- 296 A. Superintendent/~~or~~ designee;
- 297
- 298 B. Chief Academic Officer;
- 299
- 300 C. ~~A~~area superintendents ~~Executive Directors~~;
- 301
- 302 D. associate-~~S~~superintendents;
- 303
- 304 E. Chief of School Police;
- 305
- 306 F. the custodial parent(s)/guardian of the complainant, if the complainant
307 is under eighteen (18) years of age;
- 308
- 309 G. the custodial parent(s)/guardian of the accused/student, if the
310 accused/student is under eighteen (18) years of age~~;~~

- 311
- 312 H. a teacher or staff member whose knowledge of the students involved
- 313 may help determine who is telling the truth;_z
- 314
- 315 I. child protective agencies responsible for investigating child abuse;_z
- 316 and/or
- 317
- 318 J. legal counsel for the ~~district~~ Board.
- 319
- 320 r. **Written Decision of the Principal/Designee.**– Upon completion of the
- 321 investigation, the ~~P~~principal/~~o~~rdesignee will make a decision about the validity of
- 322 the allegations in the complaint and about any corrective action, if applicable. In
- 323 reaching a decision about the complaint, the ~~P~~principal/~~o~~r designee should take
- 324 into account:
- 325
- 326 i. ~~S~~statements made by the persons identified in ~~Section 5~~ paragraph (11)(n)
- 327 above;
- 328
- 329 ii. ~~T~~he details and consistency of each person’s account;
- 330
- 331 iii. ~~E~~vidence of how the complainant reacted to the incident;
- 332
- 333 iv. ~~E~~vidence of past instances of harassment or discrimination by the accused/
- 334 student (provided that, if evidence of past harassment/discrimination are to
- 335 be considered, the principal/designee must review in their entirety the files
- 336 regarding those past incidents);
- 337
- 338 v. ~~E~~vidence of past harassment or discrimination complaints that were found
- 339 to be untrue (provided that, if evidence of past accusations or complaints is
- 340 to be considered, the principal/designee must review in their entirety the
- 341 files regarding those past incidents); and
- 342
- 343 vi. ~~C~~ase law, state and federal laws and regulations, and the ~~District’s~~ Board’s
- 344 policy prohibiting sexual harassment and discrimination.
- 345
- 346 s. To determine the severity of the harassment or discrimination, the ~~P~~principal/~~o~~r
- 347 designee may consider, among other things:
- 348
- 349 i. ~~H~~ow the misconduct affected one or more student’s education;_z

- 350
- 351 ii. ~~The~~ type, frequency, and duration of the misconduct;
- 352
- 353 iii. ~~The~~ number of persons involved;
- 354
- 355 iv. ~~The~~ subject(s) of harassment or discrimination;
- 356
- 357 v. ~~The~~ place and situation where the incident occurred; and/or
- 358
- 359 vi. ~~O~~ther incidents at the school, including incidents of harassment or
- 360 discrimination that were not related to sex.
- 361
- 362 t. Within thirty (30) calendar days of the filing of the complaint, the ~~P~~ principal/ ~~or~~
- 363 designee shall give the ~~A~~rea superintendent/ ~~Executive Director~~ or designee and
- 364 the EEO/Title IX Coordinator a written report that describes the complaint and
- 365 investigation and contains his/her findings, decision, and reasons for the
- 366 decision.
- 367
- 368 i. If the principal/designee ~~he/she~~ verifies that sexual harassment or
- 369 discrimination occurred, this report shall describe the actions ~~he/she took~~
- 370 taken to end the harassment or discrimination, address the effects of the
- 371 harassment or discrimination on the complainant, and prevent retaliation or
- 372 further harassment or discrimination.
- 373
- 374 ii. The ~~P~~ principal/ ~~or~~ designee ~~will~~ shall notify the parties in writing of ~~his/her~~
- 375 the decision and their right to review by the Area superintendent/~~Executive~~
- 376 ~~Director~~ or designee. (If the complaint was originally filed with, and
- 377 investigated by, the EEO/Title IX Coordinator instead of the principal, the
- 378 Title IX Coordinator shall inform the parties of the right to appeal to the
- 379 Chief Academic Officer/designee within ten (10) days after receiving the
- 380 Coordinator's decision.)
- 381
- 382 u. No retaliation of any kind is permitted on the basis of any individual's having
- 383 made a discrimination or harassment complaint.
- 384
- 385 12. Review by Area Superintendent ~~Executive Director~~ of a Complaint Against an
- 386 Accused/Student.—If the complaint is not resolved at the school-site level to the
- 387 satisfaction of the parties ~~in the site-level process~~ or their custodial parents(s)/guardian,
- 388 either party or their custodial parents(s)/guardian may seek review by the ~~A~~rea

389 superintendent Executive Director or designee, by using through the following procedures
 390 process-;

- 391
- 392 a. The written complaint and request for review shall be sent to the area
 393 superintendent's office within ten (10) days of the completion of the site-level
 394 process by the principal/designee.
- 395
- 396 i. If the principal's designee conducted the investigation and made the
 397 decision, the first level of appeal is to the principal rather than the area
 398 superintendent. If the complaint was conducted by, or has been reviewed
 399 by, the principal, the next level of appeal is to the area
 400 superintendent/designee. (If the complaint was originally filed with, and
 401 investigated by, the EEO/Title IX Coordinator instead of the principal, the
 402 next level of appeal is to the Chief Academic Officer/designee.) ~~The written~~
 403 ~~complaint and request for review shall be sent to the Area Executive~~
 404 ~~Director's office within ten (10) days of the completion of the site-level~~
 405 ~~process by the Principal or designee.~~
- 406
- 407 ii. However, If-if the A area superintendent/ Executive Director or designee is
 408 directly involved with a complaint or closely related to ~~with~~ the parties to
 409 the complaint, then ~~an impartial designee~~ the Chief Academic
 410 Officer/designee shall be asked to conduct the investigation review and/or
 411 further investigation.
- 412
- 413 b. **Notice Requirement.**— Notice will be given to all parties of a request for review
 414 by the A area superintendent/ Executive Director or designee within two (2) days
 415 of the request for review.
- 416
- 417 c. **Procedure.**— The A area superintendent/ Executive Director or designee shall
 418 review the complaint, the answer to the complaint, the P principal's report, and
 419 any other evidence in the record. The A area superintendent/ Executive Director
 420 ~~or~~ designee may conduct any further investigation he/she deems necessary.
- 421
- 422 i. The area superintendent/designee will review the principal's decision as to
 423 the validity of the allegations and any corrective action and will make a
 424 decision within thirty (30) calendar days after receipt of the request for
 425 review. Time limits may be extended by written mutual agreement of the
 426 individual(s) making the complaint and ~~the person to whom the complaint is~~

427 ~~addressed~~ accused/student or custodial parent(s)/guardian on the
 428 accused/student's behalf.

- 429
- 430 ii. No retaliation of any kind is permitted because an individual has made a
 431 sexual harassment or sexual discrimination complaint. During the
 432 investigation, the ~~A~~ area superintendent/ Executive Director or designee may
 433 take any action necessary to protect the complainant, ~~or other employees or~~
 434 students, or employees, consistent with the requirements of applicable
 435 regulations and statutes. ~~The Area Executive Director or designee will~~
 436 ~~review the Principal's decision as to the validity of the allegations and any~~
 437 ~~corrective action, and will make a decision within thirty (30) calendar days~~
 438 ~~after receipt of the request for review.~~
- 439
- 440 iii. The ~~A~~ area superintendent/ Executive Director or designee shall take action
 441 deemed appropriate to resolve the situation, including, but not limited to
 442 warning, out-of-school suspension, expulsion, transfer to alternative school,
 443 or other disciplinary action by the school, consistent with the requirements
 444 of applicable procedures outlined in each § school's Student-Parent
 445 Handbook, School District Board P policy, and Florida law.
- 446
- 447 iv. The ~~A~~ area superintendent/ Executive Director or designee will inform the
 448 parties in writing of ~~his/her~~ the decision and the parties' right to appeal.
- 449
- 450 v. A copy of the decision will be sent to the EEO/Title IX Coordinator.
- 451

452 13. Appeal to the Chief Academic Officer/Designee

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- 454 a. If the complainant or accused/student, or their custodial parent(s)/guardian, is
 455 dissatisfied with the area superintendent's decision, that decision may be
 456 appealed in writing to the Chief Academic Officer/designee within ten (10) days
 457 after receipt of the decision.
- 458
- 459 i. If the area superintendent's designee conducted the investigation, the next
 460 level of appeal is to the area superintendent rather than the Chief Academic
 461 Officer.
- 462
- 463 ii. If the Chief Academic Officer/designee is directly involved with a complaint
 464 or closely related to a party to the complaint, then the Chief Operating
 465 Officer/disignee shall be asked to review the matter.

- 466
- 467 b. Notice.— Notice of the appeal shall be given in writing to the complainant and
- 468 accused/student and their custodial parent(s)/guardian(s) within two (2) days of
- 469 receipt of the appeal.
- 470
- 471 c. Procedure.— The Chief Academic Officer/designee shall review the written
- 472 complaint, the accused/student's response to the complaint (or
- 473 parent's/guardian's response on behalf of the accused/student), and all
- 474 documentation pertaining to the alleged harassment or discrimination including
- 475 the area superintendent's decision.
- 476
- 477 i. The Chief Academic Officer/designee, in his/her discretion, may request
- 478 additional information.
- 479
- 480 ii. The Chief Academic Officer/designee shall issue a written decision to the
- 481 parties within twenty (20) calendar days of request of the appeal.
- 482

483 14. Appeal Procedure to the Superintendent

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- 485 a. If the complainant or accused/student, or their custodial parent(s)/guardian, is
- 486 dissatisfied with the Area Executive Director's Chief Academic Officer's decision,
- 487 that decision it may be appealed in writing to the Superintendent within ten (10)
- 488 days after receipt of the decision.
- 489
- 490 i. If the Chief Academic Officer's designee conducted the investigation, the
- 491 next level of appeal is to the Chief Academic Officer, rather than to the
- 492 Superintendent.
- 493
- 494 ii. If the Superintendent is directly involved with a complaint or closely related
- 495 to a with the partiesparty to the complaint, then an impartial designee the
- 496 Chief Counsel to the Board shall be asked to review the matter and report
- 497 the findings in writing to the Board.
- 498
- 499 b. Notice.— Notice of the appeal shall be given to all parties within two (2) days of
- 500 receipt of appeal.
- 501
- 502 c. Procedure.— The Superintendent/~~or~~ designee shall review the written complaint,
- 503 the accused/student's response to the complaint (or the response of the custodial
- 504 parent(s)/guardian on behalf of the accused/student), and all documentation

505 pertaining to the alleged sexual harassment or discrimination, including the ~~Area~~
 506 ~~Executive Director's~~ Chief Academic Officer's decision.

- 507
- 508 i. The Superintendent/~~or~~ designee, ~~in his/her discretion,~~ may request
 509 additional information.
- 510
- 511 ii. The Superintendent/~~or~~ designee shall issue a written decision to the parties
 512 within twenty (20) calendar days of request of the appeal. The decision of
 513 the Superintendent/~~or~~ designee is the final decision of the District.

- 514
- 515 15. Other Means of Resolution. -- If the complainant is not satisfied with the results of the
 516 procedures contained in this policy, he/~~or~~ she may utilize other means for resolution
 517 as provided by law, including seeking recourse through the ~~F~~ederal Office for Civil
 518 Rights ("OCR").

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520 16. GRIEVANCE PROCEDURE FOR SEXUAL HARASSMENT OR DISCRIMINATION BY
 521 EMPLOYEES – Investigation and Resolution of Complaints Against an
 522 (Accused/Employee)

- 523
- 524 a. ~~Site Level Procedure~~ Reporting Discrimination or Harassment. -- Any student/~~or~~
 525 applicant for admission (or the custodial parent(s)/guardian behalf thereof) who
 526 believes he/~~or~~ she is a victim of discrimination or harassment, ~~of~~ (or any
 527 individual, including any student, teacher, or other employee of the ~~School~~
 528 District, who has knowledge of any incident(s) involving sexual discrimination
 529 against, or harassment of, students) is strongly encouraged to report the
 530 incident(s) to ~~a school official~~ the principal. Due to the sensitive nature of sexual
 531 harassment complaints, the complaint may be filed directly with the EEO/Title IX
 532 Coordinator.
- 533
- 534 b. School officials must report any allegations of discrimination or harassment to the
 535 ~~P~~principal and to the EEO/Title IX Coordinator.
- 536
- 537 c. School officials must instruct students that they may file a complaint with the ~~P~~
 538 principal/ ~~or~~ designee or the EEO/Title IX Coordinator. If the ~~P~~principal is
 539 directly involved with a complaint or with the parties to the complaint, then the
 540 incident may be reported directly to the EEO/Title IX Coordinator.
- 541
- 542 d. It is the responsibility of the principal to forward all complaints to the area
 543 superintendent and EEO/Title IX Coordinator.

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- e. **Filing the Compliant Form.**— ~~Individuals~~ Complainants (or the custodial parent(s)/guardian on behalf thereof) may file a complaint, either orally or in writing, with the Pprincipal/~~or~~ designee or the EEO/Title IX Coordinator by using the ~~Harassment and Discrimination Complaint~~ Student Complaint Report form (PBSD 1615). Said form is hereby incorporated by reference and made a part of this Policy and is available on the District's web site at <http://www.palmbeach.k12.fl.us/Records/Forms.htm>.
- i. Complaints should be filed as soon as possible after the alleged incident, but must be filed within sixty (60) calendar days of the alleged incident. Failure on the part of the complainant to initiate and/or follow up on a complaint in a timely manner may result in the complaint being deemed abandoned.
- ii. The Pprincipal/~~or~~ designee may assist the individual in completing the Fform by recording information on it the ~~Harassment and Discrimination Complaint Form~~ (for an individual who makes the report orally), reviewing it with the complainant, and obtaining the complainant's signature. The complainant will be requested to provide signed, specific information regarding the alleged discrimination or harassment, the alleged offender(s), witnesses, and other relevant information.
- iii. All complaints filed with the Pprincipal/~~or~~ designee must be reported to the Aarea superintendent ~~Executive Director~~ and the EEO/Title IX Coordinator.
- f. **Notice to Parent(s)/Guardians.**— Upon receiving a complaint, within two (2) days of the allegations, and in accordance with federal and state privacy laws, the principal/designee shall notify the custodial parent(s)/guardian of any student under age eighteen (18) who is involved in alleged harassment or discrimination. Notification may be made by telephone, letter, or personal conference. The students involved and their custodial parent(s)/ guardians will also be notified of events and decisions described in this Policy.
- g. **Investigation by EEO/Title IX Coordinator.**— The EEO/Title IX Coordinator or designee shall document and promptly and thoroughly investigate all complaints of harassment or discrimination, including the following steps to ensure that problems are appropriately addressed:

- 582 i. ~~P~~romptly talk with the complainant. The complainant (and/or the custodial
583 parent(s)/guardian) shall have an opportunity to describe the incident,
584 present any evidence, name witnesses, and put his/her complaint in writing,
585 if he/she has not already done so;
- 586
- 587 ii. ~~T~~alk with any witnesses or others who may have relevant information.; and
588
- 589 iii. ~~C~~onduct an investigation meeting with the accused/employee, and the
590 accused/employee's representative, if applicable, to discuss the allegations
591 and allow the accused/employee to respond to the allegations.
592
- 593 h. During the investigation, the EEO/Title IX Coordinator may recommend to the
594 Chief Personnel Officer/~~or~~ designee, any action necessary to protect the
595 complainant, or other employees or students, consistent with the requirements of
596 applicable ~~regulations or statutes,~~ State Board of Education Rules, Schol Board
597 Policies, and collective bargaining agreements. In general, complainants will
598 continue attendance at the school and pursue their studies as directed while the
599 investigation is conducted and the complaint is pending resolution. ~~The EEO~~
600 ~~Coordinator shall document all complaints to ensure that problems are~~
601 ~~appropriately addressed.~~
602
- 603 i. When necessary to carry out ~~his/her~~ the investigation or for other good
604 reasons, and consistent with federal and state privacy laws, the EEO/Title IX
605 Coordinator also shall discuss the complaint with the following persons, as
606 appropriate:
607
- 608 A. Superintendent/~~or~~ designee;
609
- 610 B. Chief Operating Officer and/or Chief Operating Officer;
611
- 612 C. ~~A~~ area superintendent/designee ~~Executive Directors;~~
613
- 614 D. ~~A~~ associate Superintendents;
615
- 616 E. Chief of School Police;
617
- 618 F. Chief Personnel Officer;
619
- 620 G. Director of ~~Employee~~ Labor Relations;

- 621
- 622 H. ~~T~~he custodial parent(s)/guardian of the complainant, if the complainant
- 623 is under eighteen (18) years of age;
- 624
- 625 I. ~~A~~a teacher or staff member whose knowledge of the student(s) or
- 626 employee(s) involved may help determine who is telling the truth;
- 627
- 628 J. ~~C~~hild protective agencies responsible for investigating child abuse;
- 629
- 630 K. ~~L~~egal counsel for the ~~District Board~~; ~~and/or~~
- 631
- 632 L. ~~E~~xclusive bargaining representative or ~~their~~ the legal counsel thereof,
- 633 if appropriate; and
- 634
- 635 M. the accused/employee.
- 636

637 17. ~~Resolution~~ **Decision of the EEO/Title IX Coordinator.**-- Upon completion of the

638 investigation, the EEO/Title IX Coordinator shall make a decision about the validity of

639 the allegations in the complaint.

640

- 641 a. The EEO/Title IX Coordinator shall discuss the determination and any corrective
- 642 action with the ~~P~~principal/~~or~~ designee.
- 643
- 644 b. In reaching a decision about the complaint, the following should be taken into
- 645 account:
- 646
- 647 i. ~~S~~tatements made by the persons identified above;
- 648
- 649 ii. ~~T~~he details and consistency of each person's account;
- 650
- 651 iii. ~~E~~vidence of how the complainant reacted to the incident;
- 652
- 653 iv. ~~E~~vidence of past instances of harassment or discrimination by the
- 654 accused/employee (provided that, if evidence of past harassment/
- 655 discrimination are to be considered, the investigator must review in their
- 656 entirety the files regarding those past incidents);
- 657
- 658 v. ~~E~~vidence of past harassment or discrimination complaints that were found
- 659 to be untrue (provided that, if evidence of past accusations or complaints is

- 660 to be considered, the investigator must review in their entirety the files
 661 regarding those past incidents); and
 662
- 663 vi. ~~C~~ase law, state and federal laws and regulations, and ~~the District's Board~~
 664 ~~p~~olicies prohibiting harassment and discrimination.
 665
- 666 c. To determine the severity of the harassment or discrimination, the following may
 667 be considered:
 668
- 669 i. ~~H~~ow the misconduct affected one or more student's education;
 670
- 671 ii. ~~T~~he type, frequency, and duration of the misconduct;
 672
- 673 iii. ~~T~~he number of persons involved;
 674
- 675 iv. ~~T~~he subject(s) of harassment or discrimination;
 676
- 677 v. ~~T~~he place and situation where the incident occurred; and
 678
- 679 vi. ~~O~~ther incidents at the school.
 680
- 681 d. The following action(s) ~~or discipline~~ may be taken, consistent with any applicable
 682 collective bargaining agreement provisions, to resolve a complaint of harassment
 683 or discrimination:
 684
- 685 i. ~~N~~o action, if the complaint is unsubstantiated;
 686
- 687 ii. ~~T~~raining requirements for the employee;
 688
- 689 iii. ~~O~~ral reprimand of the employee;
 690
- 691 iv. ~~W~~ritten reprimand of the employee;
 692
- 693 v. ~~S~~suspension of the employee ~~up to and including termination~~;
 694
- 695 A. For the first offense of verified harassment of, or discrimination against,
 696 a student, suspension should be recommended for a minimum of thirty
 697 (30) days without pay.
 698

699 B. Suspension without pay and/or termination requires School Board
 700 action.

701
 702 vi. Termination of the employee should be recommended, subject to Board
 703 action, for the second offense of verified harassment of, or discrimination
 704 against, a student.

705
 706 **18. Appeal Procedure for an Accused/Employee**

- 707
 708 a. If the accused/employee wishes to appeal the action taken in resolution of the
 709 complaint, such appeal shall be filed either in accordance with District Board
 710 Policyes or pursuant to the relevant collective bargaining agreement.
 711
 712 b. For those employees not in a bargaining unit, the appeal shall be filed in
 713 accordance with District Board Policy #3.31.

714
 715 **19. Appeal Procedure for Student/Complainant Against Accused/Employee**

- 716
 717 a. If the complainant ~~or accused/student~~ (or custodial parent(s)/guardian on his/her
 718 behalf) is dissatisfied with the EEO/Title IX Coordinator's decision, it may be
 719 appealed in writing to the Superintendent/Chief Operating Officer within ten (10)
 720 days after receipt of the decision. However, if the Superintendent/Chief
 721 Operating Officer is directly involved with a complaint or closely related to with
 722 ~~the a partiesparty~~ to the complaint, then ~~an impartial designee~~ the Chief
 723 Academic Officer shall be asked to review the matter.
 724
 725 b. **Notice.** Notice of the appeal shall be given to ~~all parties~~ the complainant (and
 726 the custodial parent(s)/guardian thereof) and the accused/employee within two (2)
 727 days of receipt of appeal.
 728
 729 c. **Procedure.** The Superintendent/ or Chief Operating Officer/designee shall
 730 review the written complaint, the accused/ ~~student's-employee's~~ response to the
 731 complaint, and all documentation pertaining to the alleged sexual harassment or
 732 discrimination including the EEO/Title IX Coordinator's decision.
 733
 734 i. The Superintendent/ or Chief Operating Officer/designee, in his/her
 735 discretion, may request additional information.

736 ii. The Superintendent/~~or~~ Chief Operating Officer/designee shall issue a written
737 decision to the parties within twenty (20) calendar days of request of the
738 appeal.

739
740 d. If the complainant (or custodial parent(s)/guardian thereof) is not satisfied with the
741 results of the Chief Operating Officer's/designee's review, appeal may be filed
742 with the Superintendent. The decision of the Superintendent/~~or~~ designee is the
743 final decision of the District. However, if the Superintendent is directly involved
744 with a complaint or closely related to one of the parties, then the Chief Counsel
745 to the Board shall be asked to review the matter, rather than the Superintendent,
746 and report the results of the review to the Board.

747
748 e. If the complainant is not satisfied with the results of the procedures contained in
749 this ~~p~~Policy, he/ ~~or~~ she may utilize other means for resolution as provided by
750 law, including seeking recourse through the ~~F~~ederal Office for Civil Rights
751 (“OCR”).
752

753 20. Confidentiality

754
755 a. To the greatest extent possible, all complaints will be treated as confidential and
756 in accordance with Fla. Stat. § 228.093(3)(d), ~~§ 119.07(3)(p)~~, and the Family
757 Educational Rights and Privacy Act (“FERPA”), and any other applicable law, such
758 as §§ 119.07(3)(p), 231.291(3), and 231.262(1), Fla. Stat.

759
760 b. However, limited disclosure may be necessary to complete a thorough
761 investigation as described above. The District’s obligation to investigate and take
762 corrective action may supersede an individual’s right to privacy.

763
764 c. The complainant’s identity shall be ~~confidentially~~ protected, but absolute
765 confidentiality cannot be guaranteed.

766
767 21. ~~Notice.~~ Informing Students and Employees About this Policy.— Notice of the
768 existence of this ~~p~~Policy, prevention plan, and procedures shall be posted in
769 prominent locations in all District buildings, including information on how to receive
770 a copy. Notice shall be included annually in student, parent, and staff handbooks.

771
772 a. ~~b.~~ Upon receiving a complaint, and in accordance with federal and state privacy
773 laws, the Principal or designee shall notify the custodial parents/ guardians of all
774 students under age (18) who is involved in the alleged harassment or

775 ~~discrimination within two (2) days of the allegations. Notification may be made~~
776 ~~by telephone, letter, or personal conference. The students involved and their~~
777 ~~parents/guardians will also be notified of events and decisions described in this~~
778 ~~policy.~~

780 **22. Retaliation Prohibited**

- 781
- 782 a. Retaliation includes, but is not limited to, any form of intimidation, reprisal or
783 harassment in connection with filing a complaint or assisting with an
784 investigation under this Policy.
- 785
- 786 b. Retaliatory or intimidating conduct against any individual who has made a
787 harassment or discrimination complaint or any individual who has testified,
788 assisted, or participated, in any manner, in an investigation is specifically
789 prohibited.
- 790
- 791 c. The ~~Principal or~~ designee, and EEO/Title IX Coordinator, if applicable, shall
792 inform the complainant that he/she is protected by law from retaliation.
- 793

794 **23. Additional Assistance Available**

- 795
- 796 a. In all cases, the District reserves the right to refer the results of its own
797 investigation to the State Attorney for the Fifteenth Judicial Circuit for possible
798 criminal charges, whether or not the District takes any other action on its own
799 account.
- 800
- 801 b. The District will provide counseling services for students who have been
802 harassed or discriminated against.
- 803
- 804 c. Training will be provided to assist teachers and counselors who work with
805 students to prevent sexual harassment and discrimination between people of the
806 same sex or the opposite sex.
- 807
- 808 d. The Office for Civil Rights is a federal agency in the Department of Education that
809 ~~ensures that schools'~~ compliance with ~~charged with implementing~~ Title IX of the
810 Education Amendments and can be contacted by telephone at 1-800-421-3481;
811 by fax at (404) 562-6455; or by e-mail at OCR Atlanta@ed.gov.
- 812

813 e. For more information, one may contact: EEO/Title IX Coordinator, 3370 Forest
 814 Hill Boulevard, Suite ~~A-128~~ A-115, West Palm Beach, Florida, 33406;
 815 Telephone: (561) 434-8637; or visit <http://www.ed.gov/ocr/sex.html> on the
 816 Internet.

817
 818 STATUTORY AUTHORITY: § 230.22(2); 230.23(47)(22); 230.23005(6), Fla.
 819 Stat.

820
 821 LAWS IMPLEMENTED: § 119.07(3)(p); 228.2001(2)(a), (b) (Florida
 822 Education Equity Act); 228.093(3)(d); 230.22(1),
 823 230.23(6)(d)1, 8; 230.33(8); 231.001; 231.291(3)(a);
 824 231.262(1), 760.01(2), Fla. Stat.; Title II of the
 825 Americans With Disabilities Act (42 U.S.C. 12131, et.
 826 seq. (Title II of the Americans with Disabilities Act);
 827 Title IX of the Education Amendments of 1972 (20
 828 U.S.C. § 1681-1688 et. seq. (Title IX of the Education
 829 Amendments of 1972); Title VI of the Civil Rights Act of
 830 1964 (42 U.S.C. § 2000d et. seq. (Title VI of the Civil
 831 Rights Act of 1964); Section 504 of the Rehabilitation
 832 Act of 1973 (29 U.S.C. § 794 (Section 504 of the
 833 Rehabilitation Act of 1973); 20 U.S.C. § 1232g (Family
 834 Educational Rights and Privacy Act ("FERPA")); §
 835 228.2001(2)(a) Fla. Stat., ("Florida Education Equity
 836 Act"); § 228.093(3)(d); 230.23(6)(d)(1) and (8);
 837 230.22(1) and (2); 230.33(8); 119.07(3)(p), Fla. Stat.

838
 839 STATE BOARD OF EDUCATION 6A-19.001; 6A-19.002; 19.008; 6B-1.006(3)(a),
 840 RULES SUPPLEMENTED (g)

841
 842 HISTORY: 8/16/95; 3/17/99; / /02

Legal Signoff:

Estimated Cost Statement

Proof of Publication of Development Notice

Proof of Publication of Adoption Notice