



Book	Policy Manual
Section	1000 Administration
Title	NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY
Code	po1122
Status	Active
Adopted	July 17, 2007
Last Revised	December 7, 2021

## 1122 - **NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY**

### A. **General**

The Board does not discriminate on the basis of race (including anti-Semitism, as defined in Bylaw 0100), ethnicity, color, national origin, sex (including sexual orientation, gender status, or gender identity), physical and mental disability (including but not limited to: HIV, AIDS, or sickle cell trait), pregnancy, marital status, age (except as authorized by law), religion, military status, ancestry, or genetic information which are classes protected by State and/or Federal law (collectively, "protected classes") in its programs and activities, including employment opportunities.

It is the policy of the Board to employ those persons who are best qualified, with or without reasonable accommodations.

Further, nothing in this policy shall be construed to abridge the rights of students or school employees that are protected by the First Amendment to the Constitution of the United States.

### B. **Definitions**

Words used in this policy shall have those meanings defined herein; words not defined herein shall be construed according to their plain and ordinary meanings.

**Complainant** is the individual who alleges, or is alleged, to have been subjected to unlawful discrimination/retaliation, regardless of whether the person files a formal complaint or is pursuing an informal resolution to the alleged discrimination/retaliation.

**Respondent** is the individual who has been alleged to have engaged in unlawful discrimination/retaliation, regardless of whether the reporting party files a formal complaint or is seeking an informal resolution to the alleged discrimination/retaliation.

**School District community** means students and Board employees (i.e., administrators, and professional and classified staff), as well as Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Board.

**Third Parties** include, but are not limited to, guests and/or visitors on School District property (e.g., visiting speakers, participants on opposing athletic teams, parents), vendors doing business with, or seeking to do business with, the Board, and other individuals who come in contact with members of the School District community at school-related events/activities (whether on or off District property).

**Day(s):** Unless expressly stated otherwise, the term "day" or "days" as used in this policy means business day(s) (i.e., a day(s) that the Board office is open for normal operating hours, Monday – Friday, excluding State-recognized holidays).

For purposes of this policy, "military status" refers to a person's status in the uniformed services, which includes the performance of duty, on a voluntary basis, or involuntary basis, in a uniformed service including active duty, active duty for training, initial active duty for training, inactive duty for training, and full-time National Guard duty. It also includes the period of time for which a person is absent from employment for the purpose of an examination to determine the fitness of the person to perform any such duty as listed above.

### C. **District Compliance Officer(s)**

The Superintendent shall appoint compliance officer(s) whose responsibility it will be to require that Federal and State regulations are complied with and that any inquiries or complaints are dealt with promptly in accordance with the law. The Superintendent shall also require that proper notice of nondiscrimination for Title II, Title VI, and Title VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Americans with Disabilities Act of 1990, and the Age Discrimination in Employment Act will be provided to staff members and the general public. Any sections of the Board's collectively- bargained, negotiated agreements dealing with hiring, promotion, and tenure will contain a statement of nondiscrimination, similar to that in the Board's statement above.

#### 1. Compliance Officer(s)

The Board designates the following person(s) to serve as the District's Compliance Officer(s) (DCO), also known as "Civil Rights Coordinators"; hereinafter referred to as the "COs":

The CO(s) shall also serve as the District's Section 504 Compliance Officer/ADA Coordinator and Title IX Coordinator.

Supervisor II, Human Resources Department  
620 East University Avenue  
Gainesville, Florida 32601  
Phone: (352) 955-7713  
Fax: (352) 955-7574

The name(s), title(s), and/or contact information of the person(s) presently serving as Compliance Officer(s) may change from time to time, and such changes shall be deemed technical corrections within the meaning of Bylaw 0131.1 - *Technical Corrections* and shall be made pursuant to that bylaw.

#### 2. Publication Required

The name(s), title(s), and contact information of this/these individual(s) will be published annually:

- a. on the District's website,
- b. the School District's annual notice to the public, and
- c. shall also appear in District publications such as announcements, bulletins, brochures, job postings, and other materials that are made available to staff.

### D. **Complaint Procedures**

Except for sex discrimination and/or Sexual Harassment that is covered by Policy 2266 - *Nondiscrimination on the Basis of Sex in Education Programs or Activities*, any employee who alleges to have been subjected to unlawful discrimination, the person may utilize the following complaint procedures as a means of reaching, at the lowest possible administrative level, a prompt and equitable resolution of the matter. Nothing contained in this policy is intended to interfere with the rights of any individual to pursue a complaint of unlawful harassment or retaliation with the U.S. Department of Education's Office for Civil Rights ("OCR"), the Florida Commission on Human Relations ("FCHR"), or the Equal Employment Opportunity Commission ("EEOC").

In accordance with Federal and State law, employees will be notified of their right to file an internal complaint regarding an alleged violation, misinterpretation, or misapplication of Federal and/or State law. In addition, employees will be notified of their right to file a complaint with OCR, FCHR, or EEOC.

Internal complaints must be in writing and identify the specific circumstances or areas of dispute that have given rise to the complaint and offer possible solutions to the dispute. The complaint must be filed with a compliance officer within the time limits specified below. The compliance officer is available to assist individuals in filing a complaint.

If the alleged discrimination was committed by one of the DCOs, the complaint will be handled by the Superintendent. If the alleged discrimination was committed by the Superintendent, the complaint will then be handled by the Board Attorney.

An employee who files a complaint must continue to perform his/her duties in a competent manner during the time his/her complaint is pending. Employees who knowingly submit false complaints may be subject to disciplinary action.

#### **E. Internal Complaint Procedure**

The following internal complaint procedure is available to employees for the prompt and equitable resolution of complaints alleging discrimination that is prohibited in this policy.

This complaint procedure is not available to unsuccessful applicants.

Use of the internal complaint procedure is not a prerequisite to the pursuit of other remedies, including the filing of a complaint with OCR, FCHR, or EEOC.

1. An employee with a complaint based on alleged discrimination may first discuss the problem with the compliance officer.
2. If the informal discussion does not resolve the matter, or if the employee skips Step A, the individual may file a formal written complaint with the compliance officer. The written complaint must contain the name and address of the individual or representative filing the complaint, be signed by the complainant or someone authorized to sign for the complainant, describe the alleged discriminatory action in sufficient detail to inform the compliance officer of the nature and date of the alleged violation, and propose a resolution.

The complaint must be filed within thirty (30) days of the circumstances or event giving rise to the complaint unless the time for filing is extended by the compliance officer for good cause.

3. The compliance officer will conduct an independent investigation of the matter (which may or may not include a hearing). This complaint procedure contemplates informal, but thorough investigations, affording all interested persons and their representatives, if any, an opportunity to present witnesses and other evidence relevant to the complaint.

The compliance officer will provide the complainant with a written disposition of the complaint within ten (10) days. If no decision is rendered within ten (10) days or the decision is unsatisfactory in the opinion of the complainant, the employee may file, in writing, an appeal with the Superintendent. The compliance officer shall maintain the District's files and records relating to the complaint.

4. The Superintendent will, within ten (10) days of receiving the written appeal, conduct a hearing with all parties involved in an attempt to resolve the complaint.

The Superintendent will render his/her decision within ten (10) days of the hearing.

5. The employee may be represented, at his/her own cost, at any of the above-described meetings/hearings.

6. The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies. Use of this internal complaint procedure is not a prerequisite to the pursuit of other remedies.

If it is determined that the complainant was subjected to unlawful discrimination, the DCO must identify what corrective action will be taken to stop, remedy, and prevent the recurrence of the discrimination/retaliation. The corrective action should be reasonable, timely, age-appropriate and effective, and tailored to the specific situation.

#### **F. Filing a Complaint with OCR/FCHR/EEOC**

At any time, if an employee believes that they have been subjected to unlawful discrimination, the individual may file a complaint with the OCR, FCHR, or EEOC.

##### Contact Information:

1. OCR can be reached at:

Atlanta Office  
Office for Civil Rights  
U.S. Department of Education  
61 Forsyth St. S.W., Suite 19T10  
Atlanta, GA 30303-8927  
Telephone: 404-974-9406  
FAX: 404-974-9471; TDD: 800-877-8339  
Email: [OCR.Atlanta@ed.gov](mailto:OCR.Atlanta@ed.gov)  
Web: <http://www2.ed.gov/about/offices/list/ocr/index.html>

2. FCHR Office can be reached at:

Florida Commission on Human Relations  
4075 Esplanade Way Room 110  
Tallahassee, FL 32399  
Phone: (850) 488-7082  
Para Español: (850) 907-6831  
Toll-Free: 1-800-342-8170  
FAX: (850) 487-1007  
Web Site: <http://fchr.state.fl.us>  
E-Mail: [fchrinfo@fchr.myflorida.com](mailto:fchrinfo@fchr.myflorida.com)

For Those with Communication Impairments:

The Florida Relay Service Voice (statewide) 711  
TDD ASCII (800) 955-1339  
TDD Baudot (800) 955 - 8771

#### **G. Retaliation**

Retaliation against a person who makes a report or files a complaint alleging unlawful discrimination/retaliation or participates as a witness in an investigation is prohibited. Neither the Board nor any other person may intimidate, threaten, coerce or interfere with any individual because the person opposed any act or practice

made unlawful by any Federal or State civil rights law, or because that individual made a report, formal complaint, testified, assisted or participated or refused to participate in any manner in an investigation, proceeding, or hearing under those laws and/or this policy, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws and/or this policy.

Retaliation against a person for making a report of discrimination, filing a formal complaint, or participating in an investigation or meeting is a serious violation of this policy that can result in imposition of disciplinary sanctions/consequences and/or other appropriate remedies.

Formal complaints alleging retaliation may be filed according to the internal complaint process set forth above.

The exercise of rights protected under the First Amendment of the United States Constitution does not constitute retaliation prohibited under this policy.

## **H. Training**

The compliance officers will also oversee the training of employees in the District so that all employees understand their rights and responsibilities under Federal and State law, and are informed of the Board's policies and practices with respect to fully implementing and complying with the requirements of Federal and State law.

## **I. Confidentiality**

The Board will make reasonable efforts to maintain the confidentiality of the identity of the parties involved in an investigation of discrimination, provided such complaint was not made with malice or the knowledge that it was false, consistent with the Board's legal obligations under Federal and State law. Confidentiality, however, cannot be guaranteed.

All public records created as a part of an investigation of a complaint of discrimination will be maintained by the Compliance Officer, or the Superintendent for complaints involving the Compliance Officer/the Board Attorney for complaints involving the Superintendent, in accordance with State law and the Board's records retention policy.

Complaints and other records created in relation to any complaint of discrimination will remain confidential until a finding is made relating to probable cause, the investigation of the complaint becomes inactive, or the complaint or other record is made part of the official record of any hearing or court proceeding.

## **J. Notice**

Notice of the Board's policy on nondiscrimination in employment practices and the identity of the compliance officers will be posted throughout the District, and published in the District's recruitment statements or general information publications as required by Federal and State law and this policy.

## **K. Retention of Investigatory Records and Materials**

The Compliance Officer(s) is responsible for overseeing retention of all records that must be maintained pursuant to this policy. All individuals charged with conducting investigations under this policy shall retain all information, documents, electronically stored information ("ESI"), and electronic media (as defined in Policy 8315 - *Information Management*) created and received as part of an investigation, including, but not limited to:

1. all written reports/allegations/complaints/statements;
2. narratives of all verbal reports/allegations/complaints/statements;
3. a narrative of all actions taken by District personnel;
4. any written documentation of actions taken by District personnel or individuals contracted or appointed by the Board to fulfill its responsibilities related to the investigation and/or the District's response to the alleged violation of this policy;

5. written witness statements;
6. narratives of, notes from, or audio, video, or digital recordings of witness statements;
7. all documentary evidence;
8. e-mails, texts, or social media posts pertaining to the investigation;
9. contemporaneous notes in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.) pertaining to the investigation;
10. written disciplinary sanctions issued to students or employees and a narrative of verbal disciplinary sanctions issued to students or employees for violations of the policies and procedures prohibiting discrimination or harassment;
11. dated written determinations to the parties;
12. dated written descriptions of verbal notifications to the parties;
13. documentation of all actions taken, both individual and systemic, to stop the discrimination or harassment, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects;
14. documentation of any supportive measures offered and/or provided to the Complainant and/or the Respondent, including no contact orders issued to both parties, the dates the no contact orders were issued, and the dates the parties acknowledged receipt of the no contact orders;
15. copies of the Board policy and/or procedures/guidelines used by the District to conduct the investigation, and any documents used by the District at the time of the alleged violation to communicate the Board's expectations to students and staff with respect to the subject of this policy (e.g., Student Codes of Conduct and/or Employee Handbooks);
16. copies of any documentation that memorializes any formal or informal resolutions to the alleged discrimination or harassment; and
17. documentation of any training provided to District personnel related to this policy, including but not limited to, notification of the prohibitions and expectations of staff set forth in this policy and the role and responsibility of all District personnel involved in enforcing this policy, including their duty to report alleged violations of this policy and/or conducting an investigation of an alleged violation of this policy. Documentation of training will be maintained regardless of whether there is an investigation of an alleged violation of this policy. A log of all staff members who participate in a training, along with the date, time, and location of the training, and a copy of the materials reviewed and/or presented during the training will be maintained.

The information, documents, ESI, and electronic media (as defined in Policy 8315 - *Information Management*) retained may include public records and records exempt from disclosure under Federal and/or State law (e.g., student records).

The information, documents, ESI, and electronic media (as defined in Policy 8315 - *Information Management*) created or received as part of an investigation shall be retained in accordance with Policy 8310 - *Public Records*, Policy 8315 - *Information Management*, Policy 8320 - *Records Management*, and Policy 8330 - *Student Records* for not less than three (3) years, but longer if required by the District's records retention schedule.

Revised 11/2/10

Revised 5/3/11

Revised 4/19/16

Revised 5/7/19

Revised 10/20/20

Revised 12/7/21



Legal

F.S. 110.1221  
F.S. 250.481  
F.S. 448.07  
F.S. 448.075  
F.S. 509.092  
F.S. 553.501 et seq., Florida Americans with Disabilities Accessibility Implementation Act  
F.S. 553.514  
F.S. Chapter 760 Part I, Florida Civil Rights Act of 1992  
F.S. 760.50  
F.S. 1000.05  
F.S. 1001.41  
F.S. 1001.43  
F.S. 1012.31(3)  
F.A.C. 6A-19  
29 C.F.R. Part 1635  
20 U.S.C. 1681 et seq., Title IX  
29 U.S.C. 206(d), the Equal Pay Act of 1963, as amended  
29 U.S.C. 621 et seq., Age Discrimination in Employment Act of 1967  
29 U.S.C. 701 et seq., Rehabilitation Act of 1973  
29 U.S.C. 794, Section 504 Rehabilitation Act of 1973, as amended  
29 U.S.C. 2601 et seq., the Family Medical Leave Act of 1993, as amended  
38 U.S.C. 4301 et seq., the Uniformed Services Employment and Reemployment Rights Act  
42 U.S.C. 2000a, Title II of the Civil Rights Act of 1964, as amended  
42 U.S.C. 2000d, Title VI of the Civil Rights Act of 1964, as amended  
42 U.S.C. 2000e et seq., Civil Rights Act of 1964  
42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act  
42 U.S.C. 6101 et seq., Age Discrimination Act of 1975  
42 U.S.C. 12101 et seq., the Americans with Disabilities Act of 1990, as amended  
42 U.S.C. 12112, Americans with Disabilities Act of 1990

Last Modified by Tammy R Shroyer on December 27, 2021