

Equal Opportunity Employment

Title: Policy of Non-Discrimination for School Personnel

The School Board shall provide nondiscriminatory practices in recruiting, assigning, promoting, paying, demoting, or dismissing personnel and in employee rights regarding race, color, sex, age, religion, marital status, disability, national origin, socio-economic status, or sexual orientation.

Title: Employment Plan

1. The Human Resource Department shall maintain a recruitment program to attract and obtain the best-qualified applicants for the existing and anticipated vacancies.
2. Applicants seeking employment in the District shall be processed through the Human Resources Department.
3. Staff in the Human Resource Department shall work closely with administrators to determine employment needs and to identify prospective employees.
4. Every employee shall be notified and updated concerning the District's non-discrimination/non-harassment policies and procedures on an annual basis and such policies shall be posted at all primary work sites.
5. All applicants shall be notified of the District's non-discrimination/non-harassment policies at the time of application.

Statutory Authority: § 230.22(2), Florida Statutes; ADEA; PDA (1978);

Laws Implemented: §228.2001; 230.23(5); 237.046, Florida Statutes

Adopted: August 8, 2000

Monroe County School District Policy Prohibiting Harassment Discrimination and Violence

1. GENERAL STATEMENT OF POLICY*

It is the policy of the Monroe County School District to maintain a learning and working environment that is free from harassment because of an individual's race, color, sex, age, religion, marital status, disability, national origin, socio-economic status or sexual orientation. The School District prohibits all forms of harassment.

It shall be a violation of policy for any person of this District to harass a student or school district employee/personnel through conduct of a sexual nature, or regarding race, color, sex, age, religion, marital status, disability, national origin, socio-economic status or sexual orientation.

It shall also be a violation of District policy for any teacher, administrator or any other school personnel of this District to tolerate harassment by a student, teacher, administrator, other school personnel, visitors, contractors, vendors or by third parties who are participating in, observing, or otherwise engaged in activities, including sporting events and other extra-curricular activities, under the auspices of the School District.

For purpose of this policy, the term "school personnel" includes school board members, school employees, agents, volunteers, contractors, or persons subject to supervision and control of the district.

For the purpose of this policy, the term "person" includes visitors, vendors and contractors.

The District will act promptly to investigate all complaints, in writing, of harassment, take appropriate action to protect individuals from further harassment; and, if it determines that unlawful harassment occurred, to promptly and appropriately discipline any student, teacher, administrator or other school personnel who is found to have violated this policy, and/or to take other appropriate action reasonably calculated to end the harassment.

Any student, teacher or other school personnel, who for any reason is unable to author a written complaint, shall be assisted in doing so by an appropriate official designated herein.

DEFINITIONS

Harassment means verbal or physical conduct based on a person's actual or perceived race, religion, sex, age, religion, marital status, disability, national origin, socio-economic status or sexual orientation, and which has the purpose or effect of substantially interfering

* This policy should not be read to abrogate other District policies prohibiting other forms of unlawful discrimination, inappropriate behavior, and/or hate crimes within the District. It is the intent of the District that all such policies be read consistently to provide the highest level of protection from unlawful discrimination in the provision of educational services and opportunities.

with a student's, or school personnel's educational program/activity or creating an intimidating, hostile or offensive environment.

Harassment may include but is not limited to any unwelcome verbal, written or physical conduct, which offends, denigrates, or belittles any individual because of any of the characteristics described above. It includes harassment between parties who are female to male; male to female and between parties who are the same gender. Such conduct may include, but is not limited to unsolicited derogatory remarks, jokes, demeaning comments or behavior, slurs, mimicking, name calling, certain graffiti, certain innuendo, gestures, physical contact, stalking, threatening, bullying, extortion or the display or circulation of certain written materials or pictures.

A. Sexual Harassment

For the purposes of this policy, sexual harassment of a student or school personnel means unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when:

1. Submission to that conduct is made either explicitly or implicitly a term or condition of the student's education or the school personnel's employment.
2. Submission to or rejection of such conduct by a student or school personnel is used as a component of the basis for decisions affecting the student or school personnel.
3. The conduct has the purpose or effect of substantially interfering with a student's educational performance, or a school personnel's work performance, or if it creates a hostile or offensive educational/work environment.
4. This applies whether the harassment is between people of the same or different gender. Sexual harassment can include unwelcome verbal, written or physical conduct, directed at or relating to a person's gender, such as sexual gossip or personal comments of a sexual nature, sexually suggestive or foul language, sexual jokes, spreading rumors or lies of a sexual nature about someone, demanding sexual favors, forcing sexual activity by threat of punishment or offer of educational or employment reward, obscene graffiti, display or sending of pornographic pictures or objects, offensive touching, pinching, grabbing, kissing, hugging or restraining someone's movement in a sexual way.

i. **Sexual Harassment and Students** For the purposes of this policy, sexual harassment of a student consists of unwelcome and unsolicited sexual advances, requests for sexual favors, sexually motivated physical conduct, or other verbal or physical conduct or communication of a sexual nature when:

1. A school personnel/employee causes a student to believe that he or she must submit to unwelcome sexual conduct in order to participate in a school program or activity, or when an employee or third party agent of the District causes a student to believe that the employee/personnel will make an educational decision based on whether or not the student submits to unwelcome sexual conduct; or

2. The unwelcome sexual conduct is so severe, persistent or pervasive that it affects a student's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening or abusive educational environment.
3. Examples of conduct which may constitute sexual harassment include
 - Sexual advances
 - Touching, patting, grabbing or pinching another person's intimate parts, whether that person is of the same or the opposite gender
 - Coercing, forcing or attempting to force the touching of anyone's intimate parts
 - Coercing, forcing or attempting to coerce or force sexual intercourse or a sexual act on another
 - Graffiti of a sexual nature
 - Sexual gestures
 - Sexual or dirty jokes
 - Touching oneself sexually or talking about one's sexual activity in front of others
 - Spreading rumors about or rating other students as to sexual activity or performance
 - Unwelcome, sexually motivated or inappropriate patting, pinching or physical contact. This prohibition does not preclude legitimate, non sexual physical conduct such as the use of necessary restraints to avoid physical harm to persons or property, or conduct such as a teacher's consoling hug of a young student, or one student's demonstration of a sports move requiring contact with another student.
 - Other unwelcome sexual behavior or words, including demands for sexual favors, when accompanied by implied or overt threats concerning an individual's educational status or implied or overt promises of preferential treatment.

B. Racial and Color Harassment- Racial or color harassment can include unwelcome verbal, written or physical conduct, directed at the characteristics of a person's race or color, such as nicknames emphasizing stereotypes, racial slurs, ridicule on manner of speaking, and negative references to racial customs.

C. Religious Harassment - Harassment on the basis of religion is unwelcome verbal, written or physical conduct, directed at the characteristics of a person's religion, such as derogatory comments regarding surnames, religious tradition, religious clothing, or religious slurs or graffiti.

D. National Origin Harassment- Harassment on the basis of national origin is unwelcome verbal, written or physical conduct, directed at the characteristics of a

person's national origin, such as negative comments regarding surnames, manner of speaking, customs, language or ethnic slurs.

- E. Marital Status Harassment-** Harassment on the basis of marital status is unwelcome verbal, written or physical conduct, directed at the characteristics of a person's marital status, such as comments regarding pregnancy or being an unwed mother or father.
- F. Sexual Orientation Harassment-** Harassment on the basis of sexual orientation is unwelcome verbal, written or physical conduct, directed at the characteristics of a person's sexual orientation, such as negative name calling and imitating mannerisms.
- G. Disability Harassment-** Disability Harassment includes harassment based on a person's disabling mental or physical condition and includes any unwelcome verbal, written or physical conduct, directed at the characteristics of a persons disabling condition, such as imitating manner of speech or movement, or interference with necessary equipment.
- H. Age-based Harassment-** Harassment on the basis of age is unwelcome verbal, written or physical conduct directed at the characteristics of a persons numerical age such as negative name calling or comments.
- I. Socio-Economic Harassment-** Socio-economic harassment includes unwelcome verbal, written or physical conduct, directed at the characteristics of the persons socio-economic status, and may include name-calling or derogatory statements.
- J. Retaliation**

Submission of a good faith complaint or report of sexual harassment or harassment based upon race, color, gender, age, religion, marital status, disability, national origin, socio-economic status or sexual orientation will not affect the complaining party's or reporter's future employment, grades, learning or working environment or work assignments.

It is a separate and distinct violation of this policy for student, teacher or school district personnel to retaliate against any person who reports alleged harassment or against any person who testifies, assists or participates in an investigation, proceeding or hearing relating to such harassment. It is possible that an alleged harasser may be found to have violated this anti-retaliation provision even if the underlying complaint of harassment is not found to be a violation of this policy.

Retaliation includes but is not limited to any form of intimidation, reprisal or harassment and may be redressed through application of the same reporting, investigation, and enforcement procedures as for harassment.

- In addition, a person who knowingly makes a false report may be subject to the same action that the District may take against any other individual who violates this policy. The term "false report" refers only to those made in bad faith and does not include a complaint that could not be corroborated or which did not rise to the level of unlawful harassment.

- K. Consequences-** Any school personnel or student that is found to have violated this policy may be subject to action including, but not limited to, warning, remedial training, education or counseling, suspension, exclusion, expulsion, transfer, termination, discharge, trespass from premises, termination or disqualification from future bidding or criminal prosecution under applicable state or federal laws.

REPORTING PROCEDURES-

A. Students-

- a. Any student who believes he or she has been the victim of harassment by another student, a teacher, administrator or other school personnel of the school district, including while engaged in activities including sporting events and other extra-curricular activities, under the auspices of the school district, is encouraged to immediately report the alleged act(s) to an appropriate School District official designated by this policy.
- b. All complaints shall be reduced to writing. The appropriate official may assist the student in this.
- c. The School District encourages the reporting party or party making the complaint on another's behalf to use the form available from the principal of each building or available from the Human Resource Department. All oral reports of harassment shall be reported on designated form. It shall be completed by the complaining party, reporter or school principal. The complaint should include the information requested on the designated form. Nothing in this policy shall prevent any person from reporting harassment directly to the Executive Director, Human Resources.
- d. Any teacher, administrator, or other school personnel who has or receives notice that a student has or may have been the victim of harassment by a student, teacher, administrator or other school personnel, or by any other person who is participating in, observing or otherwise engaged in activities, including sporting events and other extra curricular activities, under the auspices of the school district, shall to immediately report on the designated form the alleged acts to an appropriate School District official designated by this policy.
- e. Any other person with knowledge or belief that a student has or may have been the victim of harassment as set forth above, is encouraged to immediately report the alleged acts to an appropriate School District official designated by this policy.
- f. In each school building, the principal is the person responsible for receiving written reports of harassment at the building level. Any adult School District personnel who receive a report of harassment shall inform the principal immediately.
- g. Upon receipt of a report, the principal must notify the District Executive Director of Human Resources immediately, without screening or investigating the report. The written statement of facts alleged will also be forwarded to the Executive Director, Human Resources. If the report was given verbally, the principal shall personally reduce it to written form within 24 hours and forward it to the

Executive Director, Human Resources. Failure to forward any harassment report or complaint as provided herein will result in disciplinary action against the principal. If the complaint involves the building principal, the complaint shall be made or filed directly with the Executive Director, Human Resources or the Superintendent by the reporting party or the party making the complaint.

B. Employees and School District Personnel-

- a. Any personnel, as defined above, who believes he or she has been the victim of harassment by a student, teacher, administrator, person or other school district personnel is encouraged to immediately report the alleged act(s) to the appropriate School District official designated in this policy.
- b. The complaint shall be reduced to writing on the form designated by the district. For those employees who may have a particular difficulty reducing the complaint or allegation to writing, assistance shall be given by the appropriate official.
- c. The School District encourages the alleged victim of harassment as set forth above to use the report form available from the principal of each building or available from the school district office. Nothing in this policy shall prevent any person from reporting harassment directly to the Executive Director, Human Resources.
- d. In each school or support building, the building principal or supervisor is responsible for receiving written reports of harassment at the building level.
- e. Upon receipt of a report, the principal must notify the Executive Director, Human Resources immediately, without screening or investigating the report. The written statement of facts alleged must be forwarded as quickly as possible. If the report was given verbally, the principal or supervisor shall personally reduce it to written form within 24 hours and forward it to Executive Director, Human Resources. Failure to forward any harassment report or complaint as provided herein will result in disciplinary action against the principal or supervisor.
- f. If the complaint involves the building principal or supervisor, the complaint shall be made or filed directly with the Executive Director, Human Resources or the Superintendent by the complaining party.

C. The Executive Director, Human Resources - The School Board has designated the Executive Director, Human Resources as the

school officer with the responsibility to identify, prevent, and remedy harassment. The District Human Resources officer shall

- Receive reports or complaints of sexual harassment, and harassment based on race, color, gender, age, religion, marital status, disability, national origin, socio-economic status and sexual orientation;
- Oversee the investigative process;
- Be responsible for assessing the training needs of the District's staff and students in connection with the dissemination, comprehension, and compliance with this policy;
- Arrange for necessary training required for compliance with this policy; and
- Insure that any investigation is conducted by an impartial investigator who has training in the requirements of equal educational opportunity, including

harassment, and who is able to apply procedural and substantive standards which are necessary and applicable to identify unlawful harassment, recommend appropriate discipline and remedies when harassment is found, and take other appropriate action to rectify the damaging effects of any prohibited discrimination, including interim protection of the victim during the course of the investigation.

- D. If any complaint involves the Executive Director, Human Resources, the complaint shall be filed directly with the Superintendent.
- E. The School District shall conspicuously post this policy against harassment and violence in each school that the district maintains, in a place accessible to students, faculty, administrators, employees, parents and members of the public. This notice shall include the name, mailing address and telephone number of the Human Resource Officer, and the mailing address and telephone number of the United States Department of Education, Office for Civil Rights.
- F. A copy of this policy shall appear in the student handbook and shall be made available upon request of parents, students, and other interested parties.
- G. The School Board will develop a method of discussing this policy with students and employees. Training on the requirements of non-discrimination and the appropriate responses to issues of harassment will be provided to all school personnel on an annual basis, and at such other times as the School Board in consultation with the District Human Resource office determines it is necessary or appropriate.
- H. This policy shall be reviewed at least annually for compliance with state and federal law.
- I. The school district will respect the privacy of the complaining party, the individuals against whom the complaint is filed, and the witnesses to the extent possible, consistent with the District's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations.

INVESTIGATION

- A. Upon receipt of a report or complaint alleging harassment, the Executive Director, Human Resources shall immediately undertake or authorize an investigation. A designated member of the "Investigation Team," made up of district personnel selected by the Executive Director, Human Resources, may conduct the investigation. The "Investigation team" shall be based upon volunteers or appointed personnel who have received the appropriate training.
- B. The investigation may consist of personal interviews with the complainant, the individual against whom the complaint is filed, and others who have knowledge of the alleged incident or circumstances giving rise to the complaint. The investigation may also consist of the evaluation of any other information or documents, which may be relevant to the particular allegations.
- C. In determining whether the alleged conduct constitutes a violation of this policy, the School District shall consider
 - The nature of the behavior
 - How often the conduct occurred
 - Whether there were past incidents or past continuing patterns of behavior
 - The relationship between the parties involved
 - The race, color, gender, age, religion, marital status, disability, national origin, socio-economic status, sexual orientation of the victim

- The identity of the perpetrator, including whether the perpetrator was in a position of power over the student/school district personnel allegedly subjected to harassment
- The number of alleged harassers
- The age of the alleged harasser
- Where the harassment occurred
- Whether there have been other incidents in the school involving the same or other students
- Whether the conduct adversely affected the student's education or educational environment
- The context in which the alleged incidents occurred

Whether a particular action or incident constitutes a violation of this policy requires a determination based on all the facts and surrounding circumstances.

- D. The investigation shall be completed no later than fifteen (15) school days from the receipt of the report. The Executive Director, Human Resources shall make a written report to the Superintendent no later than five school days after completion of the investigation. If the complaint involves the Superintendent, the report may be filed directly with the School Board.
- E. The report shall include a determination of whether the allegations have been substantiated as factual and whether they appear to be violations of this policy. The Executive Director, Human Resources' obligation to conduct this investigation shall not be extinguished by the fact that a criminal investigation involving the same or similar allegations is also pending or has been concluded.

SCHOOL DISTRICT ACTION

- A. Upon receipt of a report that a violation has occurred, the School District will take prompt, appropriate formal or informal action to address, and where appropriate, remediate the violation. Appropriate actions may include but are not limited to counseling, awareness training, parent-teacher conferences, warning, suspension, exclusion, expulsion, transfer, remediation, termination or discharge.
- B. If it is determined that a contractor or a vendor has committed an act(s) that rises to the level of harassment, they shall be prohibited from bidding on any new contracts for a period up to two (2) years. Their action(s) may also result in the loss or annulment of their current contractual agreement with the District.
- C. Visitors who are found to have committed acts, which are deemed to have risen to the level of harassment, may be warned not to enter the campus/District property again at penalty of trespass.
- D. School District action taken for violation of this policy shall be consistent with the requirements of applicable collective bargaining agreements, state and federal law, and School District policies for violations of a similar nature or similar degree of severity. In determining what is an appropriate response to a finding that harassment in violation of this policy had occurred, the School District shall consider-
 - What response is most likely to end any ongoing harassment

- Whether a particular response is likely to deter similar future conduct by the harasser or others
 - The amount and kind of harm suffered by the victim of the harassment
 - The identity of the party who engaged in the harassing conduct
 - Whether school personnel engaged in the harassment, and if so, the School District will also consider how it can best remediate the effects of the harassment.
- E.** In the event that the evidence suggests that the harassment at issue is also a crime in violation of the laws of Florida or the federal government, the School Board shall also direct the Executive Director, Human Resources to report the results of the investigation to the appropriate law enforcement agency charged with responsibility for handling such crimes.
- F.** The results of the School District's investigation of each complaint filed under these procedures will be reported in writing to the complaining party and other parties by the School Board in compliance with state and federal laws regarding data or records privacy, and consistent with the privacy rights of the alleged harasser.
- G.** If the results of the School District's evaluation of a complaint of harassment results in a conclusion that an individual has engaged in unlawful harassment in violation of this policy, or that school personnel have failed to report harassment as required herein, that individual may appeal this determination by use of the established School Board procedures for appealing other adverse personnel and/or education related actions.
- H.** If the results of the School District's evaluation of a complaint of harassment results in a conclusion that no unlawful harassment has occurred, the individual who brought the original complaint of harassment and believes that this conclusion is erroneous may appeal this determination by use of established School Board procedures for appealing other adverse personnel and or education related actions.
- I.** Copies of all complaints of harassment and the investigations conducted pursuant to them shall be maintained for a period of four (4) years at the District Office located at 241 Trumbo Road, Key West, Florida, 33040.