



Book	Policy Manual
Section	3000 Staff
Title	NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY
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## 3122 - **NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY**

### I. **Generally**

The Board does not discriminate on the basis of race, color, national origin, sex (including sexual orientation, transgender status, or gender identity), disability (including 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 legal obligation and the policy of the Board to employ only those persons who are best qualified, with or without reasonable accommodations.

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 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, Title IX of the Education Amendment Act of 1972, 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.

The District also provides access to its facilities to the Boy Scouts and other patriotic youth groups, as required by the Boys Scouts of America Equal Access Act. Any sections of the District'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.

### II. **Compliance Officer(s)**

Any questions, complaints, or concerns in relations to this policy should be reported to either of the Anti-Harassment Compliance Officers listed below for proper assistance and handling.

The following persons are designated as the Compliance Officer(s) (COs) for the specified areas:

Student, Exceptional Education/504, Title IX, or the Public Contact

Assistant Superintendent of Equity, Innovation, Choice  
2700 Judge Fran Jamieson Way  
Melbourne, Florida 32940  
(321) 633-1000, Ext. 11500

Employee or Job Applicants

Director of Professional Standards and Labor Relations  
2700 Judge Fran Jamieson Way  
Melbourne, Florida 32940  
(321) 633-1000 Ext. 11265

The contact information for the Compliance Officers will be published annually in the staff handbooks, in the School District Annual Report to the public, on the School District's website, on each individual school's website, and/or in the School District's calendar.

### III. **Complaint Procedures**

If a person believes that s/he has 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.

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 the U.S. Department of Education's Office for Civil Rights, the Florida Commission on Human Relations, or the Equal Employment Opportunity Commission.

Internal complaints must be put in writing and must 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.

### IV. **Internal Complaint Procedures**

The following internal complaint procedure is available to employees for the prompt and equitable resolution of complaints alleging discrimination based upon disability. 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 the U.S. Department of Education's Office for Civil Rights, the Florida Commission on Human Relations, or the Equal Employment Opportunity Commission.

The following procedures apply:

- A. An employee with a complaint based on alleged discrimination on the basis of disability may first discuss the problem with the Compliance Officer.
- B. If the informal discussion does not resolve the matter, or if the employee skips Step A above, the individual may file a formal written complaint with the Compliance Officer.
- C. The written complaint must contain the:

1. name and address of the individual or representative filing the complaint, be signed by the complainant or someone authorized to sign for the complainant;
2. describe the alleged discriminatory action in sufficient detail to inform the Compliance Officer of the nature and date of the alleged violation; and
3. provide a proposed resolution.

D. The complaint must be filed within thirty (30) calendar 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.

E. 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) business days. If no decision is rendered within ten (10) work 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.

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

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

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

I. 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 such as the filing of a complaint with the Office for Civil Rights or the filing of a court case. 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 Compliance Officer 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.

#### **V. Filing a Complaint with OCR/Florida Commission on Human Relations/EEOC**

At any time, if an employee believes that s/he has been subjected to unlawful discrimination, the individual may file a complaint 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").

#### **VI. Appealing to OCR/Florida Commission on Human Relations/EEOC**

If the complainant is not satisfied with the Superintendent's decision, the complainant will have an additional sixty (60) days to appeal the decision to the United States Department of Education Office of Civil Rights, Florida Commission on Human Relations, or the Equal Employment Opportunity Commission.

#### **VII. Retaliation**

Retaliation against a person who makes a report or files a complaint alleging unlawful discrimination, or participates as a witness in an investigation, is prohibited. Specifically, the Board will not discriminate/retaliate against, coerce, intimidate, threaten or interfere with any individual because the person opposed any act or practice made unlawful by Section 504 or the ADA, or because that individual made a charge, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under those laws, 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.

## VIII. 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.

## IX. 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.

## X. Retention of Investigatory Records and Materials

All individuals charged with conducting investigations under this policy must retain all information, documents, electronically stored information, and electronic media created and received as part of an investigation, including, but not limited to, complaints, responses, witness statements, documentary evidence, audio and/or video recordings, handwritten and contemporaneous notes, e-mails related to the investigation and allegations, printouts, letters, determinations, and summaries. These investigative records and materials shall be retained in accordance with Policy 8310 and Policy 8320 including the District's records retention schedule.

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Legal

F.S. 110.1221

F.S. 250.481

F.S. 760.01

F.S. 760.10

F.S. 1000.05

20 U.S.C. 1681 et seq., Title IX

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

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. 12112, Americans with Disabilities Act of 1990

29 C.F.R. Part 1635

38 U.S.C. 4301 et seq., The Uniformed Services Employment and Reemployment Rights Act