

# 2013 UPDATE OF THE SELF EVALUATION AND ADA TRANSITION PLAN

**THE SCHOOL DISTRICT OF PALM BEACH COUNTY, FLORIDA**

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The School District of Palm Beach County is committed to providing a world-class education with excellence and equity to empower each student to reach his or her highest potential with the most effective staff to foster the knowledge, skills, and ethics required for responsible citizenship and productive careers.

*The School District of Palm Beach County, Florida, prohibits any policy or procedure which results in discrimination on the basis of age, color, disability, national origin, marital status, race, religion or sex.*

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## **SECTION 1**

### **1.0 – Introduction**

In 2008, the School District of Palm Beach County initiated a comprehensive update of its ADA Transition Plan. The Transition Plan Update is prepared in fulfillment of the requirements set forth in Title II of the Americans with Disabilities Act. Included in the Transition Plan Update is a survey of all District facilities where programs, services or support activities are provided for the public. The survey focused upon critical elements in the built environment which included parking lots, buildings, recreation areas and campus paths of travel.

The School District of Palm Beach County (District) is herein updating and modifying its Self Evaluation and Transition Plan first completed in 1992 pursuant to Title II of the Americans with Disabilities Act (ADA).

The District has replaced and/or significantly improved most of its inventory of schools, ancillary and administrative buildings that were in existence in 1992. During this time, the District has also constructed many new facilities to accommodate a growing number of students within the county.

The District currently owns and maintains 1,474 individual buildings encompassing over 28,600,000 square feet. The District owns 4,507 acres of land and has 187 schools serving students from pre-kindergarten through continuing adult education.

Facility information first documented in 1992 has become outdated and it is appropriate now to update the Self Evaluation and Transition Plan to document compliance with requirements set forth in the ADA.

The following text is intended to replace the original Self Evaluation and Transition Plan in its entirety. This report further describes the process by which policies, programs and facilities were evaluated for compliance with the ADA; presents the findings of that evaluation and provides recommendations for ensuring accessibility. This section provides an overview of the requirements and process for developing the Self-Evaluation and Transition Plan Update. Section 2 details the findings and action steps related to District's program for providing accessible buildings and facilities. Section 3 outlines the District's program for providing accessible policies, procedures and programs, and complaint procedures for disability discrimination.

### **1.1 – Overview of the ADA**

The Americans with Disabilities Act (ADA), enacted on July 26, 1990, provides comprehensive civil rights protections to persons with disabilities in the areas of employment, state and local government services; and access to public accommodations, transportation and telecommunications. The ADA is companion to civil rights legislation within the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973(Section 504). Both the ADA and Section 504 prohibit public school systems from denying persons with disabilities equal opportunity to participate in programs, services, and activities because their facilities are inaccessible to, or unusable by, them. See 28 CFR §35.149 and 34 CFR §104.21. Thus, both require the District to operate each program or activity located in an existing facility in such a way that

the programs and activities, when viewed in their entirety, are readily accessible to and usable by individuals with disabilities. See 28 CFR §35.150(a) and 34 CFR §104.22(a).

With respect to public entities, the ADA mandates that qualified disabled individuals shall not be excluded from participation in, denied the benefit of, or be subjected to discrimination under any program or activity. The Act also provides disabled employees with certain protections and requires employers to make reasonable accommodation for disabled applicants and employees.

The ADA is divided into five parts, covering the following areas:

#### Title I: Employment

Title I applies to all who employ fifteen (15) or more people excluding the U.S. government and private membership clubs, employment agencies, labor organizations and labor management committees.

Under this title, employers, including governmental agencies, must ensure that their practices do not discriminate against persons with disabilities in the application, hiring, advancement, training, compensation, or discharge of an employee, or in other terms and conditions of employment.

#### Title II: Public Services

Title II prohibits state and local governments, or any of its agents, from discriminating against persons with disabilities or from excluding participation in or denying benefits of programs, services, or activities to persons with disabilities. It is under this title that the Transition Plan is prepared. The Transition Plan is intended to identify access barriers and determine appropriate actions to remove such barriers and/or provide alternative means to assure accessibility in compliance with the ADA. Title II is implemented by the Department of Justice (DOJ).

#### Title III: Public Accommodations

Title III covers privately owned public accommodations of businesses and nonprofit service providers that are public accommodations. Within this title a very wide range of privately owned businesses are held responsible for ensuring that the goods and services they provide to the public are accessible to persons with disabilities. Public accommodations are private entities who own, lease, lease to, or operate facilities such as restaurants, retail stores, hotels, movie theaters, private schools, convention centers, doctors' offices and medical clinics, homeless shelters, transportation depots, zoos, funeral homes, day care centers, and recreation facilities including sports stadiums and fitness clubs. Title III requires places of public accommodation to be accessible to and usable by persons with disabilities. Such entities are not held to conducting a self evaluation or a transition plan as described for public entities. However, they must engage in a program of readily achievable barrier removal. Thus, privately owned public accommodations must after considering their available resources, remove barriers that prevent persons with disabilities from receiving the benefit of their goods and services. When a Title III entity engage in a new construction, renovation or remodel, the sites impacted must be brought up to current code.

#### Title IV: Telecommunications

Title IV covers telephone and television access for persons with hearing and speech disabilities. It requires common carriers (telephone companies) to establish interstate and intrastate telecommunications relay services for callers with hearing and speech disabilities who use telecommunications devices for the deaf and callers who use voice telephones to communicate with each other through a third party communications assistant. Title IV also requires closed captioning of federally funded public service announcements.

#### Title V: Miscellaneous Provisions

Title V contains several miscellaneous regulations, including construction standards and practices to guide federal agencies in regulating and enforcing the above titles of the ADA, provisions for attorney's fees, and technical assistance provisions.

The District is obligated to observe the requirements of Title I of the ADA in its employment practices; Title II in its policies, programs and services; and any parts of Title V that apply to the District, its programs, services or facilities; and all requirements specified in the Americans with Disabilities Act Accessibility Guidelines (ADAAG) that apply to facilities.

#### State of Florida Requirements

In 1993 the Florida Legislature enacted the "Florida Americans with Disabilities Accessibility Implementation Act." The purpose and intent of this Act (Sections 553.501-553.513, *Florida Statutes*) is to incorporate into the laws of Florida the accessibility requirements of the Americans with Disabilities Act of 1990, Public Law No. 101-336, 42 U.S.C. Section 12101 et seq. ADA, while at the same time to maintain those provisions of Florida law that are more stringent than the ADA accessibility guidelines, that is, those provisions which are more favorable to the needs of the disabled. In 1997 the legislature amended the Act to complete the move to establish consistency of the Florida accessibility building code to the ADAAG as adopted by the US Department of Justice at 28 CFR Part 36.

### **1.2 – School District Responsibilities Under the ADA**

The Palm Beach County School District has various obligations under Title II of the ADA. Title II of the ADA is similar to Section 504 of the Rehabilitation Act of 1973, but differs in that Section 504 applies only to programs that receive federal financial assistance. The purpose of Section 504 is to ensure that no otherwise qualified individual with disabilities shall, solely by reason of his or her disability, be discriminated against under any program or activity receiving federal financial assistance. The District has been subject to and has operated under the requirements of Section 504 for many years.

Under Title II, public entities, including public school districts, may not establish eligibility criteria for participation in programs and activities that would deny persons with disabilities equal opportunity to participate unless such requirements are necessary for provision of the service or program. A public entity must reasonably modify its policies and procedures to avoid discrimination toward persons with disabilities. However, if the public entity can demonstrate that a modification would fundamentally alter the nature of the program or service, it would not be required to make that modification. Title II also

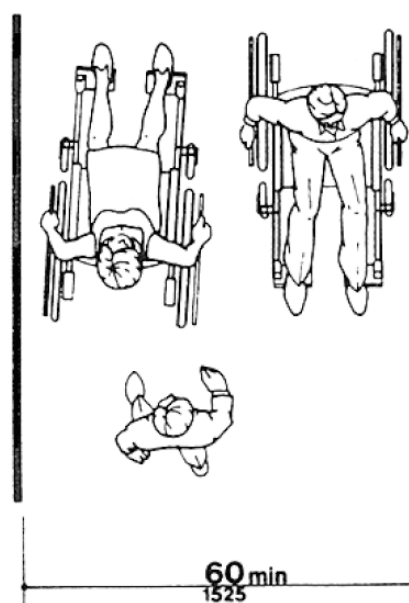
discusses the use of auxiliary aids necessary to enable persons who have visual, hearing, mobility, or similar impairments access to programs and activities provided by the public entity.

Another exception to the programmatic access requirements is undue hardship. “Undue hardship” is defined in the DOJ regulations as an “action requiring significant difficulty or expense” when considering the nature and cost of the accommodation in relation to the size, resources, and structure of the specific operation. Undue hardship is determined on a case-by-case basis.

The District is required to prepare a “Self-Evaluation” document to assess its programs and services to assure that discriminatory practices are identified and removed. Where it is necessary to remove architectural barriers to program accessibility, the District must also prepare a transition plan. “Architectural barriers” are elements of the facility structure. The transition plan outlines the structural modifications it will implement to make its programs and services accessible to people with disabilities.

Title II prohibits all public entities, regardless of size of workforce, from discriminating in their employment practices against qualified individuals with disabilities. In addition to Title II’s employment coverage, Title I of the ADA and Section 504 of the Rehabilitation Act of 1973 prohibit employment discrimination against individuals with disabilities by certain public entities. Title I of the ADA, which is primarily enforced by the Equal Employment Opportunity Commission (EEOC), prohibits job discrimination by state and local employers with 25 or more employees.

For those public entities (including the Palm Beach County School District) that are subject to Title I of the ADA, Title II adopts the standards of Title I.



**Fig. 2**  
**Minimum Clear Width**  
**for Two Wheelchairs**



### **1.3 – Self Evaluation**

All public entities subject to Title II of the ADA were to have completed a “Self Evaluation” by January 26, 1993. A self evaluation is a public entity’s assessment of its current policies and practices. The self evaluation identifies and corrects those policies and practices that are inconsistent with Title II’s requirements. The District conducted a self evaluation pursuant to the original requirement. Copies of the self evaluations were only required to be retained for three years. No complete record of the self evaluation is available at this time. Section 504 also required a self evaluation. The District also conducted a Section 504 self evaluation. Unfortunately, the Section 504 self evaluation is also no longer available.

The Department of Justice acknowledged that programs and functions may have changed significantly since the Section 504 self evaluation was completed. Under Title II, public entities were to ensure that all programs, activities, and services were examined fully for compliance unless where there was evidence that all policies were previously scrutinized under Section 504.

Once a public entity has established its policies and practices, it should analyze whether these policies and practices adversely affect the full participation of individuals with disabilities in its programs, activities and services. A public entity must examine each program to determine whether any physical barriers to access exist. It should identify steps that need to be taken to enable these programs to be made accessible when viewed in their entirety. If structural changes are necessary, they should be included in the transition plan.

The ADA does not require the public entity to make all of its existing facilities accessible, nor does it require a public entity to take any action that would fundamentally alter the nature of the service program, or activity. There are various methods that may be appropriate for providing “program accessibility” in lieu of making actual physical structural changes to facilities.

Title II of the ADA requires that a transition plan be prepared to describe the structural changes that a public entity will make to its facilities to bring about program accessibility. While the transition plan outlines the physical modifications and a timeline for these changes, it does not necessarily include those programmatic modifications that the District will make in lieu of structural modifications. Programmatic modifications are included in this self evaluation. Therefore, in many ways, this self evaluation and transition plan are companion documents that must be used together to formulate overall District compliance activities.

### **1.4 – Program Accessibility**

Program accessibility is defined by federal regulations and laws. A public entity (including a public school district) shall operate each service, program, or activity so that it is readily accessible to and usable by individuals with disabilities.

Ensuring programmatic accessibility is an important aspect of enhancing opportunity for persons with disabilities. Both Title II and Section 504 regulations contain two standards to be used in determining whether a covered entity’s programs, activities, and services are readily accessible to individuals with

disabilities. One standard deals with existing facilities; and the other standard deals with new construction and alterations.

For *existing* facilities, Title II of the ADA and Section 504 require covered entities to operate each program so that, when viewed in its entirety, the program is readily accessible to and usable by people with disabilities. This is known as the program accessibility standard, and it is one of the most important concepts in ADA compliance. However, Title II of the ADA and Section 504 do not require existing buildings offer a barrier free environment as long as the program viewed as a whole is accessible.

Both the Title II and Section 504 regulations require that a *new or altered facility* (or the part that is new or altered) be readily accessible and usable by individuals with disabilities.

The new construction and alterations requirements focus on providing physical access to buildings and facilities rather than providing access to programs and services. There is no fundamental alteration or burden limitation on the new construction and alteration requirements.

With respect to existing facilities, a school district should provide access to persons with disabilities at schools throughout their service area so that students with disabilities can attend school at locations comparable in convenience to those available to students without disabilities. School districts are not necessarily required to make all of their existing classroom buildings accessible, provided that all programs offered in inaccessible classroom buildings are also available in other accessible buildings or schools in the district and that the accessible schools are comparable in convenience to those available to students without disabilities.

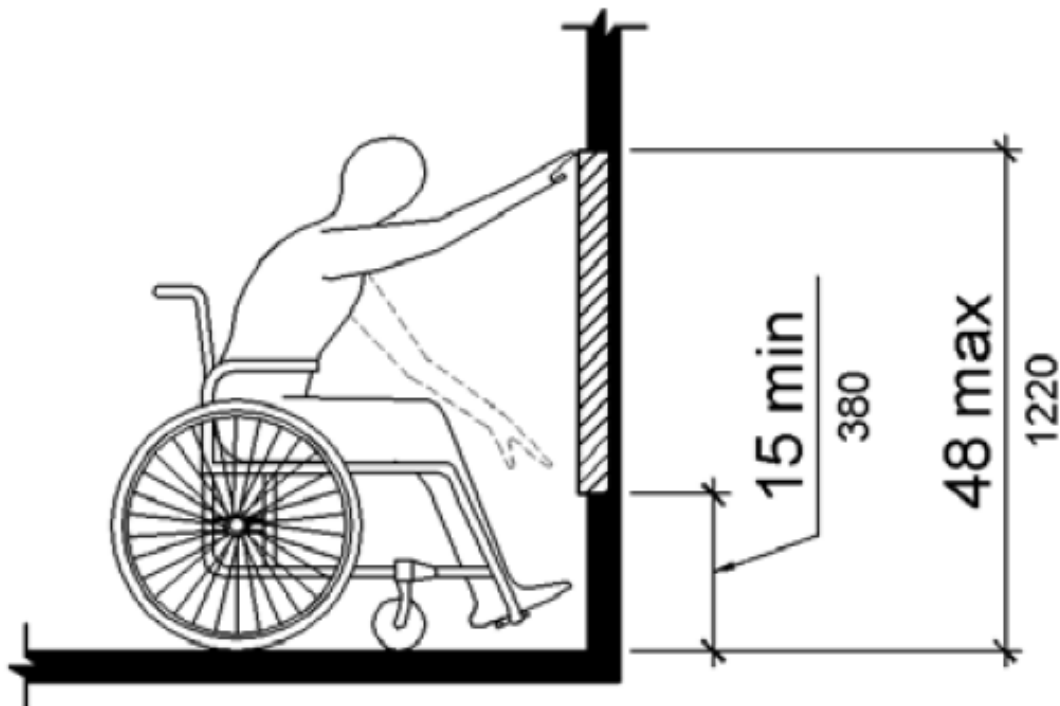
A school district may not make only one facility or part of a facility accessible if the result is to segregate students with disabilities in a single setting. Also, where magnet schools or other schools offering different curricula or instruction techniques are available, the range of choice provided to students with disabilities must be comparable to that offered to students without disabilities. For support facilities such as restrooms, drinking fountains, and parking spaces in existing facilities, sufficient numbers of these accessible elements should exist that are reasonably convenient, usable in inclement weather, and appropriate to the use of a facility.

Although nonstructural methods of achieving program compliance accessibility are acceptable, nonstructural solutions should not have the effect of segregating people with disabilities or compromising their dignity and independence. If no effective nonstructural alternatives can be provided to achieve program accessibility, public school systems must make the necessary structural changes. These changes must conform to standards for new construction.

In identifying various programs provided by the District, two well established and very effective programs to accommodate certain groups of individuals with disabilities are currently in place. One program is Section 504 compliance to accommodate student needs which is administered by the Department of Exceptional Student Education (ESE). Another program in place is the Equal Employment Opportunity (EEO) compliance administered by the Department of Employee Relations to accommodate prospective and current employees with disabilities.

These two existing programs (Section 504 and EEO) make up critical and substantial elements of the Title II Self Evaluation and Transition Plan. The District approach to Title II compliance will use the Section 504 and EEO programs to accommodate ADA needs of the most identifiable programs related to the District, that being Pre-kindergarten through Twelfth grade public education and related administrative and support functions. Access to many areas of School District facilities is normally limited to students and/or employees.

These two programs (Section 504 and EEO) are described further in the following sections:



**Figure 308.2.1  
Unobstructed Forward Reach**

**1.5 – Student Accommodations – Section 504**

Section 504 of the Rehabilitation Act of 1973 (Section 504) is federal civil rights legislation that prohibits discrimination against persons with disabilities in any program receiving federal financial assistance, including public schools. In the school environment, the purpose of Section 504 is to ensure that eligible students have educational opportunities equivalent to those of their nondisabled peers.

To be protected per 504, a student must be determined to: (1) have a physical or mental impairment which limits one or more major life activities; or (2) have a record of such impairment; or (3) be regarded as having such impairment. Section 504 requires that school districts provide a free appropriate public education (FAPE) to qualified students in their jurisdictions who have a physical or mental impairment that substantially limits one or more major life activities.

Similar to Section 504, the Americans with Disabilities Act of 1990 (ADA) is civil rights legislation that prohibits discrimination against persons with disabilities. Title II of the ADA covers all activities of state and local governments, regardless of the government entity's size or receipt of federal funding. Title II is applicable to public education.

Congress patterned Title II of the ADA after Section 504. Therefore 504 and the ADA are considered sister statutes, as they share the same definition of disability and are intended to be interpreted consistently with each other. Section 504 and the ADA both prohibit discrimination against students with disabilities enrolled in public schools. Each law separately assures equal opportunities and access for persons with disabilities.

The determination of whether a student has a physical or mental impairment that substantially limits a major life activity must always be made on an individual basis. A temporary impairment is generally not considered a disability unless it substantially limits one or more major life activities over an extended period of time. Section 504 teams must evaluate, on an individual basis, both the temporary impairment's expected duration, the degree to which it actually limits a major life activity and its impact.

The 504 Team will propose accommodations specially tailored to meet the needs of individual students. These accommodations will include the removal of architectural or structural barriers when determined appropriate. The District has adopted comprehensive grievance procedures that incorporate impartial due process hearings, providing for prompt and equitable resolution of complaints.

For information regarding Section 504 and student accommodations related to Title II, please refer to the Palm Beach County School District "Section 504 & Americans with Disabilities Act Procedure Manual".

### **1.6 – Employee Accommodations – EEO**

It is the policy of the School District of Palm Beach County, in accordance with the Americans with Disabilities Act of 1990 (ADA), that it shall not discriminate against a qualified individual with a disability in regard to job application procedures, hiring, advancement, discharge, compensation, job training, or other terms, conditions, or privileges of employment. The District shall provide reasonable accommodations to a qualified individual, when necessary, to enable the individual to perform the essential functions of the position, unless the reasonable accommodation would pose an undue hardship on the operation of the District's business. (See Board Policy 3.06)

Employees or applicants with a disability and seeking an accommodation under ADA are directed to contact the EEO Coordinator either by letter, telephone, e-mail, or in person. Employees must complete

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School District Palm Beach County

the ADA Reasonable Accommodation Request form and an Authorization for Release of Medical Information to the EEO Coordinator.

If the employee is unable to complete the form, the EEO Coordinator or designee will assist and/or complete the form on behalf of the employee.

The EEO Coordinator will speak with the employee to find out all relevant information regarding the employee's job duties, disability, the requested accommodation and its effect on the performance of the essential function of the job.

With respect to removing physical barriers, the District has determined that specific accommodations tailored around a particular employee's needs is preferable to making changes based solely on architectural standards set forth in the Americans with Disabilities Act and Architectural Barriers Act Accessibility Guidelines (ADAAG). Accommodations made by the District for employees with disabilities may exceed standards found in ADAAG. Such accommodations may include the installation of automatic opening doors for employees with limited mobility, providing specialized computer monitors for employees with visual impairments, or providing mobility devices (scooters) when determined appropriate. Employee participation is an essential part of the accommodation assessment.

For information regarding EEO and employee accommodations related to Title II, please refer to Palm Beach County School Board Policy #3.06 "Policy Concerning Persons with a Disability and Procedures for Accommodation".

**SECTION 2**

**2.0 – Compliance Plan**

The primary purpose of the Transition Plan is to document facility changes necessary to provide program access. The compliance plan part of this Transition Plan establishes the District approach to achieving District-wide facility access.

The compliance plan develops and explains the process and rationale of identifying barriers to accessibility. The compliance plan also describes the District strategy to remove such barriers.



### **2.1 – Integrated Approach**

Determination that a facility or portion thereof, is accessible is based on the standards of the Americans with Disabilities Act Accessibility Guidelines (ADAAG). It is not required that all facilities, or facility areas, be accessible to meet the program compliance requirement of the ADA. However, the District is required to ensure that an entire program, when viewed as a whole, is readily accessible to and usable by individuals with disabilities. See 28 CFR §35.150.

The ADAAG sets standards for accessibility of specific elements, and establishes “scoping” requirements for new construction and remodeling. “Scoping” determines which elements need to be accessible for a given type of work. This criterion delineates the standards that will be used in determining accessibility of an entire facility or a portion of a facility. The criteria will be used for existing facilities where new construction or alterations are not otherwise being contemplated.

The population served by the District can be generalized into 3 broad categories:

#### **Students**

#### **Staff**

#### **General Public.**

As previously stated, the District relies heavily on two processes designed to accommodate students (Section 504) and District staff (EEO). Therefore, the District approach to completing and updating the Self Evaluation and Transition Plan is focused on providing access to the General Public.



## **2.2 – Facility Barrier Data**

The District Building Department developed a comprehensive approach to identify accessibility barriers at existing schools and ancillary facilities.

The District Building Department reviewed the ADA Title II Technical Assistance Manual published by the Department of Justice. The Building Department also researched available checklists and other guidance publications based on ADAAG as published on July 26, 1991. On July 23, 2004, the U.S. Access Board published new design guidelines that update access requirements for public facilities covered by law. The Access Board also updated guidelines for federal facilities covered by the Architectural Barriers Act (ABA). Both the ADA guidelines and the ABA guidelines were updated jointly to make them more consistent.

District facilities constructed or altered since the adoption of ADAAG (January 26, 1992) should be expected to be in compliance with ADAAG. However, inconsistencies with adopted building codes as well as inconsistent enforcement during construction provided for unintentional variances from ADAAG. The building and accessibility codes sometimes require individual interpretation which may differ today from interpretations developed at the time of construction. In addition, inconsistent maintenance and normal wear and tear of particular facility components created apparent deviation from original design and ADAAG standards. Because of these factors, the District elected to survey every facility regardless of age as part of this Self Evaluation and Transition Plan Update.

### **Survey Forms**

In preparing to update the Self Evaluation, the District modified and improved checklists originally created as guidance tools for the original Title II compliance. These checklists were intended to maximize consistency among the survey teams and to simplify the process by eliminating items that were not expected to be part of the current District facilities (such as pay phones and automated teller machines).

The resulting checklists included:

- Form 1 - Parking
- Form 2 - Passenger Loading Zones
- Form 3 - Exterior Accessible Routes
- Form 4 - Curb Ramps
- Form 5 – Drinking Fountains
- Form 7 – Ramps
- Form 8 – Stairs
- Form 9 – Platform Lifts
- Form 10 – Entrances and Exits
- Form 11 – Doors and Gates
- Form 12 – Building Lobbies and Corridors
- Form 13 – Elevators
- Form 14 – Rooms and Spaces
- Form 15 – Assembly Areas



- Form 16 – Toilet Rooms and Bathrooms

Note: Form numbers are not continuous because certain guideline forms were combined or were determined to be not applicable.

### **Tasks**

Survey teams were created using Building Department staff supplemented by additional staff from the Program Management Department and the Environmental Control Office. The scope of the survey required considerable training in a broad range of construction disciplines. In order to simplify the training and to minimize the disruption of normal District operations, the Self Evaluation was broken down into five different “Tasks”. Tasks evolved around one or more survey forms that were similar in nature and scope. The intent was to complete one Task before another Task was started.

Five separate Tasks were identified as follows:

Task 1 – Parking and Exterior Access

Task 2 – Vertical Accessibility

Task 3 – Interior Routes

Task 4 – Restrooms and Locker Rooms

Task 5 – Assembly Areas

Survey teams were first deployed in the fall of 2008 and continued non-stop through 2010.

### **Data Collected**

Each survey form was designed to provide common elements that would later be useful in analyzing and processing the data.

Each Survey inspection record includes the following elements:

- Facility Name
- Inspector Name
- Date Inspected
- Survey Form Number
- Item Number
- Item Location
- Comment (Description)
- Code Reference
- Date Satisfied

A sample inspection record follows:

**THE SCHOOL DISTRICT OF PALM BEACH COUNTY  
 BUILDING DEPARTMENT  
 INSPECTION COMMENT HISTORY**

**FACILITY:** ACREAGE PINES ELEMENTARY      **PROJECT NUMBER:** 2141-2222      **PROJECT NAME:** ADA Title II Compliance  
**INSPECTION ID:** 102904 Accessibility      **LOCATION:** ADA Form 01 - Parking      **INSPECTION DATE:** 11/19/2009

ITEM NUMBER	BLDG	LOCATION	COMMENT	CODE REFERENCE	DATE SATISFIED	INSPECTOR
B 1	A1		Sign not compliant	4.6.4		Mark Sagovac
B 2	A1		Aisle width non compliant	4.6.3		Mark Sagovac
B 3	A2		Paint colors non compliant	4.6.4.a		Mark Sagovac
B 4	A3		Insufficient accessible parking	4.6.1		Mark Sagovac

**FACILITY:** ACREAGE PINES ELEMENTARY      **PROJECT NUMBER:** 2141-2222      **PROJECT NAME:** ADA Title II Compliance  
**INSPECTION ID:** 102905 Accessibility      **LOCATION:** ADA Form 02 - Passenger Loading Zone      **INSPECTION DATE:** 11/19/2009

ITEM NUMBER	BLDG	LOCATION	COMMENT	CODE REFERENCE	DATE SATISFIED	INSPECTOR
B 5	L1		No loading zone	4.1.2(5)(c)		Mark Sagovac

**FACILITY:** ACREAGE PINES ELEMENTARY      **PROJECT NUMBER:** 2141-2222      **PROJECT NAME:** ADA Title II Compliance  
**INSPECTION ID:** 102906 Accessibility      **LOCATION:** ADA Form 03 - Exterior Accessible Routes      **INSPECTION DATE:** 11/19/2009

ITEM NUMBER	BLDG	LOCATION	COMMENT	CODE REFERENCE	DATE SATISFIED	INSPECTOR
B 6	R1		Accessible route signage missing	4.1.3.(8)(d)		Mark Sagovac

**FACILITY:** ACREAGE PINES ELEMENTARY      **PROJECT NUMBER:** 2141-2222      **PROJECT NAME:** ADA Title II Compliance  
**INSPECTION ID:** 102907 Accessibility      **LOCATION:** ADA Form 04 - Curb Ramps      **INSPECTION DATE:** 11/19/2009

ITEM NUMBER	BLDG	LOCATION	COMMENT	CODE REFERENCE	DATE SATISFIED	INSPECTOR
B 7	C1		Ramp slope non compliant	4.7.2		Mark Sagovac
B 8	C1		No detectable warning	4.7.7		Mark Sagovac
B 9	C1		Curb side flair non compliant	4.7.5.a		Mark Sagovac
B 9	C2		No detectable warning	4.7.7		Mark Sagovac

Instructions for using the inspection record database are outlined on page A-43 of the Appendix.

The inspection record data was transferred into a second database for sorting and analysis that is not available within the inspection record database. The total number of recorded items is estimated in the range of 80,000. After analysis of priority and funding commitment, the second database was expanded to include:

- Priority Rating
- Schedule Completion Date

**2.3 – Barrier Prioritization**

Individual barriers have widely varying impacts upon accessibility. The applicable codes are very exacting and seldom include tolerances normally provided in the field of construction. For example, the force required to open a door may be a fraction of a pound over the required 5 pounds maximum force. The door frame itself may be 4 inches under the minimum width of 32 inches. The door force may be manageable. However, the door width could create an absolute barrier to a person in a wheelchair.

Creating a priority system of barriers allows the District to direct limited staff and resources to correcting the barriers most critical to persons with disabilities. It is important to realize that any prioritization is not

given to imply that some items are not important or that correction is not necessary. The applicable codes and standards do not distinguish between “important” or “unimportant” requirements, and certainly all requirements should be met for a facility to be deemed fully accessible.

The District has developed a priority assignment model based on two factors:

- Relative Importance of the Barrier (High, Medium and Low)
- Whether the Barrier restricts access to the General Public as opposed to Students and Staff (Public = Greater Impact = 1, All Others = Lesser Impact = 2)

Public areas are spaces that are expected to be accessed by the general public such as parking, administration offices, cafeterias, media centers, auditoriums, gymnasiums, stadiums, concession areas and accessible routes serving these spaces.

Note: Student and staff accommodations will be made pursuant to Section 504 and EEO procedures.

Combining the two assigned factors creates a six tier priority system:

### **High 1, Medium 1, Low 1, High 2, Medium 2, Low 2**

The Relative Importance factor can be determined by assessing the Building Code Reference.

#### **High Priority**

A High Priority factor would generally include those barriers that affect the primary accessibility of a facility, that is, conditions that would generally make a facility unusable for a broad spectrum of persons with disabilities.

#### **Medium Priority**

A Medium Priority factor would generally include barriers that adversely affect the “quality” of usage of a facility for persons with disabilities, as afforded to non-disabled persons.

#### **Low Priority**

A Low Priority factor would generally include barriers that might represent a small deviation from applicable codes and standards or items where alternative means of usage are possibly available.

### **2.4 – Compliance Schedule**

Recognizing that the District has limited funds and cannot immediately make all facilities fully accessible, a compliance schedule based on prioritization has been applied to each barrier.

Title II of the ADA originally required public entities to achieve program accessibility by July 26, 1992. The Transition Plan was intended to provide for the removal of barriers as expeditiously as possible, but in any event, by January 26, 1995.

A required element of the Transition Plan was to provide a schedule for taking the necessary steps to achieve compliance with Title II. If the time period for achieving compliance took longer than one year, the Transition Plan was to identify the interim steps that would be taken to achieve compliance.

This update of the original Self Evaluation and Transition Plan was developed with an understanding that structural barriers identified in 1992 that hampered participation in programs were either removed or otherwise corrected. The District is not aware of any accessibility complaints associated with structural barriers identified in the original Transition Plan that were not successfully resolved through various complaint and grievance processes available to the public. Many barriers identified in this update are located at facilities that were built since 1992. The District will provide estimated completion dates to bring all barriers into compliance within a reasonable time period.

Within the School District, the Division of Facilities Management is charged with removing physical barriers to accessibility. The removal of barriers may involve modifying existing structures or building new facilities to replace non-compliant facilities. Compliance may also include performing maintenance of equipment or purchasing new equipment. Facilities Management staff have reviewed the list of barriers and have assigned estimated compliance dates to each. The compliance dates were developed as a direct relationship to the assigned priority of each barrier.

The Compliance Dates by priority:

- High 1            July 1, 2020
- Medium 1        July 1, 2024
- Low 1            July 1, 2026
- High 2            As determined necessary per Section 504 or EEO
- Medium 2        As determined necessary per Section 504 or EEO
- Low 2            As determined necessary per Section 504 or EEO

The District may complete projects earlier than the assigned compliance date based on the available funding and human resource.

**SECTION 3**

**3.0 – Policies and Procedures**

The various programs, services, and activities of the District pose a number of issues related to programmatic accessibility for persons with disabilities. While it has been a focus of this Self Evaluation to analyze the characteristic of each program and to evaluate the methods each program utilizes to include persons with disabilities, the overall responsibility is an on-going one that requires the development of policies and procedures on the part of various departments.



**Figure 3—Rotational penetrometer mounted on full-depth playground surface specimen.**

### **3.1 – ADA Title II Coordinator and Duties**

Under Title II, any public entity that employs 50 or more persons shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under Title II, including any investigation of any complaint communicated to it alleging its noncompliance with or alleging any actions that would be prohibited by ADA Title II.

The Title II Coordinator is the key player in ensuring ADA Title II compliance. The Title II Coordinator's role includes planning and coordinating Title II compliance efforts, ensuring that the implementation is completed, and receiving and investigating complaints related to discrimination on the basis of disability as covered in Title II. To fulfill this job, the coordinator must have the authority, knowledge, skills and motivation to implement the regulations effectively.

One purpose of this requirement is to ensure the members of the public who need to interface with school systems can readily identify a person who is familiar with ADA requirements and can communicate those requirements to other key staff. It is expected that this employee will have the authority to take whatever action is needed to correct infractions. It is also required that the school system make an effort to prevent violations by ensuring that all of its employees and agents are thoroughly familiar with their obligations.

The public entity shall make available to all interested individuals the name, office address, and telephone number of the employee or employees designated pursuant to this paragraph. The regulations refer to this person, or persons, as the "responsible employee or employees".

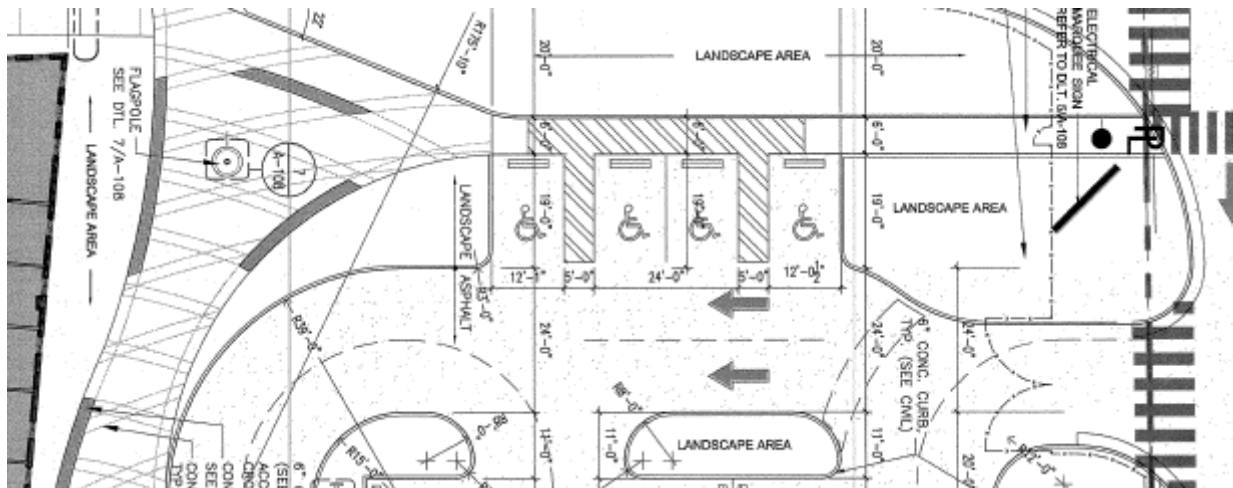
*The Palm Beach County School District Title II Coordinator is:  
Heath Thomas / ADA Title II Coordinator (561-222-7811*

*The Palm Beach County Section 504 Coordinator is:  
Kimberly Doyle ADA/504 Student Specialist (561) 434-8817.*

*The Palm Beach County EEO Coordinator is:  
Raeshena Walker Willis, EEO Coordinator (561) 434-8646).*

The Title II Coordinator will oversee a variety of tasks related to implementation of the ADA regulations and organize the District's ongoing compliance efforts. Specific duties included in the Title II Coordinator's job description include the following tasks as they relate to Title II and public accessibility:

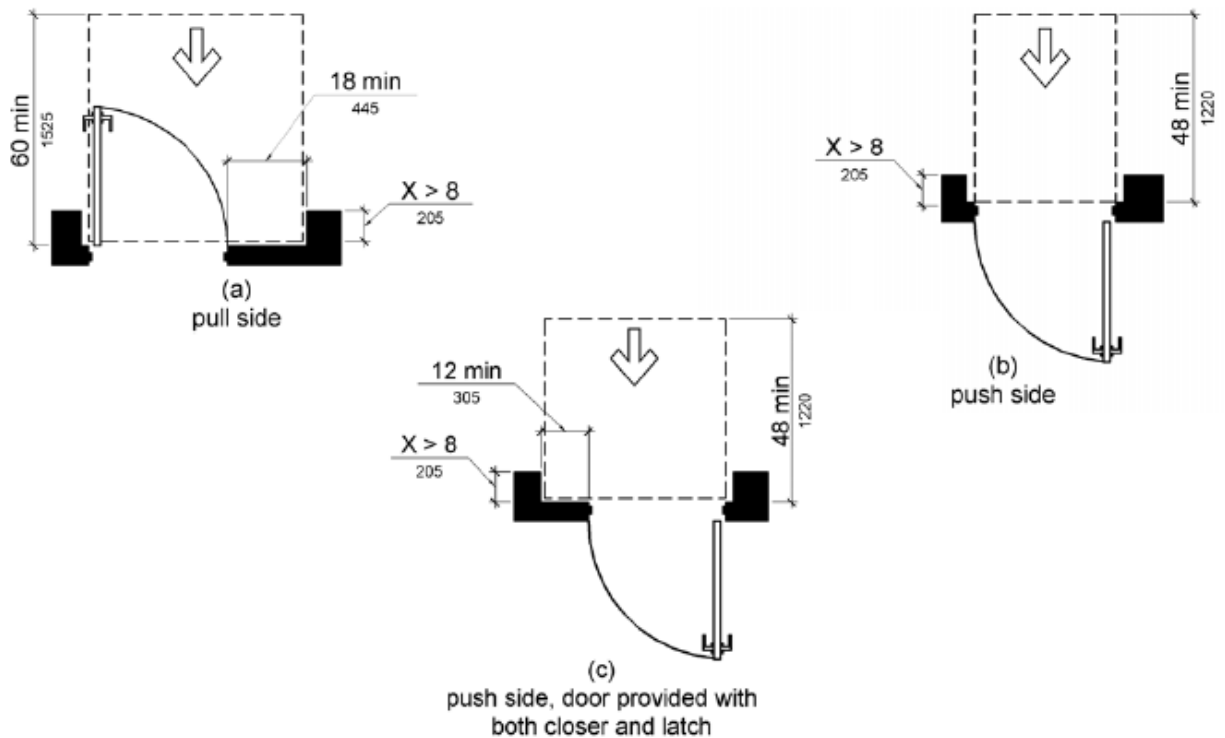
1. Coordinate the development, refinement and implementation of the District and school sites' policies and plans for complying with the requirements per Title II of the ADA, as well as other disability laws. Collaborate with staff from various departments in developing and reviewing plans and policies in their areas of responsibility under Title II of the ADA.
2. Develop strategies for informing employees, managers, and other groups about District policies concerning the accommodation of members of the public beyond the scope of Section 504 and ADA.
3. Monitor and evaluate compliance with the requirements of the ADA and other disability laws. Advise and consult with managers, supervisors, and principals about areas of concern and possible non-compliance with regulations. Recommend appropriate corrective action as needed.
4. Maintain a working knowledge of legislation that is specifically related to the District's treatment of persons with disabilities. Maintain a working knowledge of architectural accessibility regulations and codes, including those in the Americans with Disabilities Act Accessibility Guidelines and the Florida Building Code Accessibility Standards.
5. Investigate and resolve complaints alleging either failure to comply with ADA Title II regulations or discrimination on the basis of disability.
6. Promote the coordination of District-wide approaches, policies, and procedures regarding equal access and accommodation of persons with disabilities.
7. Oversee implementation of the Board-approved ADA Transition Plan, including a review and understanding of physical accessibility modifications required by the Transition Plan.



### 3.2 – Public Comment and Board Adoption

The DOJ regulations for Title II state that a public entity is required to make available to applicants, participants, residents, and other interested parties information regarding the Self-Evaluation and its applicability to the services, programs, or activities of the public entity, and to apprise the public of the protections against discrimination afforded to them by Title II, including information about how Title II requirements apply to its particular programs, services and activities.

The Transition Plan must be formally adopted by the Palm Beach County School Board. Prior to adoption, a copy of the draft Transition Plan was made available for public inspection during a formal citizen review period. The District also held a public workshop to gather input on the Transition Plan and allowed the public to submit written and on-line comments. No comments were received from the public during the workshop and on-line comment period. Adoption of the plan commits the District to the barrier removal and modernization projects described in the Transition Plan, according to the schedule given. Any changes to the plan must be considered with the same standard of public input.



**Figure 404.2.4.3**  
**Maneuvering Clearances at Recessed Doors and Gates**



**3.3 – Accommodation Process**

The purpose of an accommodation procedure is to provide means for timely resolution of all problems or conflicts related to ADA compliance before they escalate to the point where the complainant feels it is necessary to resort to the federal complaint process or litigation. This procedure must be just as accessible and appropriate for use by students or public citizens as by school system employees. As previously stated; employees and students are accommodated by EEO and Section 504 policies and procedures. Each of these programs has accommodation processes in place.

The Title II regulation provides that the ADA Coordinator is to oversee the investigation and resolution of complaints regarding compliance with the ADA. The Title II regulation also provides that public entities must adopt and publish accommodation procedures, providing for prompt and equitable resolution of complaints.

Complainants are not required to exhaust accommodation procedures before filing a complaint with the US Department of Education’s Office for Civil Rights, or with the US Equal Employment Opportunity Commission (EEOC) or Florida Human Rights Commission.

An accommodation procedure should include the following components:

- A detailed description of the procedures for submitting an accommodation request;
- A two-step review process that allows for appeal;
- Reasonable time frames for review and resolution of the accommodation request;
- Records of all complaints submitted, responses given, and steps taken to resolve the issue; and
- An alternative procedure if the complainant alleges that the ADA Coordinator or other school officials with responsibilities regarding the accommodation procedures are a part of the alleged discrimination.



### **3.4 – Permitting and Maintenance of Facilities**

#### **Permitting**

In 1993, the Florida Legislature enacted the "Florida Americans with Disability Accessibility Implementation Act." The purpose and intent of this Act is to incorporate into the laws of Florida the accessibility requirements of the Americans with Disabilities Act of 1990 (ADA) while at the same time to maintain those provisions of Florida law that are more stringent than the ADA accessibility guidelines, that is, those provisions which are more favorable to the needs of the disabled. In 1997 the Legislature amended the Act to complete the move to establish consistency between the accessibility provisions in the Florida Building Code and the Federal ADA Accessibility Guidelines as adopted by the Department of Justice. Nothing in the legislation is intended to expand or diminish the defenses available to a place of public accommodation under the Americans with Disabilities Act and the federal Americans with Disabilities Act Accessibility Guidelines, including, but not limited to, the readily achievable standard, and the standards applicable to alterations to places of public accommodation. The Florida Accessibility Code for Building Construction is incorporated into the Florida Building Code.

The School District of Palm Beach County Building Department was created pursuant to FS 1013.371 where School Districts were required to provide for the enforcement of the Florida Building Code and Florida Fire Prevention Code. The department reviews plans, issues permits and inspects new capital construction work (such as new schools, modernizations, core improvements and additions). The same authority includes the permitting of Minor Projects (such as covered walkways and technology), portable projects, and maintenance work (such as roof and A/C replacement and renovation work).

#### **Maintenance**

Under the Title II regulations, public school systems must maintain in working condition those features of facilities and equipment that are required to be readily accessible to and usable by persons with disabilities. Inoperable elevators or wheelchair lifts, locked accessible doors, or accessible routes that are obstructed by furniture, etc., are neither accessible nor usable by individuals with disabilities.

Isolated or temporary interruptions in service or access due to maintenance or repairs are not prohibited. However, allowing obstructions to persist beyond a reasonable period of time where timely repair or removal is possible would violate this requirement, as would repeat mechanical failures due to improper or inadequate maintenance.

The District will maintain a system of monitoring standard accessibility improvements at all school and ancillary sites to assure continuing compliance with the ADA Accessibility Guidelines and to take all reasonable steps to provide both programmatic and physical access for persons with disabilities. Compliance with the guidelines becomes the responsibility of various staff and departments. Site-based administrators and technicians are responsible for identifying and correcting simple barriers to accessibility. These barriers may include removal of loose obstructions to accessible paths or assuring mechanical equipment such as elevators and lifts are unlocked and in working order.

The Department of Facilities Services provides funding and support services to maintain the facilities to ensure that the operation, functionality and preservation of the school centers and ancillary facilities are compliant with district, local, State and National codes and regulations. Department technicians, support

personnel and administrators respond to resolve deficiencies pertaining to accessibility as well as other maintenance functions.

The Title II Coordinator will work with Building Department and Facilities Services Department staff to train site-based and district-wide personnel on how to keep systems in working order, and resolve details of potential or reported problems.



### **3.5 – Board Policies**

The Palm Beach County School Board has adopted several policies relating to the protection of students, staff and public from discrimination including ADA regulations. Some of the major Board policies specifically related to ADA, EEO, Section 504 and Title II are described as follows: (Complete copies of each policy described herein are included in the Appendix)

#### **Policy 3.05 Equal Employment Opportunity Policy**

General Provision: It is the policy of the School Board of Palm Beach County to prohibit discrimination on the basis of religion, race, ethnicity, national origin, color, sex, marital status, age, parental status, disability, sexual orientation or gender identity or expression or any other characteristic protected by federal and state laws in all employment practices of the district.

#### **Policy 3.06 Policy Concerning Persons with a Disability and Procedures for Accommodation**

General Provision: It is the policy of the School District of Palm Beach County, in accordance with the Americans with Disabilities Act of 1990 (ADA), that it shall not discriminate against a qualified individual with a disability, because of the disability of such individual, in regard to job application procedures, hiring, advancement, discharge, compensation, job training, or other terms, conditions, or privileges of employment. The School District shall provide reasonable accommodation to a qualified individual when necessary to enable the individual to perform the essential functions of the position, unless such would pose an undue hardship on the operation of the District's business.

#### **Policy 5.001 Protecting Students from Harassment and Discrimination**

General Provision: The School Board of Palm Beach County, Florida, as governing body of the School District ("School District" or "District"), does not condone harassment or discrimination against any of its students or applicants for admission for any reason including, but not limited to, their real or perceived sex, race, color, religion, national origin, age, disability, marital status, ancestry, ethnicity, gender, linguistic preference, political beliefs, sexual orientation, or social/family background in its education programs or admissions to education programs and therefore prohibits such discrimination against, or harassment of, any student by any Board member, District employee, consultant, contractor, agent, visitor, volunteer, student, or other person in the school or outside the school at school-sponsored events, on school buses, and at training facilities or training programs sponsored by the District.

#### **Policy 5.189 Discipline of Students Eligible for Services Under Section 504 of the Rehabilitation Act of 1973 ("Section 504") and Americans with Disabilities Act ("ADA")**

General Provision: This Policy for discipline of students eligible for services under Section 504 is designed to comply with State Board of Education Rule 6A-6.0331(8), the Section 504 Regulations at 34 C.F.R. Part 104, and 29 U.S.C. 794 ("Section 504"). The phrase "eligible for services under Section 504" refers to students with **active Section 504 accommodation plans**.

**Policy 5.322 Students with Chronic Illnesses and Infectious Diseases (Including HIV/AIDS)**

General Provision: The School Board of Palm Beach County acknowledges all federal and state laws protecting students with disabilities and acknowledges that those individuals shall not be discriminated against on the basis of their disabilities, including those involving illness.

**Policy 7.02 Educational Facilities Specifications**

General Provision: The School Board recognizes there is a continuing need to plan, design and construct new educational facilities and to make changes through the renovation and remodeling of existing educational facilities, to support and enhance educational programs and to accommodate for changing educational needs. This policy is to ensure that all new construction, renovation and remodeling of District facilities are designed to meet the requirements of applicable state and federal laws and regulations and related District policies, and to accommodate and complement the educational program.

**Policy 7.21 Building Code**

General Provision: All new construction including relocatables, additions, remodeling of existing facilities or renovation of existing facilities shall conform to and comply with the Florida Building Code (FBC) including but not limited to Chapter 423, and the Florida Fire Prevention Code (FFPC) pursuant to Fla. Stat. § 1013.37 and shall be consistent with applicable provisions of the State Requirements for Educational Facilities (SREF).

**Policy 8.17 Use of Service Animals**

General Provision: The School Board of Palm Beach County desires to ensure that individuals with disabilities are permitted to participate in and benefit from district programs, activities, and services, and to ensure that the District does not discriminate on the basis of disability. This policy is to establish procedures for the use of service animals in the Palm Beach County School District, including school buildings, vehicles, and other property; and to ensure the School District's compliance with state and federal laws.

**3.6 Staff Training and Public Outreach**

The Palm Beach County School District, through its various sites and programs, often holds meetings and assemblies for the general student population and community members. Such meetings may be held on District properties or at non-District sites. Likewise, meetings are often organized and operated by non-District organizations and held at District owned sites.

In order to assure compliance with ADA, such meetings should only be held at sites that are accessible to persons with disabilities. The term "accessible" would apply not only to the physical facility location, but also to programmatic requirements of the particular event, such as communications and assistive devices.

There are two major types of communication barriers that prevent or detract from communication effectiveness:

1. Visual: Print materials and displays, and signage often present barriers to people with limited vision.
2. Aural/oral: Aural refers to information that is heard; oral refers to spoken communication. A person who is hearing-impaired experiences barriers related to aural communication. The same person may be able to communicate orally, however. A person who has speech impairment or a cognitive impairment that affects speech, may experience barriers in communicating orally but have no difficulty receiving information that is conveyed aurally. Each person will require different auxiliary aids and services in order to be provided equally effective communication.

People with various disabilities may also be unable to receive or generate spoken communication. The following are some of the most widely used techniques and devices that can assist with communications:

- Sign language Interpreters
- Writing
- Computer-Aided Real-Time Reporting (CART)
- Assistive Listening Devices (ALD)
- Telecommunication Devices for the Deaf (also called TTY standing for teletypewriter)
- Telephone relay services
- Telephone Amplification

All public meeting notices should include a stated 72-hour advance time period for requests for alternative formats (for example, Braille, large print, audio cassettes, sign language interpreters, captioning or computer-aided real-time reporting). Appropriate school staff should be trained in the use of TTY's and relay services.

Additionally, key District staff at each facility will be trained to evaluate accessible features at their sites and know how to informally address issues with general public accessibility as they may arise. These staff members will either contact local maintenance staff members or maintenance technicians with the District Facilities Services Department to correct issues. These issues are generically described below:

- 1) Maintain exterior pathways and repair any surface irregularities that may become greater than 1/4" due to wear or cracking, and make other repairs to keep pathways from causing hazardous conditions. Monitor items temporarily placed in accessible pathways to ensure that the obstruction persists no longer than the time needed to accomplish tasks associated with the obstruction.
- 2) Maintain disabled parking spaces to have all appropriate signage and to keep access aisles to the spaces and to the main entrances they serve clear and usable.
- 3) Maintain and monitor the accessible path from the public right-of-way to the main facility entrance. Ensure that gates along the accessible path are open during normal operating hours.
- 4) Maintain and replace as required all building signage that would direct persons with disabilities to the accessible paths of travel.
- 5) Maintain all doors providing primary accessibility to be fully operable and unlocked during normal hours of operation of the facility, and during all public functions.

- 6) Maintain all door pressures required to open doors to be as low as possible but in no case more than 8.5 pounds for exterior doors and 5 pounds for interior doors.
- 7) Maintain all elevators in proper working condition. Set up and monitor yearly maintenance inspections by contracted elevator maintenance companies and State Elevator Safety Unit for all elevators.
- 8) Maintain all wheelchair lifts in proper working condition, with keys prominently displayed at facility main offices (see also section 2.10). Set up and monitor yearly maintenance inspections by contracted lift maintenance companies and State Elevator Safety Unit for all lifts.
- 9) Maintain all accessible plumbing fixtures, including toilets, urinals, lavatories, sinks, faucets, showers, bathtubs, and drinking fountains, to be fully operational and in compliance with accessibility codes.
- 10) Maintain all toilet accessories to be fully operational and properly mounted. Maintain all grab bars to be tight and structurally sound.
- 11) Maintain and monitor objects mounted on walls to protrude no more than 4" into paths of travel.
- 12) Maintain audible and visual fire alarms and pull stations to be fully operational.

**GLOSSARY OF TERMS**

ABA – Architectural Barriers Act

ADA – Americans with Disabilities Act

ADAAG – Americans with Disabilities Act Accessibility Guidelines

C.F.R. – Code of Federal Regulations

DOJ – (United States) Department of Justice

EEO – Equal Employment Opportunity

EEOC – Equal Employment Opportunity Commission

ESE – Exceptional Student Education

FBC – Florida Building Code

FFPC – Florida Fire Prevention Code

Section 504 (504) – Section 504 of the Rehabilitation Act of 1973

SREF – State Requirements for Educational Facilities (Florida)

Title II – Americans with Disabilities Act Title II (public facilities)

U.S.C. – United States Code



### ADA Accommodation Procedures for Public Access Issues

The Americans with Disabilities Act (ADA) prohibits discrimination against individuals on the basis of disability. In accordance with the law, it is the policy of the School District of Palm Beach County (“School District”) to provide equal access to qualified individuals with disabilities.

Contact information is included within the body of the ADA Self-Evaluation and Transition plan for students and employees who want to request accommodations. The accommodation procedure discussed in this document is specifically geared toward members of the general public who believe accommodations are needed to provide accessibility for public access areas.

The law covers parents and members of the public with disabilities. A person with a disability may be an individual who has a physical or mental impairment that limits a major life activity. Major life activities may include seeing, hearing, breathing, walking, speaking, learning, working, caring for oneself, performing manual tasks, lifting, and other physical, mental and social activities, etc.

In general, it is the responsibility of the individual with a disability to inform the School District that an accommodation is needed. A reasonable accommodation is a modification or adjustment to a school, practice or policy that enables a qualified individual with a disability to enjoy equal access. Parents and members of the general public should contact the School District ADA Title II Coordinator as soon as the need for an accommodation is recognized. It is also possible to file an ADA Accommodation Request Form to support the request for accommodation.

Anyone who believes that s/he, or a specific class of individuals, has been subjected to disability discrimination **related to public access** may file an ADA Complaint and Grievance Form within 180 days of the alleged violation. Forms should be filed with the School District’s ADA Title II Coordinator who will investigate the complaint.

An ADA Complaint and Grievance Form must be filed within 180 days of the alleged violation. The request will be evaluated according to the following schedule:

- Within 5 business days of receipt of the Accommodation Request Form the ADA Title II Coordinator will send the Complainant an acknowledgment letter.
- Within 15 calendar days after receipt of the ADA Complaint and Grievance Form, the ADA Title II Coordinator will meet with the complainant to discuss the complaint and possible resolutions, conduct an investigation and issue a letter of findings and proposed resolution.
- A Complainant may submit comments or ask for modifications of the proposed resolutions within 15 calendar days after receipt of the letter of findings and proposed resolution.
- The ADA Title II Coordinator has 15 calendar days from the date of receipt of the Complainant’s comments to complete a Final Resolution.
- The Complainant has 15 calendar days from the date the final resolution is issued to submit an Appeal to the Chief of Support Operations.
- The School District Chief of Support Operations has 15 calendar days to issue a decision.
- The complainant can request a reconsideration of the case in instances where he or she is dissatisfied with the resolution. The request for reconsideration should be made within 15 calendar days to the Superintendent, and a decision will be made within 15 calendar days after receipt of the complaint. The decision of the Superintendent is final.

The ADA Reasonable Accommodation Request and ADA Complaint and Grievance Forms are available on the School District website and may be filled out and printed while on-line or downloaded for local use.



THE SCHOOL DISTRICT OF PALM BEACH COUNTY

## Americans with Disabilities Act (ADA) Reasonable Accommodation Request in Public Access

The School District of Palm Beach County, Florida welcomes members of the public to participate in the programs, and services offered. Alternate formats, assistive devices and special arrangements are available upon request. Advance notice (at least 72 hours) is recommended for arrangements for accommodations. **Submit this form to the Principal or Department Head.** If the request is for structural changes, accommodation(s) requested will be discussed further with the requester.

Name of Requester		Name of Person Completing Form (if different from requester)	
Address (house/apt.#, street, city, state, zip code)			
Mailing Address (if different from the requester)			
Phone Number	E-Mail Address	Date of Request	Date/time when accommodation is needed
Type of Event (e.g., meeting, athletic, assembly, etc.)		Location where accommodation is needed (e.g., School Office)	
What Limitations resulting from disability require accommodation <input type="checkbox"/> Mobility <input type="checkbox"/> Visual <input type="checkbox"/> Speech <input type="checkbox"/> Hearing <input type="checkbox"/> Other (describe below)			

Accommodation is needed to provide access to   
 Facility   
 Equipment

Type of Accommodation Requested (please be specific)

**Administrative Use Only**

If structural changes are required or additional equipment is necessary, please send copy of form to ADA Title II Coordinator, 3661 Interstate Park Road, North, Suite 200, Riviera Beach, FL 33404 or Fax to (561) 882-1978.

Disposition of Request			
<i>Print name of Principal/Dept. Head</i>	<i>School/Department</i>	<i>Signature of Principal/Dept. Head</i>	<i>Date</i>
<i>Print name of ADA Title II Administrator</i>	<i>Signature of ADA Title II Administrator</i>	<i>Date</i>	
<i>Print name of Building Code Services Director</i>	<i>Signature of Building Code Services Director</i>	<i>Date</i>	

PBSD 2480 (New 1/24/2013)



THE SCHOOL DISTRICT OF PALM BEACH COUNTY  
**Americans with Disabilities Act (ADA)  
 Complaint and Grievance**

The purpose of this form is to submit a complaint or grievance to the School District of Palm Beach County concerning disability-related discrimination on the denial of access to facilities, programs, or services by any person with a disability.

Complete form\* (additional sheets may be attached) and return to: Palm Beach School District (ADA Title II Coordinator) 3861 Interstate Park Road, North, Suite 200, Riviera Beach, FL 33404 or Fax to (561) 882-1978. Direct questions to (561) 882-1912. Forms must be submitted to the ADA Title II Coordinator within 180 days of the alleged disability-related discrimination.

\*Upon request, reasonable accommodations will be provided in completing the form, or alternative formats of the form will be provided.

Name of Complainant		Name of Person Completing Form (if different from complainant)	
Address (house/apt.#, street, city, state, zip code)			
Mailing Address (if different from the complainant)			
Phone Number	E-Mail Address	Date	Date of Discrimination
Provide a <b>complete</b> description of your complaint or grievance			
Specify the location of your complaint (e.g., media center, gymnasium, cafeteria, etc.)			
State what you think should be done to resolve the grievance			

Attach additional pages as needed.

\_\_\_\_\_  
 Signature of Person Completing the Form

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Signature of ADA Title II Coordinator

\_\_\_\_\_  
 Date

The ADA Title II Coordinator must maintain the confidentiality of all files and records relating to the grievances filed, unless disclosure is authorized or required by law.

Policy            **Equal Employment Opportunity**  
**3.05**            **Policy**

1. **Purpose.** The School Board recognizes that eliminating all forms of unlawful discrimination, harassment and retaliation in the workplace will create a better work and learning environment for employees and students. Thus, the purpose of this policy is to:
  - a. Reaffirm the School Board's commitment to equal employment opportunities for all persons in conformity with applicable law and related board policies, including in particular, the policy on nondiscrimination.
  - b. Assure the recruitment, employment, training, promotion and retention of qualified staff without discrimination, while making efforts to provide diversity based on race, ethnicity and gender.
  - c. Establish procedures for the reporting, the investigation, and the resolution of equal employment complaints in the School District.
2. **Scope.** This policy is applicable to all applicants and employees of the School District.
3. **Policy.** It is the policy of the School Board of Palm Beach County to prohibit discrimination on the basis of religion, race, ethnicity, national origin, color, sex, marital status, age, parental status, disability, sexual orientation or gender identity or expression or any other characteristic protected by federal and state law in all employment practices of the district. Such employment practices include, but are not limited to, the recruitment, hiring, compensation, assignment, training, promotion, transfers, retention, demotion, discipline or dismissal of employees. As used in this policy, discrimination means treating an individual adversely in employment decisions based on religion, race, ethnicity, national origin, color, sex, marital status, age, parental status, disability, sexual orientation or gender identity or expression or any other characteristic protected by federal and state law.
  - a. The board is committed to the principle of fostering diversity in order to enrich the educational experiences of all students through exposure to adults from many backgrounds, thereby providing educational settings that promote an understanding of diversity and contribute to the quality exchange of ideas inherent in the educational setting.
  - b. The board is also committed to re-mediating any significant under-representation on the basis of a particular race, ethnicity, national origin or sex, within appropriate district job categories, if it exists and where there have been past employment practices that adversely affected current opportunities of individuals based on race, ethnicity, national origin or sex.
4. **Annual Notification to the Board.**
  - a. *Content of Report.* To assist the board in monitoring implementation of this policy, the superintendent/designee shall maintain records by sex, race and ethnicity of employees. Annually, the superintendent/designee shall provide diversity data based on the composition of the workforce in accordance with EEOC guidelines.
  - b. *Maintenance of Records.* States are required to report aggregated data to the U. S. Department of Education based on the following categories: Hispanic/Latino of any race, American Indian or Alaskan Native, Asian, Black or African-American, native Hawaiian or other Pacific Islanders, White, and two or more races. The Superintendent/designee shall maintain District records consistent with the requirements of the U. S. Department of Education.
5. **Disparity Study.** Upon receipt of the above data in section 4 herein, the board may authorize an outside consultant to conduct a disparity study to determine if there is any statistically significant under- representation in specific job categories on the basis of race, ethnicity, national origin or sex that may suggest that employment practices adversely affect the current employment opportunities of these individuals and, further, to identify any job opportunity barriers that may exist. Based on this study, the superintendent may develop strategies necessary for improving district diversity.
6. **Complaints of Discrimination.**
  - a. Supervisors and managers are responsible for assuring that no employee is subjected to conduct that constitutes discrimination as defined in Section 3 herein.

## School District Palm Beach County

- b. Any employee, who believes that he/she has been the subject of discrimination as defined in Section 3 herein by anyone at the district or by anyone who does business with the district, should, and is encouraged to, bring the matter to the attention of his/her supervisor except when the supervisor is the offending party or to the Equal Employment Opportunity Coordinator.
  - c. Any employee who is aware of behavior toward another employee which they feel may constitute discrimination as defined in Section 3 herein shall also report the matter to their supervisor or the to the Equal Employment Opportunity Coordinator.
  - d. If warranted, a prompt and thorough investigation of the alleged discrimination will be conducted and appropriate corrective action will be taken. Complaints of discrimination will be treated as confidential throughout the investigation. Once the investigation is completed, confidentiality shall be determined by the applicable state and federal laws.
  - e. Any individual found to have engaged in discrimination as defined in Section 3 herein will be disciplined up to and including termination.
  - f. Retaliation against an employee, potential employee, or former employee who, in good faith, makes a complaint or report of discrimination as defined in Section 3 herein or participates in the investigation of such a complaint or report is strictly prohibited. Incidents of retaliation shall be reported in the manner discussed above. Acts of retaliation shall subject an employee to discipline up to and including dismissal.
  - g. All employees must file the complaint pursuant to Section 6 of this policy. The exception is the superintendent, internal auditor or chief counsel to the school board, who must file the complaint with the board chair.
7. Limitations. Nothing in this policy is intended nor shall be construed to create a private right of action against the Board or any of its employees. The provisions herein do not affect the right of any person to file a charge of discrimination with any agency having jurisdiction over such claims.

STATUTORY  
AUTHORITY:

Fla. Stat. §§ [1001.41](#); [1001.42](#)

LAWS IMPLEMENTED:

[29 U.S.C. §621, et. seq.](#) (Age Discrimination in Employment Act of 1967, as amended).; [42 U.S.C. § 12101, et. seq.](#) (Americans with Disabilities Act Amendments Act of 2008); [Title VII, 42 U.S.C. § 2000e, et. seq.](#) (Title VII of the Civil Rights Act); [29 U.S.C. § 201, et. seq.](#) ( Fair Labor Standards Act) [§760.02, et. seq.](#)

HISTORY:

3/3/76; 8/17/77; 6/16/82; 1/8/86; 9/22/99; 02/25/02; 7/7/2010

**Policy 3.06 Policy Concerning Persons With a Disability and Procedures for Accommodation**

1. **Purpose.** The purpose of this policy is to provide procedures for processing requests for accommodations from applicants and employees with disabilities, in compliance with the *Americans with Disabilities Act of 1990*, as amended by the *ADA Amendments Act of 2008* or hereafter amended, and *Section 504 of the Rehabilitation Act of 1973*, as now or hereafter amended.
2. **Definitions.**
  - a. **"Qualified individual with a disability"**. A qualified individual with a disability is an individual who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires.
  - b. **"Disability"**. A disability is a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such impairment; or being regarded as having such impairment.
  - c. **"Impairment"**. An impairment is a physiological disorder, or condition, affecting one or more of the body systems or a mental or psychological disorder, such as emotional or mental illness.
    - i. The following are **NOT** considered to be impairments:
      - A. Temporary conditions, such as a broken leg, and those that are minor (such as poor vision that is correctable with eyeglasses)
      - B. Environmental, cultural and economic disadvantages
      - C. Homosexuality and bisexuality
      - D. Pregnancy
      - E. Physical characteristics (eye and hair color, left handedness)
      - F. Personality traits or behaviors
      - G. Normal deviations in height, weight or strength
      - H. Gender identity disorders or other sexual disorders
      - I. Conditions resulting from current illegal use of drugs
  - d. **"Substantially limiting"**. An impairment is substantially limiting if it prevents or to a large degree restricts an individual's ability to perform a particular major life activity, as compared to the ability of the average person in the general population performing the same activity. The determination of whether an impairment substantially limits a major life activity depends on the nature and severity of the impairment and the duration or expected duration of the impairment. The impairment's impact must be permanent or long term.
  - e. **"Major Life Activities"**. Major life activities include, but are not limited to, functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working, sitting, standing, lifting, reaching, reading, eating, sleeping, bending, concentrating, communicating or thinking.
  - f. **"Essential functions"**. The essential functions of a position are those that are central to accomplishing the tasks that are required of the position, not those that are marginally related to the outcome. The following questions can provide assistance in determining which functions are essential to the job:
    - i. Will removing the functions fundamentally alter the position?
    - ii. Is the function included in the written job description?
    - iii. Is the function specified under collective bargaining agreements?
    - iv. How much time is spent performing the function?
    - v. What are the consequences of the employee failing to perform the function?
    - vi. How many other employees are available to perform the function?
    - vii. Does the position exist to perform the function?
    - viii. What experience is needed to perform the function?
    - ix. What is the experience of the past and/or current incumbents of the job?
  - g. **"Reasonable accommodation"**. A reasonable accommodation is any change in the work environment or the manner in which a job is performed that enables an individual with a

disability to enjoy equal employment opportunities. Reasonable accommodation may include:

- i. Making existing facilities used by employees readily accessible to and usable by individuals with disabilities;
- ii. Job restructuring;
- iii. Part-time or modified work schedules;
- iv. Acquisition or modification of equipment or devices;
- v. Appropriate adjustment or modifications of examinations, training materials or policies;
- vi. The provision of assistance by other personnel (e.g. qualified readers or interpreters);
- vii. Permitting the use of accrued paid leave or providing additional unpaid leave for necessary treatment.
- viii. Reassignment to a vacant position for which the employee is qualified, if the disabled person is unable to perform the original job. (Reassignment should only be considered when there are no possible accommodations that would allow the employee to perform the current position without creating an undue hardship on the employer. The employee should identify vacant positions for which he/she is qualified and which have the equivalent pay status and conditions of employment).

3. **Policy Statement.** The School District of Palm Beach County, in accordance with the *Americans with Disabilities Act of 1990 (ADA)*, shall not discriminate against a qualified individual with a disability, because of the disability of such individual, in regard to job application procedures, hiring, advancement, discharge, compensation, job training, or other terms, conditions, or privileges of employment, and shall provide reasonable accommodation to such an individual when necessary to enable the individual to perform the essential functions of the position, unless such accommodation would impose undue hardship on the school system. The burden of demonstrating undue hardship will be with the School District in accordance with law. Additionally, accommodation is not required when an individual poses a direct threat, i.e. a significant risk of substantial harm to the health or safety of the individual or others if the risk cannot be eliminated or reduced by reasonable accommodation.

4. **Procedures for ADA Eligibility Determination and Accommodations**

a. **Responsibilities of Worksite Administrators/Supervisors.** Worksite administrators or supervisors are required to:

- i. Refer employees seeking assistance under the ADA to the EEO/ADA Coordinator at 561-982-0905. No accommodation for a disability as defined in this policy in accordance with the Americans with Disabilities Act (ADA), shall be provided without the approval of the ADA Coordinator.
- ii. Refer to the EEO Coordinator at 561-982-0905 any complaints from employees alleging that the school District is not meeting its obligations under the employment and/or accessibility requirement provisions of the ADA.

b. **Responsibilities of Employees.** Employees seeking ADA eligibility and accommodation are responsible for initiating requests for any desired disability-related workplace accommodations. As such employees shall:

- i. Contact by telephone or in person the EEO/ADA Coordinator
- ii. Complete the following District documents:
  - A. Form 2160, ADA Reasonable Accommodation Request located at <http://www.palmbeachschools.org/Forms/asp>.
  - B. Form 2161, Authorization for Release of Employee Medical Information located at <http://www.palmbeachschools.org/Forms/asp>.
  - C. Submit the above completed forms to:

EEO/ADA Coordinator  
Safe Schools Institute  
1790 N.W. Spanish River Blvd. Boca Raton, FL 33431  
Or via fax: 561-982-0944

**c. Responsibilities of ADA Coordinator.**

- i. *Request and Discussion.* Upon receipt of a request for accommodation, the ADA Coordinator shall engage in an interactive process with the employee requesting accommodations, to determine eligibility and reasonable accommodations in accordance with the ADA.
- ii. *Documentation of Disability.* Upon receipt of an **AUTHORIZATION FOR RELEASE OF MEDICAL INFORMATION**, the ADA Coordinator shall contact relevant medical professionals regarding a request for accommodation, to verify the disability. This may vary depending on the nature and extent of the disability and the accommodation requested. In the event the District determines it is appropriate to obtain a second professional opinion concerning the nature or impact of a mental or physical disability, the District will bear the cost of obtaining the second opinion.
- iii. *Evaluation.* The request for an accommodation will be evaluated once all documentation has been submitted by the employee to the EEO/ADA Coordinator. Appropriate accommodations will be determined following an individualized assessment of each request.
- iv. *Notification.* The ADA Coordinator shall notify the employee and relevant parties of the determination regarding eligibility and accommodation.
- v. *Implementation.* The ADA Coordinator shall take necessary steps to implement the selected reasonable accommodations, including consulting with other parties (supervisors, equipment and facilities contractors, interpreters) who may be relevant to the ADA request, to determine and plan the implementation of reasonable accommodations.

5. **Confidentiality and Records.** All District employees have a legal obligation to maintain confidentiality regarding an employee's disability-related information. To that end, the worksite administrators or supervisors and the EEO/ADA Coordinator shall provide information to others parties, including employees, only when necessary to facilitate accommodations.

**Any employee shall retain the right to file a complaint with the appropriate agency other than the EEO/ADA Coordinator.**

6. **Inquiries.** Questions regarding this policy should be directed to the EEO/ADA Coordinator at 561-434-8637 or 561-982-0905.

STATUTORY AUTHORITY: Fla. Stat. §§ [1001.41](#); [1001.42](#)

LAWS IMPLEMENTED: [42 USC § 12101, et seq](#); [29 USC § 1630, et seq](#)

HISTORY: 9/21/94; 5/21/97; 5/11/2011



**Policy 5.001 Protecting Students from Harassment and Discrimination**

1. **General Provisions.**-- The School Board of Palm Beach County, Florida, as governing body of the School District ("School District" or "District"), does not condone harassment or discrimination against any of its students or applicants for admission for any reason including, but not limited to, their real or perceived sex, race, color, religion, national origin, age, disability, marital status, ancestry, ethnicity, gender, linguistic preference, political beliefs, sexual orientation, or social/family background in its education programs or admissions to education programs and therefore prohibits such discrimination against, or harassment of, any student by any Board member, District employee, consultant, contractor, agent, visitor, volunteer, student, or other person in the school or outside the school at school-sponsored events, on school buses, and at training facilities or training programs sponsored by the District.
2. In an effort to promote an environment free of discrimination and harassment, the Board has adopted this policy prohibiting harassment of, or discrimination against, Students in order to prevent, investigate, and take prompt, equitable, and appropriate action with regard to alleged discrimination and harassment. In addition to this policy, the Board has adopted a separate Policy prohibiting sexual harassment of, or discrimination against, students (Policy 5.81).
3. The School Board believes that all students are entitled to a safe, equitable, and harassment-free school experience. Discrimination and harassment will not be tolerated and shall be just cause for disciplinary action.
4. This Policy shall be interpreted and applied consistent with all applicable state and federal laws and the Board's collective-bargaining agreements.
5. **Definitions.**-- For purposes of this Policy, the following definitions shall apply:
  - a. *Accused/employee* is defined as a School District employee alleged to be responsible for the violation alleged in the complaint.
  - b. *Accused/student* is defined as a student alleged to be responsible for the violation that is alleged in the complaint.
  - c. *Complaint* is defined as written allegations regarding any action, policy, procedure, or practice prohibited by this policy.
  - d. *Complainant* is defined as a student of, or applicant for admission to, the District who submits a written complaint of harassment or discrimination or an individual or group submitting a complaint on behalf of a student(s).
  - e. *Day* is defined as a working day and this term does not include weekends or holidays unless noted as "calendar day."
  - f. *Minor*, or *minor student*, is defined as any student who has not yet attained the age of eighteen (18). *For purposes of this policy*, the term should also be construed to include an adult student who has been determined incompetent or unable to give informed consent due to disability under state law. *Note: any procedure in this Policy mentioning a minor student's parent/guardian should also be construed to include an adult student's parent, if the adult student has given consent.* For example, where the Policy requires giving notice to the parent of a minor student, this requirement also includes notice to the parent of an adult student who has given consent for the parent to receive the notice. The notice would also be given to the parent of any adult student who has been determined to be incompetent or unable to give informed consent due to disability under state law.
  - g. *Parties* is defined as the accused student and/or accused/employee, and the complainant.
  - h. *Sexual orientation* is defined as the direction of one's sexual or romantic interest toward persons of the opposite sex, same sex, or both sexes.
  - i. *School Official*, for purposes of this Policy, is defined as School Board employees, principals, assistant principals, teachers, and school police officers who have the duty of reasonable supervision with respect to student activities.
6. **Title IX Coordinator and ADA/504 Specialist.** -- Equal educational opportunities are guaranteed by Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, and Section 504 of the Rehabilitation Act of 1973. The District has designated the Equal Employment Opportunity ("EEO") Coordinator as the person responsible for ensuring that

- students and their custodial parent(s)/guardian receive information related to discrimination and harassment.
7. The EEO/Title IX Coordinator is located at: 3370 Forest Hill Boulevard, Suite, A-115, West Palm Beach, Florida 33406; Telephone: (561) 434-8637.
  8. For those complaints concerning the Americans with Disabilities Act ("ADA") or Section 504 of the Rehabilitation Act, the District has designated an ADA/504 Specialist.
  9. The ADA/504 Specialist is located at 3308 Forest Hill Boulevard, Suite C-143, West Palm Beach, Florida, 33406; Telephone: (561) 434-8817.
  10. This contact information is to be posted in highly visible locations at each school including the main office, the guidance waiting area, and student services.
  11. **Prohibited Harassment.**-- For purposes of this Policy, harassment occurs when conduct is sufficiently severe, persistent, or pervasive that it has the purpose or effect of unreasonably interfering with a student's performance or ability to benefit from his/her education, or creates an objectively intimidating, hostile, offensive, or abusive school environment. Types of conduct which are prohibited in the District and which may constitute harassment include, but are not limited to:
    - a. demeaning or derogatory comments, name-calling, racial slurs, or jokes, threats, abusive words, gestures, or harm to an individual;
    - b. displaying visual or written material, including notes, stories, drawings, or pictures, or defacing school property or materials to demean a person;
    - c. damaging, defacing or destroying private property of any person;
    - d. bullying;
    - e. requests for sexual favors and other conduct of a sexual nature as set forth in Policy 5.81; or
    - f. any act of retaliation against an individual who reports a violation of the Board's harassment and discrimination policy or participates in the investigation of a discrimination or harassment complaint.
  12. **GRIEVANCE PROCEDURE FOR HARASSMENT OR DISCRIMINATION BY STUDENTS -- Investigation and Resolution of Complaints Against an Accused/Student**
    - a. **Reporting Discrimination or Harassment.**-- Any student or applicant for admission who believes he/she is a victim of discrimination or harassment (or any individual, including any student, teacher, or other employee of the District, who has knowledge of any incident(s) involving discrimination or harassment of students) is strongly encouraged to report the incident(s) in writing to the principal or other school official or the EEO/Title IX Coordinator and ADA/504 Specialist.
    - b. School officials must report in writing any allegations of discrimination or harassment to the principal and to the EEO/Title IX Coordinator and ADA/504 Specialist.
    - c. School officials must instruct students and their custodial parent(s)/guardian that the student, or custodial parent(s)/guardian on behalf of the minor student, as defined in paragraph (5) (f), may file a written complaint with the principal/designee, EEO/Title IX Coordinator and/or ADA/504 Specialist.
    - d. The principal/designee shall document all complaints in writing to ensure that problems are appropriately addressed. Although this Policy encourages students to use the formal written complaint process, school officials "should investigate all complaints and reports of harassment, whether or not the complaint is in writing," as stated by the Office for Civil Rights in *Protecting Students from Harassment and Hate Crime: A Guide for Schools, Part II* (1999).
    - e. It is the responsibility of the principal to forward all complaints within two (2) work days to the area superintendent, EEO/Title IX Coordinator, and ADA/504 Specialist. Failure by the principal to respond to a complaint within two (2) work days will automatically allow the complainant to re-file the complaint with the area superintendent.
    - f. **Principal Involvement.**-- If the principal is directly and personally involved with a complaint or is closely related to a party to the complaint, then the area superintendent shall be asked to conduct the investigation.
    - g. **Informal Resolution.**-- Where appropriate, the complainant and the accused/student may agree to informally resolve the complaint. Complaints should be made as soon as possible

but no later than one hundred eighty (180) calendar days after the alleged incident (that is, within 180 days after the last act of harassment or discrimination). (Note: the principal must document, in writing, any complaint, even if made informally; and the complainant must be requested to sign the writing to verify its accuracy.)

- i. The principal/designee may arrange for the parties to resolve the complaint informally through a voluntary conversation between the complainant and the accused/student, facilitated by the principal/designee within two (2) work days of receiving the complaint. Both the complainant and the accused/student may be accompanied by a person of their choice for support and guidance.
  - ii. The parties 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 and both parties are willing.
  - iii. If the principal/designee and the complainant and the accused/student (and/or their parents) agree that a satisfactory resolution has been achieved through the informal conversation, then no further action need be taken (besides notifying the area superintendent, EEO/Title IX Coordinator, and ADA/504 Specialist that the matter has been resolved). However, if a complete resolution has not been achieved, a formal written complaint should be filed within ten (10) work days after the informal meeting.
  - iv. If the complaint is satisfactorily resolved informally, the principal/designee shall notify the area superintendent, EEO/Title IX Coordinator, and ADA/504 Specialist of the resolution of the complaint.
- h. **Filing a Formal Complaint Report.**-- If the matter is not satisfactorily resolved informally, the principal/designee shall assist the student (or custodial parent(s)/guardian on behalf of the minor student as defined in paragraph (5)(f)), in filing a complaint (if it is not yet in writing). The student (or custodial parent(s)/guardian on behalf of the student) may file a written complaint with the principal/designee by using the *Student Complaint Report* form (PBSD 1615). Said form is hereby incorporated by reference and made a part of this Policy and shall be filed with the Clerk of the School Board herewith and is available on the District's web site at <http://www.palmbeach.k12.fl.us/Records/Forms.htm>. The Witness Statement form (PBSD 1616) is to be completed by witnesses to the alleged incident.
- i. Complaints should be made as soon as possible but no later than one hundred eighty (180) calendar days after the alleged incident (that is, within 180 days after the last act of harassment or discrimination). Failure on the part of the complainant to initiate and/or follow up on the complaint within this period may result in the complaint being deemed abandoned. The principal/designee shall record in writing and document all complaints regarding sexual harassment and discrimination to ensure that problems are appropriately addressed, whether the report is made verbally or in writing.
  - j. The principal/designee may assist the student (or custodial parent(s)/guardian on behalf of the student if the student is a minor, as defined in paragraph (5)(f)) in completing the form, or may complete the form for the student or for the custodial parent(s)/guardian who is acting on behalf of the student. In all instances, the student (or custodial parent(s)/guardian on behalf of a minor) shall review the form to ensure its accuracy and sign and date the complaint.
  - k. The complainant will be requested to provide signed, specific information regarding the alleged discrimination or harassment, the alleged offender, witnesses, and other relevant information. In all instances, the student (or custodial parent(s)/guardian on behalf of the minor student as defined in paragraph (5)(f), shall review the form to ensure its accuracy and sign and date the complaint.
  - l. All complaints filed with the principal/designee must be reported in writing to the area superintendent and the EEO/Title IX Coordinator and ADA/504 Specialist.
  - m. **Notice to Accused/Student.**-- Within two (2) days of receipt of a complaint, the principal/designee will notify the accused/student of the allegations.
  - n. **Notice to Parent(s)/Guardians.**-- Within two (2) days of receiving the complaint, and in accordance with federal and state privacy laws, the principal/designee shall notify the custodial parent(s)/guardian of any minor student as defined in paragraph (5)(f) who is

allegedly subject to harassment or discrimination. Notification may be made by telephone, letter, or personal conference. The students involved (and their custodial parent(s)/guardians, if the students are minors) will also be notified of events and decisions described in this Policy.

- o. **Steps in the Investigation.**-- The principal/designee shall begin an investigation within two (2) work days and thoroughly investigate all complaints of harassment or discrimination, including, at minimum, the following steps:
  - i. talk with the complainant within two (2) work days;
  - ii. give the complainant (or the custodial parent(s)/guardian thereof if the complainant is a minor as defined in paragraph (5)(f)) an opportunity to describe the incident, present witnesses and other evidence of the harassment or discrimination, and ensure that the complaint is put in writing;
  - iii. talk with the accused/student (or the custodial parent(s)/guardian thereof if the accused/student is a minor as defined in paragraph (5)(f)) within two (2) work days;
  - iv. give the accused/student (or the custodial parent(s)/guardian thereof if the accused/student is a minor as defined in paragraph (5)(f)), an opportunity to describe the incident, present witnesses and other evidence, and put his/her response in writing;
  - v. talk with any person who saw the harassment, has knowledge of the discrimination, or who may have related information; and
  - vi. conduct a conference, if appropriate, with the complainant (and custodial parent(s)/guardian thereof, if the complainant is a minor as defined in paragraph (5)(f)) and the accused/student (and custodial parent(s)/guardian thereof, if the accused/student is a minor as defined in paragraph (5)(f)) and give notice of the date, time, place, and rules to the parties.
  - vii. The principal/designee is encouraged to ask open-ended questions to enable students to describe what happened in their own words.
  - viii. The principal/designee may request that the accused/student (or the custodial parent(s)/guardian on behalf thereof if the accused/student is a minor as defined in paragraph (5)(f)) prepare a written response to the complaint; or the principal/designee may prepare a written statement of the accused/student's oral response to the complaint based on their meeting and obtain the signature of the accused/student (and/or the custodial parent(s)/guardian thereof, if the accused/student is a minor) after his/her review of the statement.
  - ix. The principal/designee should dictate and then review his/her notes with the complainant and accused/student after the interviews to verify the facts and ensure accuracy, and then obtain signatures, but shall not tape the interviews.
- p. **Pursuing the Investigation.**-- During the investigation, the principal/designee may take any action necessary to protect the complainant, or other students or employees, consistent with the requirements of applicable regulations and statutes.
  - i. In general, complainants will continue attendance at the same school and pursue their studies as directed while the investigation is conducted and the complaint is pending resolution.
  - ii. When necessary to carry out the investigation or for other good reasons, and consistent with federal and state privacy laws, the principal/designee also may discuss the complaint with any of the following persons:
    - A. Superintendent/designee;
    - B. Chief Academic Officer;
    - C. area superintendent/designee;
    - D. associate superintendents;
    - E. Chief of School Police;
    - F. the custodial parent(s)/guardian of the complainant, if the complainant is under eighteen (18) years of age (or has given consent or is an adult who has been determined to be incompetent or unable to give informed consent due to disability);

- G. the custodial parent(s)/guardian of the complainant, if the complainant is a minor as defined in Section (5)(f);
  - H. a teacher or staff member whose knowledge of the students involved may help determine who is telling the truth;
  - I. child protective agencies responsible for investigating child abuse; and/or
  - J. legal counsel for the Board.
- q. **Written Decision of the Principal/Designee.**-- Upon completion of the investigation, the principal/designee will make a decision about the validity of the allegations in the complaint and about any corrective action, if applicable, consistent with the Matrix of Incidents and Actions in Policy 5.1812 (elementary) or Policy 5.1813 (secondary). In reaching a decision about the complaint, the principal/designee should take into account:
- i. statements made by the persons identified in paragraphs (12)(o), (p), above;
  - ii. the details and consistency of each person's account;
  - iii. evidence of how the complainant reacted to the incident;
  - iv. evidence of past instances of harassment or discrimination by the accused/student (provided that, if evidence of harassment/discrimination, accusations, or complaints is to be considered, the principal/designee must review in their entirety the files regarding those past incidents);
  - v. evidence of past harassment or discrimination complaints that were found to be untrue (provided that, if evidence of past accusations or complaints is to be considered, the principal/designee must review in their entirety the files regarding those past incidents); and
  - vi. case law, state and federal laws and regulations, and the Board's Policies prohibiting harassment and discrimination.
- r. To determine the severity of the harassment or discrimination, the principal/designee should consider, among other things:
- i. how the misconduct affected one or more student's education;
  - ii. the type, frequency, and duration of the misconduct;
  - iii. the number of persons involved;
  - iv. the subject(s) of harassment or discrimination;
  - v. the place and situation where the incident occurred; and/or
  - vi. other similar incidents at the school.
- s. Within thirty (30) calendar days of the filing of the complaint, the principal/designee shall give the area superintendent/designee and the EEO/Title IX Coordinator and ADA/504 Specialist a written report that describes the complaint and investigation and contains findings, a decision, and reasons for the decision.
- i. If the principal/designee verifies that harassment or discrimination occurred, this report shall describe the actions taken to end the harassment or discrimination pursuant to the Matrix of Incidents and Actions in Policy 5.1812 (elementary) or Policy 5.1813 (secondary); address the effects of the harassment or discrimination on the complainant; and prevent retaliation or further harassment or discrimination.
  - ii. The principal/designee shall notify the parties (and their custodial parent(s)/guardians, if the parties are minors as defined in paragraph (5)(f)) in writing of the decision and their right to review by the area superintendent/designee. (If the complaint was originally filed with, and investigated by, the EEO/Title IX Coordinator or ADA/504 Specialist instead of the principal, the Title IX Coordinator or ADA/504 Specialist shall inform the parties of the right to appeal to the Chief Academic Officer/designee within ten (10) days after receiving the Coordinator's/Specialist's decision.)
- t. No retaliation of any kind is permitted in connection with an individual's having made a discrimination or harassment complaint.
- 13. Appeal to Area Superintendent.**-- If the complaint against an accused/student is not resolved at the school-site level to the satisfaction of the parties, either party (or their custodial parent(s)/guardian (if the party is a minor as defined in paragraph (5)(f)) may seek review by the area superintendent/designee through the following process:

- a. The written complaint and request for review shall be sent to the area superintendent's office within ten (10) days of the completion of the site-level process by the principal.
  - i. If the principal's designee conducted the investigation, the first level of appeal is to the principal. If the complaint has been reviewed or investigated by the principal, the next level of appeal is to the area superintendent/designee. (If the complaint was originally filed with, and investigated by, the EEO/Title IX Coordinator or ADA/504 Specialist, the next level of appeal is to the Chief Academic Officer/designee.)
  - ii. If the area superintendent/designee is directly involved with a complaint or closely related to a party to the complaint, then the Chief Academic Officer/designee shall be asked to conduct the review and/or further investigation.
- b. **Notice Requirement.**-- Notice will be given to all parties of a request for review by the area superintendent/designee within two (2) business days of the request for review.
- c. **Procedure.**-- The area superintendent designee shall review the complaint, the answer to the complaint, the principal/designee's report, and any other evidence in the record. The area superintendent designee may also conduct any further investigation deemed necessary.
  - i. During the investigation, the area superintendent/designee may take any action necessary to protect the complainant or other students or employees consistent with the requirements of applicable regulations and statutes. No retaliation of any kind is permitted in connection with an individual's having made a harassment or discrimination complaint under this Policy.
  - ii. The area superintendent designee will review the principal's decision as to the validity of the allegations and any corrective action, and will make a decision within thirty (30) calendar days after receipt of the request for review. Time limits may be extended by written mutual agreement of the complainant (or custodial parent(s)/guardian on behalf thereof if the complainant is a minor as defined in paragraph (5)(f)), and the accused/student (or custodial parent(s)/guardian on behalf thereof if the accused/student is a minor).
  - iii. The area superintendent/designee shall take action deemed appropriate to resolve the situation, including, but not limited to, disciplinary action by the school, consistent with the requirements of applicable procedures outlined in each school's *Student-Parent Handbook*, the Matrix of Incidents and Actions in Policy 5.1812 (elementary) or Policy 5.1813 (secondary), and Florida law, or transfer to alternative school.
  - iv. The area superintendent/designee will inform the (and their custodial parent(s)/guardian if the parties are minors as defined in paragraph (5)(f)). in writing of the decision and the right to appeal.
  - v. A copy of the decision will be sent to the EEO/Title IX Coordinator or and ADA/504 Specialist.

#### 14. Appeal to Chief Academic Officer/Designee

- a. If the complainant or accused/student (or their custodial parent(s)/guardian if the parties are minors as defined in paragraph (5)(f)) is dissatisfied with the area superintendent's decision, it may be appealed in writing to the Chief Academic Officer/designee within ten (10) days after receipt of the decision.
  - i. If the area superintendent's designee conducted the review, the next level of appeal is to the area superintendent rather than to the Chief Academic Officer.
  - ii. If the Chief Academic Officer/designee is directly involved with a complaint or closely related to a the party to the complaint, then the Chief Operating Officer/designee shall be asked to review the matter.
- b. **Notice.**-- Notice of the appeal shall be given in writing to the parties (and their custodial parent(s)/guardian if the parties are minors as defined in paragraph (5)(f)) within two (2) days of receipt of appeal.
- c. **Procedure.**-- The Chief Academic Officer/designee shall review the written complaint, the accused/student's response to the complaint (or the response of the parent/guardian on

behalf of the accused/student), and all documentation pertaining to the alleged harassment or discrimination including the area superintendent's decision.

- i. The Chief Academic Officer/designee may request additional information.
- ii. The Chief Academic Officer/designee shall issue a written decision to the parties (and their custodial parent(s)/guardian if the parties are minors as defined in paragraph (5)(f)) within twenty (20) calendar days of the request of the appeal.

**15. Appeal to the Superintendent/Designee**

- a. If the complainant or accused/student (or their custodial parent(s)/guardian if the parties are minors as defined in paragraph (5)(f)) is dissatisfied with the Chief Academic Officer's decision, it may be appealed in writing to the Superintendent within ten (10) days after receipt of the decision.
  - i. If the Chief Academic Officer's designee conducted the review, the next level of appeal is to the Chief Academic Officer rather than to the Superintendent.
  - ii. If the Superintendent is directly involved with a complaint or closely related to a party to the complaint, then the Chief Counsel to the Board shall be asked to review the matter and report the findings to the Board.
- b. **Notice.**-- Notice of the appeal shall be given in writing to the parties (and their custodial parent(s)/guardian if the parties are minors as defined in paragraph (5)(f)) within two (2) days of receipt of the appeal.
- c. **Procedure.**-- The Superintendent/designee shall review the written complaint, the accused/student's response to the complaint (or the response of the parent/guardian on behalf of the accused/student), and all documentation pertaining to the alleged harassment or discrimination, including the Chief Academic Officer's decision.
  - i. The Superintendent may request additional information.
  - ii. The Superintendent/designee shall issue a written decision to the parties (and their custodial parent(s)/guardian if the parties are minors as defined in paragraph (5)(f)) within twenty (20) calendar days of request of the appeal. The decision of the Superintendent/designee is the final decision of the District.

**16. Other Means of Resolution.**-- If the complainant is not satisfied with the results of the procedures contained in this policy, he/she may utilize other means for resolution as provided by law, including seeking recourse through the federal Office for Civil Rights ("OCR").

**17. GRIEVANCE PROCEDURE FOR HARASSMENT OR DISCRIMINATION BY AN EMPLOYEE -  
- Investigation of Complaints Against an Accused/Employee**

- a. **Reporting Discrimination or Harassment.**-- Any student/applicant for admission (and/or the custodial parent(s)/guardian on that complainant's behalf if the complainant is a minor as defined in paragraph (5)(f)) who believes he/she is a victim of discrimination or harassment (or any individual, including any student, teacher, or other employee of the District who has knowledge of any incident(s) involving discrimination or harassment of students) is strongly encouraged to report the incident(s) in writing to a school official or the EEO/Title IX Coordinator and ADA/504 Specialist. Complaints should be filed as soon as possible after the alleged incident, but must be filed within one hundred eighty (180) calendar days after the alleged incident (i.e. within 180 days of the last act of alleged harassment or discrimination).
- b. School officials must report in writing any allegations of discrimination or harassment to the principal and to the EEO/Title IX Coordinator and ADA/504 Specialist. If the principal is directly involved with a complaint or closely related to a party to the complaint, then the incident may be reported directly to the EEO/Title Coordinator and ADA/504 Specialist.
- c. The principal/designee shall document all complaints in writing to ensure that problems are appropriately addressed. It is the responsibility of the principal to forward all complaints to the area superintendent, Title IX Coordinator, and ADA/504 Specialist within two (2) work days. Failure by the principal to respond to a complaint within two (2) work days will automatically allow the complainant to re-file the complaint with the area superintendent.
- d. **Filing the Complaint Form.**-- Consistent with OCR guidelines, a formal complaint process is required for any complaint against an employee. The complainant (or the custodial parent(s)/guardian if the complainant parties is a minor as defined in paragraph (5)(f)) may file a complaint in writing with the principal/designee, EEO/Title IX Coordinator, or ADA/504

- Specialist by using the Student Complaint Report form (PBSD 1615), available on the District's web site at [www.palmbeach.k12.fl.us/Records/Forms.htm](http://www.palmbeach.k12.fl.us/Records/Forms.htm). The Witness Statement form (PBSD 1616) is to be completed by witnesses to the alleged incident.
- i. Complaints should be filed as soon as possible after the alleged incident, but must be filed within one hundred eighty (180) calendar days after the alleged incident (that is, within 180 days after the last act of alleged harassment or discrimination). Failure on the part of the complainant to initiate and/or follow up on the complaint within this period may result in the complaint being deemed abandoned.
  - ii. The principal/designee may assist the individual in completing the form by recording information on the Student Complaint Report form, 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. Complaints filed with the principal/designee must be reported in writing to the area superintendent and the EEO/Title IX Coordinator and ADA/504 Specialist for investigation.
- e. **Notice to Parent(s)/Guardians.**-- Within two (2) days of receiving the complaint, and in accordance with federal and state privacy laws, the principal/designee shall notify the custodial parent(s)/guardian of any minor student as defined in paragraph (5)(f) who is allegedly subject to harassment or discrimination. Notification may be made by telephone, letter, or personal conference. The students involved (and their custodial parent(s)/guardians, if the students are minors) will also be notified of events and decisions described in this Policy.
- f. **Investigation by EEO/Title IX Coordinator/designee or ADA/504 Specialist/designee.**- The EEO/Title IX Coordinator/designee or ADA/504 Specialist/designee shall document and begin within (2) work days to thoroughly investigate all complaints of harassment or discrimination, including the following steps to ensure that problems are appropriately addressed :
- i. talk with the complainant within two (2) work days after receiving the complaint form. The complainant (and/or the custodial parent(s)/guardian of the complainant if the complainant is a minor as defined in paragraph (5)(f)) shall have an opportunity to describe the incident, present any evidence, name witnesses, and ensure that the complaint is put in writing;
  - ii. talk with any witnesses or others who may have relevant information; and
  - iii. conduct an investigative meeting with the accused/employee, and the accused/employee's representative if applicable, to discuss the allegations and allow the accused/employee to respond to the allegations.
- g. During the investigation, the EEO/Title IX Coordinator/designee or ADA/504 Specialist/designee may recommend to the Chief Personnel Officer/designee, any action necessary to protect the complainant, or other students or employees, consistent with the requirements of applicable statutes, State Board of Education Rules, School Board Policies, and collective bargaining agreements.
- i. In general, complainants will continue attending the same school and pursuing their studies as directed while the investigation is conducted and the complaint is pending resolution.
  - ii. When necessary to carry out the investigation or for other good reasons, and consistent with federal and state privacy laws, the EEO/Title IX Coordinator/designee or ADA/504 Specialist/designee also shall discuss the complaint with the following persons, as appropriate:
    - A. Superintendent/designee;
    - B. Chief Academic Officer and/or Chief Operating Officer;
    - C. area superintendent/designee;
    - D. associate superintendent;
    - E. Chief of School Police;
    - F. Chief Personnel Officer;



- G. Director of Labor Relations;
  - H. the custodial parent(s)/guardian of the complainant, if the complainant is a minor as defined in Section (5)(f);
  - I. a teacher or staff member whose knowledge of the student(s) or employee(s) involved may help determine who is telling the truth;
  - J. child protective agencies responsible for investigating child abuse;
  - K. legal counsel for the Board;
  - L. exclusive bargaining representative or legal counsel thereof, if appropriate; and
  - M. the accused/employee.
- 18. Decision of the EEO/Title IX Coordinator or ADA/504 Specialist.--** Upon completion of the investigation, within thirty (30) calendar days of receiving the complaint if possible, the EEO/Title IX Coordinator/designee or ADA/504 Specialist/designee shall make a decision about the validity of the allegations in the complaint.
- a. The EEO/Title IX Coordinator/designee or ADA/504 Specialist/designee shall discuss the determination and any recommended corrective action with the principal/designee and Chief Personnel Officer.
  - b. In reaching a decision about the complaint, the following should be taken into account:
    - i. statements made by the persons identified in Paragraphs (17)(f), (g) above;
    - ii. the details and consistency of each person's account;
    - iii. evidence of how the complainant reacted to the incident;
    - iv. evidence of past instances of harassment or discrimination by the accused/employee (provided that, if evidence of past harassment/discrimination incidents are to be considered, the investigator must review in their entirety the files regarding those past incidents);
    - v. evidence of past harassment or discrimination complaints that were found to be untrue (provided that, if evidence of past harassment/discrimination accusations or complaints are to be considered, the investigator must review in their entirety the files regarding those past complaints); and
    - vi. case law, state and federal laws and regulations, and the Board's Policies prohibiting harassment and discrimination.
  - c. To determine the severity of the harassment or discrimination, the following may be considered:
    - i. how the misconduct affected one or more student's education;
    - ii. the type, frequency, and duration of the misconduct;
    - iii. the number of persons involved;
    - iv. the subject(s) of harassment or discrimination;
    - v. the place and situation where the incident occurred; and
    - vi. other incidents at the school.
  - d. The following action(s) or discipline may be taken, consistent with any applicable collective bargaining agreement provisions, to resolve a complaint of harassment or discrimination:
    - i. no action if complaint is unsubstantiated;
    - ii. training requirements for the employee;
    - iii. oral reprimand of the employee;
    - iv. written reprimand of the employee;;
    - v. suspension of the employee; or
    - vi. Termination of the employee.
      - A. For the first verified offense of harassment of, or discrimination against, a student, suspension should be recommended for a minimum of thirty (30) days without pay. Termination should be recommended for the second offense of verified harassment of, or discrimination against, a student
      - B. Suspension without pay and/or termination requires Board action.
- 19. Appeal Procedure for an Accused/Employee**
- a. If the accused/employee wishes to appeal the action taken in resolution of the complaint, such appeal shall be filed either in accordance with Board Policy 3.31 or pursuant to the relevant collective bargaining agreement.

- b. For those employees not in a bargaining unit, the appeal shall be filed in accordance with Board Policy 3.31.

**20. Appeal Procedure for Student/Complainant When the Accused Is an Employee**

- a. **Appeal to Chief Operating Officer/Designee.**-- If the complainant (or the custodial parent(s)/guardian if the complainant is a minor as defined in paragraph (5)(f)) is dissatisfied with the EEO/Title IX Coordinator's or ADA/504 Specialist's decision, it may be appealed in writing to the Chief Operating Officer/designee within ten (10) days after receipt of the decision. However, if the Chief Operating Officer is directly involved with a complaint or closely related to a party to the complaint, then the Chief Academic Officer shall be asked to review the matter.
  - i. **Notice.**-- Notice of the appeal shall be given to the parties (and the custodial parent(s)/guardian of the complainant, if a minor as defined in paragraph (5)(f)) within two (2) days of notice of receipt of appeal.
  - ii. **Procedure.**-- The Chief Operating Officer/designee shall review the written complaint, the accused/employee's response to the complaint, and all documentation pertaining to the alleged harassment or discrimination including the EEO/Title IX Coordinator's or ADA/504 Specialist's decision.
    - A. The Chief Operating Officer/designee, may request additional information.
    - B. The Chief Operating Officer/designee shall issue a written decision to the parties within twenty (20) calendar days of request of the appeal.
- b. **Appeal to the Superintendent.**-- If the complainant (or custodial parent(s)/guardian of the minor complainant as defined in paragraph (5)(f)) is dissatisfied with the Chief Operating Officer's decision, the decision may be appealed in writing to the Superintendent within ten (10) days after receipt of the decision.
  - i. If the Chief Operating Officer's designee conducted the review, the next level of appeal is to the Chief Operating Officer rather than to the Superintendent.
  - ii. If the Superintendent is directly involved with a complaint or closely related to a party to the complaint, then the Chief Counsel to the Board shall be asked to review the matter and report the findings to the Board.
  - iii. **Notice.**-- Notice of the appeal shall be given in writing to the parties (and their custodial parent(s)/guardian if the parties are minors as defined in paragraph (5)(f)) within two (2) days of receipt of the appeal.
  - iv. **Procedure.**-- The Superintendent/designee shall review the written complaint, the accused/employee's response to the complaint, and all documentation pertaining to the alleged harassment or discrimination, including the Chief Operating Officer's decision.
    - A. The Superintendent may request additional information.
    - B. The Superintendent/designee shall issue a written decision to the parties (and the complainant's custodial parent(s)/guardian, if the complainant is a as defined in paragraph (5)(f)) within twenty (20) calendar days of request of the appeal. The decision of the Superintendent/designee is the final decision of the District.
- c. **Other Means of Resolution.**-- If the complainant is not satisfied with the results of the procedures contained in this policy, he or she may utilize other means for resolution as provided by law, including seeking recourse through the federal Office for Civil Rights ("OCR").

**21. GRIEVANCE PROCEDURE FOR SEXUAL HARASSMENT OR DISCRIMINATION BY VOLUNTEERS, VISITORS, OR CONTRACTORS** --Investigation of Complaints Against a School Volunteer, Campus Visitor, Contractor/Consultant, or Other Third Party.

- a. The School Board will not tolerate harassment or discrimination by school volunteers, consultants, independent contractors or subcontractors (or their employees), or any third party in the school (or outside of the school at school-sponsored events), on school buses, or at training facilities sponsored by the School District. Any such alleged harassment or discrimination should be reported immediately to the school principal, using the same formal written complaint process as would be used to report harassment or discrimination by a District employee. The complaint should be filed as soon as possible, at least within

- one hundred eighty (180) calendar days of the alleged incident (i.e. within 180 days of the last act of alleged harassment or discrimination).
- b. It is the responsibility of the principal to forward all complaints to the area superintendent and EEO/Title IX Coordinator and ADA/504 Specialist within two (2) work days. Failure by the principal to respond to a complaint within two (2) work days will automatically allow the complainant to re-file the complaint with the area superintendent.
  - c. Within two (2) days of receiving the complaint, and in accordance with federal and state privacy laws, the principal/designee shall notify the custodial parent(s)/guardian of any minor student as defined in paragraph (5)(f)) who is allegedly subject to harassment or discrimination. Notification may be made by telephone, letter, or personal conference. The students involved (and their custodial parent(s)/guardians, if the students are minors) will also be notified of events and decisions described in this Policy.
  - d. Within two (2) days of receiving the complaint, the EEO/Title IX Coordinator/designee or ADA/504 Specialist/designee shall begin an investigation, using procedures similar to those used for investigation of allegations against District employees.
  - e. If the District's investigation substantiates a complaint of sexual harassment or discrimination by a school volunteer, visitor, consultant/independent contractor, vendor or other third party, the Superintendent shall promptly recommend appropriate action. As stated in OCR's *Revised Sexual Harassment Guidance* (2001):

The type of appropriate steps that the school should take will differ depending on the level of control that the school has over the third party harasser. For example, if athletes from a visiting team harass the home school's students, the home school may not be able to discipline the athletes. However, it could encourage the other school to take appropriate action to prevent further incidents; if necessary, the home school may choose not to invite the other school back.

- f. Depending on the situation, an appropriate response may include, but not limited to, revoking the volunteer's status under Policy 2.53; asking the visitor to refrain from returning to the campus; requesting a contractor to remove an employee from a project at a school site and discipline the employee; or debarring a vendor pursuant to Policy 6.14(5). The District's response will be designed to eliminate the harassment or discrimination and prevent its reoccurrence. If the complainant is not satisfied with the District's response, he/she (or the custodial parent(s)/guardian of a minor complainant as defined in paragraph (5)(f)) may appeal according to the procedures used to appeal a decision regarding alleged harassment or discrimination by an employee under Section 21.
- g. Other Means of Resolution.-- If the complainant is not satisfied with the District's response under this Section, he/she may utilize other means for resolution as provided by law, including seeking recourse through OCR.

## **22. Confidentiality**

- a. To the greatest extent possible, all complaints will be treated as confidential and in accordance with Fla. Stat. § 1002.22(3)(d); the Family Educational Rights and Privacy Act ("FERPA"); and any other applicable law, such as Fla. Stat. § 119.07(3)(p) & (u); 1012.31(3)(a); or 1012.796(1)(c).
- b. Limited disclosure may be necessary to complete a thorough investigation as described above. The District's obligation to investigate and take corrective action may supersede an individual's right to privacy.
- c. The complainant's identity shall be protected, but absolute confidentiality cannot be guaranteed.

## **23. Informing Students and Employees About this Policy.--**Notice of the existence of this Policy, prevention plan, and procedures shall be posted in prominent locations in all District buildings, including information on how to receive a copy. Notice shall be included annually in student, parent, and staff handbooks.

## **24. Retaliation Prohibited**

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- a. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment in connection with filing a complaint or assisting with an investigation under this Policy.
- b. Retaliatory or intimidating conduct against any individual who has made a harassment or discrimination complaint or any individual who has testified, assisted, or participated, in any manner, in an investigation is specifically prohibited.
- c. The principal/designee, and EEO/Title IX Coordinator or ADA/504 Specialist, if applicable, shall inform complainants that they are protected by law from retaliation.

**25. Additional Assistance Available**

- a. In all cases, the District reserves the right to refer the results of its own investigation to the State Attorney for the Fifteenth Judicial Circuit of Florida for possible criminal charges, whether or not the District takes any other action.
- b. The District will provide counseling services for students who have been harassed or discriminated against.
- c. Training will be provided to assist teachers and counselors who work with students to prevent harassment and discrimination. Attendance is mandatory.
- d. The Office for Civil Rights is the federal agency in the Department of Education that monitors schools' compliance with Title IX, Title VI, Title II of the Americans With Disabilities Act, and Section 504, and it can be contacted at 1-800-421-3481; by fax at (404) 562-6455; or by e-mail at OCR\_Atlanta@ed.gov.

STATUTORY AUTHORITY:	Ã,§Ã,§ 1001.41(2); 1001.43(1), (6); 1006.07; 1012.23(1), Fla. Stat.
LAWS IMPLEMENTED:	Ã,§Ã,§ 119.07(3)(p), (u); 1000.05(2)(a), (b) (Florida Education Equity Act); 1002.22(3)(a), (d); 1001.41(1), (2); 1006.07(2)(h); 1006.08; 1012.31(3)(a); 1012.796(1)(c); 760.01(2), Fla. Stat.; 42 U.S.C. 12131, et. seq. (Title II of the Americans with Disabilities Act); (20 U.S.C. Ã,§ 1681-1688 (Title IX of the Education Amendments of 1972); 42 U.S.C. Ã,§ 2000d et. seq. (Title VI of the Civil Rights Act of 1964); 29 U.S.C. Ã,§ 794 (Section 504 of the Rehabilitation Act of 1973); 20 U.S.C. Ã,§ 1232g (Family Educational Rights and Privacy Act ("FERPA"))).
STATE BOARD RULES SUPPLEMENTED:	6A-19.001, 6A-19.002, 6A-19.008, 6A-1.0404(5), (7); and 6B-1.006(3)(a), (g)
HISTORY:	3/3/76; 8/17/77; 3/17/99; 3/24/03

Policy  
**5.002**            **Prohibition of Bullying and  
Harassment**

1. **Purpose.** The paramount goal of the School Board is to ensure a safe, secure, civil and respectful learning environment for all students and school employees. Bullying or harassment, like other disruptive or violent behaviors, is conduct that disrupts both a student's ability to learn and a school's ability to educate its students in a safe environment. It is important to change the social climate of schools and the social norms with regard to bullying and harassment. This requires the efforts of everyone in the school environment - teachers, administrators, counselors, other non-teaching staff, parents or legal guardians, and students. The purpose of this policy is to assist the School District in its goal of preventing and responding to acts of bullying or harassment and its compliance with the Jeffrey Johnston Stand Up for All Students Acts, Section 1006.147, and Florida Statutes.
2. **General Applicability of Policy.** This policy applies not only to students or school employees who directly engage in an act of bullying or harassment, but also to students or school employees who, by their indirect behavior, condone or support another student's or employee's act of bullying and harassment. The misuse of technology including, but not limited to, teasing, intimidating, defaming, threatening, or terrorizing another student, teacher, administrator, volunteer or other employee of the school district by sending or posting e-mail messages, instant messages, text messages, digital pictures or images, or Web site postings, including blogs, also may constitute an act of bullying or harassment regardless of whether such acts are committed on or off school district property and/or with or without the use of school district resources. This policy applies to any students or school employees whose conduct at any time or in any place constitutes bullying or harassment that interferes with or obstructs the mission or operations of the school district or the safety or welfare of the student, other students, or employees.
3. **Statement of Policy.** The School District prohibits bullying and harassment of any type of students or school employees, by either a student or a group of students, a school volunteer or visitor, or a school employee. Bullying and harassment are expressly prohibited on school district property or at school-related functions.
  - a. No teacher, administrator, volunteer or other school employee shall permit, condone or tolerate bullying and harassment.
  - b. The apparent permission or consent by a student being bullied or harassed does not lessen the prohibitions contained in this policy.
  - c. Reprisal or retaliation against a victim, good faith reporter, or a witness of bullying or harassment is prohibited.
  - d. False accusations or reports of bullying or harassment against another student are prohibited.
  - e. A person who engages in an act of bullying, reprisal, or false reporting of bullying and harassment, or permits, condones or tolerates bullying and harassment shall be subject to discipline for that act in accordance with school board policies.
  - f. The school district will act to investigate all complaints of bullying or harassment and will discipline or take appropriate action against any student, teacher, administrator, volunteer, or other employee of the school district who is found to have violated this policy.
  - g. The submission of good faith complaints or reports of bullying or harassment will not affect the reporter's future employment, grades or work assignments, or educational or work environment.
4. **Definitions.**
  - a. **Bullying** means systematically and chronically inflicting physical hurt or psychological distress on one or more students or school employees. It is further defined as unwanted and repeated written, verbal, or physical behavior, including any threatening, insulting, or dehumanizing gesture, by an adult or student, that is severe or pervasive enough to create an intimidating, hostile, or offensive educational environment; cause discomfort or humiliation; or unreasonably interfere with the individual's school performance or participation; and may involve but is not limited to:
    - i. Teasing

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- ii. Social exclusion
- iii. Threat
- iv. Intimidation
- v. Stalking
- vi. Physical violence
- vii. Theft
- viii. Sexual, religious, or racial/ethnic harassment
- ix. Public humiliation
- x. Damaging or Destruction of property
- xi. Placing a student in reasonable fear of harm to his or her person or property

Cyber bullying, as defined herein.

- xii. Cyber-stalking as defined herein.
- b. *Cyber bullying* means the use of electronic communication or technology devices, to include but not be limited to, e-mail messages, instant messaging, text messaging, cellular telephone communications, internet blogs, social websites (e. g. MySpace, Facebook, etc.), internet chat rooms, internet postings, digital pictures or images, and defamatory websites to engage in acts of bullying or harassment regardless of whether such acts are committed on or off school district property and /or with or without the use of school district resources. For off-campus conduct, the School District shall be responsive in cases where the off-campus conduct causes, or threatens to cause, a substantial disruption at school or interference with the rights of students to be safe and secure.

The School Board recognizes that cyber bullying can be particularly devastating to young people because:

- i. Cyber bullying is often engaged in off-campus, but the harmful impact is felt at school.
  - ii. Cyber bullying permits an individual to easily hide behind the anonymity that the Internet and other technology devices provide;
  - iii. Cyber bullying provides a means for perpetrators to spread their harmful and hurtful messages to a wide audience with remarkable speed;
  - iv. Cyber bullying does not require individuals to own their own action, as it is usually very difficult to identify cyber bullies because of screen names, so they do not fear being punished for their actions; and
  - v. The reflection time that once existed between the planning of a prank - or a serious stunt - and its commission is all but erased when it comes to cyber bullying activity.
- c. *Cyber-stalking* means to engage in a course of conduct to communicate, or to cause to be communicated, words, images, or language by or through the use of electronic mail or electronic communication, directed at a specific person, causing substantial emotional distress to that person and serving no legitimate purpose, as defined in Sec. 784.048(1)(d), F. S., as now or hereafter amended.
- d. *Harassment* means any threatening, insulting or dehumanizing gesture, use of data or computer software, or written or verbal or physical conduct directed against a student or school employee that
- i. Places a student or school employee in reasonable fear of harm to his/her person or damage to his/her property;
  - ii. Has the effect of substantially interfering with a student's educational performance, opportunities, or benefits;
  - iii. Has the effect of substantially disrupting the orderly operation of the school; or
  - iv. Amounts to cyber bullying as defined herein.
- e. *Bullying and Harassment also encompass*
- i. Any act of retaliation by a student or school employee against another student or school employee who alleges, asserts or reports a violation of this policy or

participates in the investigation of a bullying or harassment complaint. Reporting an act of bullying or harassment that is not made in good faith is considered retaliation.

- ii. Perpetuation of conduct listed in the definition of bullying or harassment by an individual or group with intent to demean, dehumanize, embarrass, or cause emotional or physical harm to a student or school employee by:
  - A. Incitement or coercion;
  - B. Accessing or knowingly and willingly causing or providing access to data or computer software through a computer, computer system, or computer network within the scope of the School District system;
  - C. Acting in a manner that has an effect substantially similar to the effect of bullying or harassment;
  - D. Cyber-stalking as defined herein; or
  - E. Hazing as defined by Section 1006.135, Florida Statutes, as now or hereafter amended.
- iii. Unwanted harm towards a student in regard to his/her actual or perceived traits or characteristics, including but not limited to age, color, creed, national origin, race, religion, marital status, sex, sexual orientation, gender expression and/or identity, physical attributes, physical, mental or educational ability or disability, ancestry, socio-economic background, political beliefs, linguistic preferences, or familial status.
- f. *Immediately* means as soon as reasonably possible but within 24 hours or the next school day.
- g. *On school district property or at school-related functions* means all school district buildings, school grounds, and school property and property immediately adjacent to school grounds, school bus stops, school buses, school vehicles, school contracted vehicles, or any other vehicle approved for school district purposes, the area of entrance or departure from school grounds, premises or events, and all school related functions, school-sponsored activities, events or trips. School district property also may mean a student's walking route to or from school for purposes of attending school or school-related functions, activities or events. While prohibiting bullying and harassment at these locations and events, the school district does not represent that it will provide supervision or assume liability for incidences at these locations and events.

5. ***Expected Behaviors On School Property or At School Related Functions.***

The School Board expects students to conduct themselves in keeping with their levels of development, maturity, and demonstrated capabilities with proper regard for the rights and welfare of other students and school staff, the educational purpose underlying all school activities, and the care of school facilities and equipment. In addition to conducting themselves in a professional manner with supervisors, colleagues, and students, school administrators, teachers, staff, and volunteers will treat others with civility and respect, and will refuse to tolerate bullying or harassment. The School District finds that bullying and harassment, in an active or passive form, of any student or school employee is prohibited:

- a. During any school related education program, function or activity conducted by the School District;
- b. During any school-related or school-sponsored program, function or activity;
- c. While on school district property as defined by this policy; or
- d. Through the use of any electronic device, computer, or computer software that is accessed through a computer, computer system, or computer network of the School District. The physical location or time of access of a computer-related incident cannot be raised as a defense in any disciplinary actions.

The Board believes that standards for student behavior must be set cooperatively through interaction among the students, parent(s) or legal guardian(s), staff and community members,

producing an atmosphere that encourages pupils to grow in self-discipline. The development of this atmosphere requires respect for self and others, as well as for school district property on the part of students, school staff and community members.

All administrators, faculty, and staff, in collaboration with parents, students, and community members, will incorporate systemic methods for student and staff recognition through positive reinforcement for good conduct, conforming to reasonable standards of socially acceptable behavior, respecting the person, property, and rights of others, obeying constituted authority, responding to those who hold that authority, self-discipline, good citizenship, and academic success, as seen in the required school plan to address positive school culture and behavior.

Students are encouraged to support other students who walk away from acts of bullying and harassment when they see them, constructively attempt to stop them, and report such acts to the School Principal or his/her designee.

Students are required to conform to reasonable standards of socially acceptable behavior; respect the person, property and rights of others; obey constituted authority; and respond to the educational, support and administrative staff.

**6. Consequences for Prohibited Conduct, False Reporting and Reprisal or Retaliation.**

- a. *Act of Bullying or Harassment.* Concluding whether a particular action or incident constitutes a violation of this policy requires a determination based on all of the facts and surrounding circumstances. The physical location or time of access of a computer-related incident cannot be raised as a defense in any disciplinary action. For the commission of an act of bullying or harassment, the following consequences shall be applicable:
  - i. Consequences and appropriate remedial action for students who commit acts of bullying or harassment may range from positive behavioral interventions up to and including suspension or expulsion, as outlined in the *Student Codes of Conduct*, as provided in School Board Policies 5.18 through 5.1899.
  - ii. Consequences and appropriate remedial action for a school employee found to have committed an act of bullying or harassment shall be determined in accordance with the District's policies and applicable collective bargaining agreements. Additionally, egregious acts of harassment by certified educators may result in a sanction against an educator's state issued certificate as provided in *The Principles of Professional Conduct of the Education Profession in Florida*, Rule 6B-1006, F. A.C.
  - iii. Consequences and appropriate remedial action for a visitor or volunteer, found to have committed an act of bullying or harassment shall be determined by the School Principal after consideration of the nature, severity and circumstances of the act, including reports to appropriate law enforcement officials.
- b. *False Reporting.* The consequences for a student or employee found to have wrongfully and intentionally accused another of an act of bullying or harassment shall be as follows:
  - i. Consequences and appropriate remedial action for a student found to have wrongfully and intentionally accused another of bullying or harassment range from positive behavioral interventions up to and including suspension or expulsion, as outlined in the *Student Code of Conduct*.
  - ii. Consequences and appropriate remedial action for a school employee found to have wrongfully and intentionally accused another of bullying or harassment shall be determined in accordance with District policies, procedures and agreements.
  - iii. Consequences and appropriate remedial action for a visitor or volunteer found to have wrongfully and intentionally accused another of bullying or harassment shall be determined by the School Principal after consideration of the nature, severity and circumstances of the act, including reports to appropriate law enforcement officials.



- c. *Reprisal or Retaliation.* The School District will discipline and take appropriate action against any student, teacher, administrator, volunteer, or other employee of the school district who retaliates against any person who makes a good faith report of alleged bullying and harassment or against any person who testifies, assists, or participates in a proceeding or hearing relating to such bullying or harassment.
    - i. The consequences and appropriate remedial action for a student, teacher, school administrator or school volunteer who engages in reprisal or retaliation shall be determined by the Principal or his or her designee after consideration of the nature, severity and circumstances of the act, in accordance with case law, Federal and State laws, School Board policies and any applicable agreements.
    - ii. Any student found to have engaged in reprisal or retaliation in violation of this policy shall be subject to measures up to, and including, suspension and expulsion.
    - iii. Any school teacher or school administrator found to have engaged in reprisal or retaliation in violation of this policy shall be subject to measures up to, and including, termination of employment.
    - iv. Any school volunteer found to have engaged in reprisal or retaliation in violation of this policy shall be subject to measures up to, and including, exclusion from school grounds.
7. **Reporting of Prohibited Acts.** At each school, the School Principal or designee shall be responsible for receiving complaints alleging violations of this policy.
- a. Any person who believes he or she has been the victim of bullying or harassment, or any person with knowledge or belief of conduct that may constitute bullying or harassment shall report the alleged acts immediately to the School Principal or designee.
  - b. All school employees who receive a report of, observe, or have other knowledge or belief of conduct that may constitute bullying or harassment shall inform the Principal or designee immediately.
  - c. The Principal of each school in the District shall establish and prominently publicize to students, staff, volunteers, visitors, and parents, how a report of bullying may be filed and how this report will be acted upon.
  - d. A student, parent or guardian, volunteers or visitors may report bullying or harassment incidents anonymously, on a designated complaint form, or in-person to the Principal or designee. However, the student may make a report of bullying or harassment to any school employee. The school employee will assist the student in reporting to the Principal or designee.
    - i. The School Principal or designee will devise anonymous methods of filing a report of bullying or harassment by a student, parent, volunteer or visitor. Such formats may include electronic, drop-box, or telephone techniques for reporting, but the chosen format must promote safety and privacy. Although reports may be made anonymously by students, parents, volunteers or visitors, formal disciplinary action may not be based solely on the basis of an anonymous report. Independent verification of the anonymous report shall be necessary in order for any disciplinary action to be applied.
  - e. Any written or oral reporting of an act of bullying or harassment shall be considered an official means of reporting such acts.
8. **Investigation of Complaints.**
- a. The investigation of a reported act of bullying or harassment is deemed to be a school-related activity and begins with a report of such an act.
  - b. The Principal or designee will begin a prompt investigation of the reported incident, but such investigation shall be commenced no later than the next school day. The person initiating the investigation may not be the accused perpetrator or victim. The maximum of 10 school days shall be the limit for the initial filing of incidents and completion of the investigative procedural steps.
  - c. Documented interviews of the victim, alleged perpetrator, and witnesses shall be conducted privately, separately and shall be confidential. Each individual (victim, alleged perpetrator, and witnesses) will be interviewed separately and at no time will be the alleged perpetrator and victim be interviewed together.

- d. The investigating party shall collect and evaluate the following facts including but not limited to:
    - i. Description of incident(s) including the nature of the behavior;
    - ii. Context in which the alleged incident(s) occurred;
    - iii. How often the conduct occurred;
    - iv. Whether there were past incidents or past continuing patterns of behavior;
    - v. The relationship between the parties involved;
    - vi. The characteristics of parties involved, i. e. grade, age, etc.
    - vii. The identity and number of individuals who participated in bullying or harassing behavior;
    - viii. Where the alleged incident(s) occurred;
    - ix. Whether the conduct adversely affected the student's education or educational environment;
    - x. Whether the alleged victim felt or perceived an imbalance of power as a result of the reported incident; and
    - xi. The date, time and method in which parents or legal guardians of all parties involved were contacted.
  - e. Whether a particular action or incident constitutes a violation of this policy shall require a determination based on all facts and surrounding circumstances and shall include:
    - i. Recommended remedial steps necessary to stop the bullying and/or harassing behavior; and
    - ii. A written final report to the School Principal.
  - f. The principal or designee will make a determination whether or not the reported act of bullying or harassment falls within the scope of the School District. If the situation could possibly fall outside the domain of the School District, the principal or designee will consult with School Police to determine if the alleged act should be managed as a criminal act.
    - i. If it falls within the jurisdiction of School Police, school discipline and reporting procedures will be followed.
    - ii. If the alleged act is outside the jurisdiction of the School District, the School Police or School Principal will contact and refer the incident to the appropriate local law enforcement agency.
    - iii. If the incident is outside the scope of the District and determined not a criminal act, the School Principal shall inform the parents or legal guardians of all students involved.
  - g. If the School Principal or designee is directly and personally involved with a complaint or is closely related to a party to the complaint, then the area superintendent shall be asked to conduct the investigation.
9. **Notification to Parents or Guardians.**
- a. The Principal or designee shall promptly report to the parents or legal guardians of a student who has been reported as a victim of bullying and/or harassment, and the custodial parent(s) or legal guardians of the perpetrator of the alleged acts of bullying and/or harassment. Such notification shall occur on the same day an investigation has been initiated, and may be made by telephone, writing, or personal conference. All notifications shall be consistent with the student privacy rights under the applicable provisions of the Family Educational Rights and Privacy Act of 1974 (FERPA).
  - b. If the incident results in the perpetrator(s) being charged with a crime, the School Principal or designee shall by telephone or writing, inform the parents or legal guardians of the victims involved about the Unsafe School Choice Option (No Child Left Behind, Title IX, Part E, Section 9532) that states ". . . a student who becomes a victim of a violent criminal offense, as determined by State law, while in or on the grounds of a public elementary school or secondary school within the local educational agency, including a public charter school."
  - c. The frequency of notification will be dependent on the seriousness of the bullying or harassment incident.
10. **Referrals for Counseling Intervention.** When bullying or harassment is suspected or when a bullying or harassment incident is reported, counseling services will be made available to the

victim(s), perpetrator(s) and parents/guardians, as appropriate. In addition to disciplinary actions, the Principal will offer assistance to students who bully or harass others, including, as appropriate, behavior intervention plans or referrals to counseling services.

- a. The teacher or parent/legal guardian may request informal consultation with school staff, e. g., school counselor or school psychologist, to determine the severity of concern and appropriate steps to address the concern. The teacher may request that the involved student's parents or legal guardians are included.
11. **Publication, Training and Education.**
    - a. At the beginning of each school year, the Principal or designee shall inform school staff, parents/guardians, and students of the School District's policy prohibiting bullying or harassment, the effects of bullying and other applicable initiatives to prevent such conduct.
    - b. This policy shall be referenced in the Student Code of Conduct, in the School District's employee and student handbooks, and other means as determined by the Superintendent.
    - c. The School District may implement programs and other initiatives to prevent bullying or harassment, to respond to bullying and harassment in a manner that does not stigmatize the victim, and to make resources or referrals to resources available to victims of bullying and harassment.
    - d. The Superintendent or designee shall make vendors or contractors aware of this policy.
    - e. The Department of Safe Schools shall devise posters or other signage to provide reminders of this policy for display on school grounds and school buses.
  12. **Immunity for Good Faith Reporting.** Any school employee, school visitor, volunteer, student, parent or legal guardian, or other persons who promptly reports in good faith an act of bullying or harassment to the appropriate school official designated in this policy and who makes this report in compliance with the procedures set forth in the policy is immune from a cause of action for damages arising out of the reporting itself or any failure to remedy the reported incident.
  13. **Reporting of Bullying and Harassment.** Incidents of bullying or harassment shall be reported in the school's report of data concerning school safety and discipline required under Section 1006.09(6), Florida Statutes. The principal or designee will report each incident of bullying and harassment, and the resulting consequences, including discipline and referrals, in the Safety Environmental Safety Incident Reporting (SESIR) Statewide Report on School Safety and Discipline Data. The report shall also include bullying/harassment as an incident code, as well as the "bullying-related" element code to situations that meet the definition of bullying along with an accompanying behavior, i.e. "Battery, Bullying-related," as required by state laws.
  14. **On-going Reporting to Target's Parents/Guardians.** Following an appropriate investigation, Principals or designees will report to the target's parents what steps have been taken to protect the student. Follow-up reports will be designed based on the success of the interventions and will continue in a fashion that is deemed necessary by the Principal. Notification will be consistent with the student privacy rights under the applicable provisions of the Family Educational Rights and Privacy Act of 1974 (FERPA).
  15. **Privacy and Confidentiality.**
    - a. To the greatest extent possible, all complaints will be treated as confidential and in accordance with Fla. Stat. § 1002.22(3) (d); the Family Educational Rights and Privacy Act ("FERPA"); and any other applicable laws.
    - b. Limited disclosure may be necessary to complete a thorough investigation as described above. The District's obligation to investigate and take corrective action may supersede an individual's right to privacy.
    - c. The complainant's identity shall be protected, but absolute confidentiality cannot be guaranteed.
  16. **Constitutional Safeguard.** This policy shall not be interpreted to infringe upon the First Amendment rights of students (i. e., to prohibit a reasoned and civil exchange of opinions, or debate that is conducted at appropriate times and places during the school day and is protected by federal and state laws).

STATUTORY  
AUTHORITY:

Fla. Stat. §§ 1001.41(2); 1001.42

School District Palm Beach County

LAWS IMPLEMENTED: Fla. Stat. §§ 1001.43, 1003.04, 1003.31, 1003.32, 1006.07, 1006.08, 1006.09, 1006.10, 1006.147, F. S.; 20 USC 1232g

HISTORY: 12/10/2008

**Policy 5.189 Discipline of Students Eligible for Services Under the Individuals with Disabilities Education Act ("IDEA")**

1. Statutes and Rules
  - a. The discipline of all students with disabilities ("ESE") is governed by federal statutes and regulations under the Individuals with Disabilities Education Act ("IDEA") as well as Florida Statutes and State Board of Education Rules.
  - b. If the district has prior knowledge that a student may be eligible for special education and related services, but has not yet determined such eligibility, that student may assert all or any of the protections stated within this policy.
2. Expulsion
  - a. Expulsion is the removal of the right and obligation of a student to attend a public school under conditions set by the board, for a period not to exceed the remainder of the term or school year and one additional year of attendance.
  - b. Expulsion cannot be considered for students eligible for services under the IDEA because it would constitute a cessation of educational services for that period of time.
3. Exclusion
  - a. An ESE exclusion is the removal of the right and obligation of a student to attend a public school under conditions set by the board, and for a period not to exceed the remainder of the term or school year and one additional year of attendance, provided however, that appropriate educational services developed through an Individual Education Plan ("IEP") will continue to be provided through some alternative means.
  - b. The educational services must allow the student to appropriately advance in meeting the IEP goals and objectives, and to appropriately progress in the general education curriculum, if appropriate.
4. Disciplinary Action for Drugs and Weapons
  - a. A student with a disability may be placed in an Interim Alternative Educational Setting ("IAES") by a principal/designee for up to forty five (45) calendar days without parental consent for:
    - i. Possession of dangerous weapons in school or at school functions; or
    - ii. Possession, use, sale or solicitation of a controlled substance while at school or at a school function.
  - b. A dangerous weapon is defined as a weapon, device, instrument, material or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such item does not include a pocket knife with a blade of less than two and one-half inches (2-1/2") in length.
5. Interim Alternative Services ("IAES") Placement
  - a. Placement in an IAES may occur whether the behavior is or is not a manifestation of the student's disability.
  - b. Placement in an IAES may occur at the request of the principal.
  - c. An IEP meeting must be scheduled within the first ten (10) days of placement. The student's custodial parent/guardian must be invited to participate as a member of the IEP Team. The custodial parent/guardian must be provided a copy of their procedural safeguards.
  - d. A manifestation determination must be made at the IEP meeting.
  - e. A Functional Behavioral Assessment ("FBA") must be initiated within ten (10) days of placement. Staff from both the student's current and previous schools will participate in the FBA.
  - f. A Behavior Intervention Plan ("BIP") must be developed immediately upon completion of the FBA.
  - g. Educational services to be determined within ten (10) days of placement must:
    - i. Enable student to appropriately progress in the general curriculum;
    - ii. Enable the student to appropriately advance towards IEP goals;
6. Suspension

## School District Palm Beach County

- a. Suspension is the temporary removal of a student from all classes of instruction on public school grounds and all other school-sponsored activities, for a period not to exceed ten (10) cumulative school days per year.
  - b. A principal/designee may remove a student eligible for services under the IDEA for up to ten (10) cumulative school days per calendar year for a disciplinary infraction.
  - c. Educational services do not need to be provided during the ten (10) days.
  - d. However, for any suspension or exclusion beyond ten (10) days, a manifestation hearing must be conducted and the student must be provided a Free Appropriate Public Education ("FAPE"), an opportunity to work towards IEP goals, and the ability to progress appropriately in the general curriculum.
  - e. Prior to consideration of suspension, the school must have made and documented reasonable attempts to use less restrictive alternatives and/or interventions to decrease the inappropriate behavior.
  - f. If a student is removed from the educational setting for more than ten (10) cumulative days per school year, an IEP Team must meet to determine if the student's behavior is a manifestation of his/her disability. The student's custodial parent/guardian must be invited to participate as a member of this IEP Team. The custodial parent/guardian must be provided with a copy of procedural safeguards.
  - g. If the student's behavior is a manifestation of the student's disability, the student may not be suspended or excluded for more than ten (10) cumulative days per school year. The student's IEP must be reviewed and, if necessary, revised to address the student's behavior.
  - h. A school cannot make a parent conference mandatory prior to the ESE student being returned to campus after suspension. A conference may be suggested, but the student maintains the right of access to education under the IDEA after ten (10) cumulative days per school year, even if the parent does not attend the conference.
  - i. The IEP team must meet no later than the tenth (10<sup>th</sup>) day of the cumulative suspension to:
    - i. Determine if the student's behavior is a manifestation of the student's disability.
    - ii. Initiate a FBA or review the student's current FBA and behavior intervention plan.
    - iii. If the behavior is a manifestation of the disability, review the student's IEP.
    - iv. If the behavior is not a manifestation of the disability, the IEP team may consider a change in services or a change in placement at another location.
7. Bus Suspension.

Suspension of ESE students from the bus must be counted as part of the cumulative ten (10) days if transportation is needed for the student to access FAPE and an alternative means of arriving to school is not provided.

## 8. In-School Suspension

- a. In-school suspension is the temporary removal of a student from the student's regular school program and placement in an alternative program, such as that provided in § 230.2316, Fla. Stat., under supervision of district personnel, not to exceed ten (10) school days.
- b. A student's IEP must continue to be delivered while assigned to in-school suspension.
- c. Repeated removals of a student from the regular/ESE classroom to an in-school suspension are prohibited.

STATUTORY AUTHORITY: 20 U.S.C. § 1415 [ and §§ 230.22(2); 230.23(22); 230.23005(6), Fla. Stat. ]

LAW IMPLEMENTED: 20 U.S.C. § 1415 [ and §§ 230.23(4)(m), Fla. Stat. ]

STATE BOARD RULE 6A-6.0331(6)  
IMPLEMENTED:

HISTORY: 1/20/82 (as Policy 5.19); 01/14/2002

Policy 5.322

**Students with Chronic Illnesses and Infectious Diseases  
(Including HIV/AIDS)**

1. Non-Discrimination and Participation.-- The School Board of Palm Beach County acknowledges all federal and state laws protecting students with disabilities and acknowledges that those individuals shall not be discriminated against on the basis of their disabilities, including those involving illness.
  - a. Students shall not be prevented from participating in the continuation of their education solely on the basis of a diagnosis of having a chronic illness or infectious disease; testing positive for Human Immunodeficiency Virus ("HIV") antibodies, antigen, or infection; or having Acquired Immune Deficiency Syndrome ("AIDS"). Further, restrictions will not be placed upon the attendance or participation of a student on the basis of his/her sibling having a chronic illness or infectious disease, testing HIV positive, or having AIDS.
  - b. To determine the most appropriate educational setting, the District will comply with the established requirements of the Individuals with Disabilities Education Act ("IDEA") and Americans with Disabilities Act ("ADA") and Section 504 of The Rehabilitation Act of 1973 ("Section 504"), for students eligible for services under these Acts. If an individual plan is necessary for a student with a chronic illness or infectious disease, it will be compliant with said Acts.
2. Medical Coordination.-- When a student has a chronic illness or infectious disease, the student's personal physician shall be the medical manager providing general guidance and specific recommendations regarding the following:
  - a. whether the student is medically able to participate in the regular school program, including consideration of risk to the student's own health or the health of others in the school environment; and
  - b. whether accommodations may be needed for school attendance or participation.
3. Infection Control.-- Pursuant to their responsibility for student health and safety under Fla. Stat. § 1006.07, schools are to take the following steps:
  - a. Bloodborne Pathogens.-- For the protection of student health and safety, the District's Bloodborne Pathogens Exposure Control Plan ("the Plan") shall be followed in all settings and at all times, including, but not limited to, classrooms, locker rooms, athletic settings, and field trips.
    - i. The Plan is updated annually and distributed by the District's Safety Manager to all schools.
    - ii. Copies of the Plan shall be available in the school clinic and the school administrative office.
  - b. Communicable Disease of an Individual Student.-- When a communicable disease is known or reasonably believed to affect an individual student, the following procedures shall apply:
    - i. Subject to the confidentiality requirements of Section (4) for HIV/AIDS and sexually-transmitted disease ("STD"), any school staff member who becomes aware, or reasonably suspects, that a student's health condition presents a significant risk of transmitting a communicable disease shall report the same by:
      - A. completing the Communicable Diseases/Conditions Report form (PBSD 1634);
      - B. reporting the situation by calling the Health Department's telephone number listed on the form;
      - C. promptly and discretely alerting the school nurse or building administrator; and
      - D. expeditiously providing the form to the District Health Services Specialist.
    - ii. The Health Department will determine the appropriate action required for follow-up of any confirmed case(s) of communicable diseases and will communicate any needed action to the school through the District Health Services Specialist.
    - iii. In concurrence with the Health Department, the school nurse or administrator will inform the infected student (and the custodial parent(s)/guardian thereof) of appropriate action. (However, paragraph (3)(b)(iv), below, must be followed in

- cases of STD or HIV/AIDS.) Follow-up must maintain the student's privacy as provided by law.
- iv. Notwithstanding paragraph (3)(b)(iii) above, District employees shall not communicate any information concerning STD or HIV/AIDS to the parent(s)/guardian/custodian of any student, without first verifying in writing *from the student*:
    - A. that the student has provided written consent to communicate, reveal, or disclose such information to the student's custodial parent(s)/guardian/custodian, provided that no student shall be required or compelled to give such consent; *or*
    - B. that the student's custodial parent(s)/guardian/custodian already knows that the student has tested positive, or claims to have tested positive, for STD or HIV/AIDS.
  - c. Outbreaks of Communicable Disease.-- In cases of a communicable disease outbreak in any school (other than a disease governed by paragraph (2)(d), below), the following procedures, when applicable) shall apply:
    - i. The school nurse or building administrator and the District Health Services Specialist will coordinate with the Health Department to assess the situation and take appropriate action necessary to prevent the spread of disease within the school.
    - ii. If the Health Department deems such actions necessary, the school principal, in collaboration with the Health Department, will inform the student's parent(s)/guardian of any health threat to a pupil who is exposed to a communicable disease.
  - d. Authority to Declare an Emergency.-- Pursuant to Fla. Stat. § 1003.22(9), the presence of any communicable disease for which immunization is required by the Department of Health shall permit the Health Department to declare a communicable disease emergency.
    - i. Pursuant to F.A.C. Rule 64D-3.011 and Fla. Stat. § 1003.22(3), the diseases for which immunization is required include (at the time of adoption of this Policy): diphtheria, pertussis (whooping cough), tetanus, poliomyelitis, rubeola, rubella, mumps, Haemophilus influenzae type b, hepatitis B, and varicella.
    - ii. As required by Fla. Stat. § 1003.22(9), the declaration of such emergency shall mandate that all children in attendance in the school who are not in compliance with the immunization requirements must be identified, and their immunization records shall be made available to the Health Department director or administrator.
    - iii. Pursuant to Fla. Stat. § 1003.22(9), those children identified as not being immunized against the disease for which the emergency is declared shall be temporarily excluded from school until such time as is specified by the Health Department.
4. Confidentiality of Student HIV/AIDS or STD Information. Information relating to a student's HIV/AIDS or STD status shall remain strictly confidential in accordance with law, and shall be exempt from disclosure under the Public Records Act.
- a. Statements, reports, records, or any other materials concerning students' HIV/AIDS or STD status shall not be placed in student files. Any such information existing at a school site shall be maintained in a locked cabinet in a secure location designated by the school principal.
  - b. Where the parent/guardian, or adult student, reveals the HIV/AIDS or STD status of a student, the information must be kept confidential. Such information shall not be disclosed to anyone except pursuant to Fla. Stat. §§ 381.004 or 384.29 or other applicable law, unless the minor student and custodial parent(s)/guardian thereof (or adult student acting alone) have signed a consent to release this information to certain staff. The following restrictions apply concerning such consent:
    - i. Information about the student's HIV/AIDS or STD status must not be divulged to any person other than staff designated by the parent/guardian or adult student in such written consent; and such staff shall guard the confidentiality of the information against further disclosure.



- ii. Because only the Florida Department of Children and Families ("DCF") is authorized to give written consent to disclose HIV-related information concerning a child in foster care (and only with the foster child's consent), foster parents are not able to consent to disclosure of such information, but should be referred to the DCF to obtain such written consent.
5. Confidentiality of HIV Test Reports from the Department of Health.-- If the Superintendent/designee receives notice from the Department of Health, pursuant to § 384.25(5), Fla. Stat., that any student has tested positive for HIV infection, the Superintendent shall maintain the confidentiality of the report and shall not release it to anyone, except as authorized or required by law, such as Fla. Stat. § 381.004. These confidential records shall be maintained separate and apart from any files that are subject to public inspection under Fla. Stat. § 119.07 or that are generally accessible by District employees or Board members.

STATUTORY AUTHORITY: §§ 1001.41(2); 1001.42(22); 1001.43(7); 1003.22(4), Fla. Stat.

LAWS IMPLEMENTED: §§ 1001.41(1); 1006.07; 1003.22(3), (4), (9), (10); 381.003; 381.004; 381.0056(5)(l), (n), (o); 384.29, 392.65, Fla. Stat.

HISTORY: 3/16/88; 8/19/2002; 1/13/2003

**Policy 7.02 Educational Facilities Specifications**

1. **Purpose.** The School Board recognizes there is a continuing need to plan, design and construct new educational facilities and to make changes through the renovation and remodeling of existing educational facilities, to support and enhance educational programs and to accommodate for changing educational needs. This policy is to ensure that all new construction, renovation and remodeling of District facilities are designed to meet the requirements of applicable state and federal laws and regulations and related District policies, and to accommodate and complement the educational program.
2. **Policy Statement.** School plant sites shall meet requirements as prescribed in the following: *State Requirements for Educational Facilities, 2007*(SREF), as now or hereafter amended; Palm Beach County School District Master Specification, 2007 (DMS), as now or hereafter amended; Palm Beach County School District Design Criteria, 2006 (DDC), as now or hereafter amended; and Board policies.
  - a. At no time is a new facility to be constructed or an existing facility to be modernized or added to before the intended educational specifications are set forth in writing and approved by the Board. This provision does not apply when less than ten (10) relocatables are added to a facility OR in the case of an emergency.
3. **Preparation of Specifications.** The Superintendent or designee shall direct the preparation of educational specifications to apply to the design and construction of new facilities and the renovation or remodeling of existing facilities and shall present this material to the Board for its review and approval.
4. **Specifications.**
  - a. The educational specifications are intended for use as a planning guide by architects and others responsible for developing physical facilities of the School District. The general concept embodied in the specifications is to provide general and adequate details for proposed spaces related to the construction, renovation or remodeling of a school plant site, while leaving ample flexibility for creativity and options in designs by the architects. Educational specifications prepared for a facility shall include, but not be limited to, the following:
    - i. Introduction;
    - ii. Philosophy and Goals;
    - iii. Facility List by Area;
    - iv. General Considerations;
    - v. General Security Considerations;
    - vi. Site Development;
    - vii. Traffic Control;
    - viii. Facility Space Summary;
    - ix. and Student Projected Population as provided in the District's Five (5) Year Plan.
  - b. Specifications for the various program areas for the facility shall include a common listing of informational categories within each of the program areas. Specific information relative to each particular program area for the facility will be included under various headings as follows:
    - i. Program Philosophy;
    - ii. Program Goals;
    - iii. Program Activities;
    - iv. Organizational Nomenclature;
    - v. Innovations, Experimental Ideas, Other Planned Uses;
    - vi. Justification for Variance from SREF requirements;
    - vii. Program Facilities List;
    - viii. Program Furniture and Equipment;
    - ix. Special Consideration; and
    - x. Spatial Relationships.

5. **Facility Modernization or Addition.** Under a modernization and/or addition of a facility(ies), the existing facilities will be analyzed by the project architect to determine the appropriate usage of the site and buildings for necessary renovations and remodeling to meet SREF size standards, ADA requirements and other building code issues.
6. **Contractor's Obligations.** The contractor of record for each capital project that has an educational specifications approved by the Board shall provide a detailed list of any deviation from the Board approved educational specifications. The detailed list shall be provided as an attachment to the Guarantee Maximum Price (GMP) for the contractor's project.

STATUTORY  
AUTHORITY:

Fla. Stat. §§ [1001.41\(2\)](#); [1001.42\(23\)](#)

LAWS IMPLEMENTED:

Fla. Stat. §§ [1013.33](#); [1013.36](#); [1013.45](#)

STATE BOARD OF  
EDUCATION RULE:

[6A-2.0010](#), Florida Administrative Code; *State Requirements for Educational Facilities, 2007*

HISTORY:

11/04/2009

**Policy 7.21 Building Code**

1. All new construction including relocatables, additions, remodeling of existing facilities or renovation of existing facilities shall conform to and comply with the Florida Building Code (FBC) including but not limited to Chapter 423, and the Florida Fire Prevention Code (FFPC) pursuant to Fla. Stat. § 1013.37 and shall be consistent with applicable provisions of the State Requirements for Educational Facilities (SREF) .
2. All comprehensive safety inspections, maintenance and repair, and operation of facilities and equipment for existing facilities shall conform to and comply with Fla. Stat. Chapter 1013, the FBC and FFPC, and SREF as approved by the Florida State Board of Education.
3. By the authority of Fla. Stat. § 553.80(6), 1013.371, 1013.38 and as stated in 553.71(5), the "local school board. . . [has] jurisdiction to make inspections of buildings and to enforce the codes which establish standards for design, construction, erection, alteration, repair, modification, or demolition of public or private buildings, structures, or facilities" of the School District. Pursuant to such authority and Fla. Stat. § 553.73(4)(a), the Board shall amend its administration of the FBC to include the following provisions:
  - a. By amendment to FBC § 104.1, the Director of the Building Department/qualified designee(s) ("building official") is hereby authorized and directed to enforce the provisions of this code. The building official shall have the authority to render interpretations of this code, which are consistent with its intent and purpose. Such interpretations shall not have the effect of waiving requirements specifically provided for in this code.
  - b. By amendment to FBC § 104.3, upon notice from the building official, work on any building, structure, electrical, gas, mechanical or plumbing system that is being done contrary to the provisions of this code or in a dangerous or unsafe manner, shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property (the Board), or to its agent (the Superintendent/qualified designee), or to the person doing the work (e. g., contractors), and shall state the conditions under which work may be resumed. Where an emergency exists, the building official shall not be required to give a written notice prior to stopping the work.
4. As required by Fla. Stat. § 553.73(4)(a), the local amendments to the FBC administrative provisions as set forth in paragraphs (3)(a), (b) shall be transmitted to the Florida Building Commission within the Florida Department of Community Affairs within 30 days of the effective date of this Policy revision in 2009 and shall be available to the general public.

STATUTORY AUTHORITY: Fla. Stat. §§ 553.73(4)(a); 1001.41(2);1001.42(22); 1001.43(4)

LAWS IMPLEMENTED: Fla. Stat. §§ Art. XII § 9(a), Art. XII § 9(d), Fla. Constitution; Fla. Stat. §§ 553.71(5); 553.73(4)(a); 553.80(6); 1001.42(9); 1001.43(4); 1013.12; 1013.37; 1013.371; 1013.372; 1013.38; 1013.39; 1013.46; 1013.47

HISTORY: 5/21/2001; 4/28/03; 4/29/2009

## **POLICY 8.17 USE OF SERVICE ANIMALS**

1. **Purpose.** The School Board of Palm Beach County (School Board) desires to ensure that individuals with disabilities are permitted to participate in and benefit from district programs, activities, and services, and to ensure that the district does not discriminate on the basis of disability. This policy is to establish procedures for the use of service animals in the Palm Beach County School District (School District), including school buildings, vehicles, and other property; and to ensure the School District's compliance with state and federal laws.

### **2. Definitions.**

a. *Service animal* means the following:

i. An animal that is trained to perform tasks for an individual with a disability, as defined by Sec. 413.08, Fla. Stat., OR

ii. Any dog (or miniature horse) that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability, as defined by 28 CFR 35.104.

For the purposes of the above definition of service animal, a service animal does not include: (1) other species of animals, whether wild or domestic, or trained or untrained; and (2) animals whose sole function is to provide emotional support, comfort, therapy, companionship, therapeutic benefits, or to promote general emotional well-being.

b. *Service animal-in-training* means a dog that is being trained as a service animal.

c. *Direct threat* means a significant risk to health and safety of others that cannot be eliminated by a modification of policies, practices, or procedures.

d. *Trained service dog* can be a hearing dog, guide dog, assistance dog, seizure alert dog, mobility dog, psychiatric service dog, or autism service dog.

e. *Undue hardship* means an action requiring significant difficulty or expense.

f. *Work or Tasks.* The term "task" generally refers to a minor job, chore, or piece of work. The work or tasks performed by a service animal must be directly related to the student's or employee's disability. Examples of work or tasks that a service dog may perform to meet this definition include, but are not limited to:

i. guiding a person who is visually impaired or blind;

ii. alerting a person who is deaf or hard of hearing to the presence of people or sounds;

iii. providing non-violent protection or rescue work;

iv. pulling a wheelchair;

v. alerting and protecting a person who has had a seizure;

- vi. retrieving items or objects, such as book bag, medicine, telephone, etc.;
- vii. providing physical support and assistance with balance and stability to individuals with mobility disabilities;
- viii. alerting individuals to the presence of allergens; and helping individuals with psychiatric and neurological disabilities, by interrupting impulsive or destructive behaviors.

The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purpose of this definition.

**3. S General Policy Statement.** In accordance with law, the School District shall strive to make reasonable accommodations so that its facilities, vehicles, grounds, and functions are accessible for an individual with a disability who is accompanied by a service animal, unless the accommodation would impose an "undue hardship."

The School District shall permit individuals with disabilities to use service animals in district buildings, including schools; on district property; and in vehicles that are owned, leased, and controlled by the School Board upon request and submission of required documentation, in accordance with this policy and applicable state and federal laws and regulations. All decisions regarding the accommodations of a student or employee with a disability shall be made on an individual basis.

a. *Students.* A student with a disability may be accompanied by a service animal regardless of whether the service animal is written into a 504 plan or IEP, subject to any conditions or limitations of this policy and related procedures or applicable law. Parents/guardians or students shall submit any requests for the use of a service animal to the ADA/504 Specialist as provided in Board 66 Policies **5.001** or **5.81**, as now or hereafter amended,

b. *Employees.* Use of a service animal by an employee with a disability will be allowed when such use is necessary to enable the employee to perform the essential functions of his or her position, or to enable the employee to enjoy comparable benefits and privileges of employment as are enjoyed by other similarly situated employees without disabilities. Employees shall submit any requests for the use of a service animal to perform essential functions of his or her position to the EEOC/ADA Coordinator as provided in Board Policy **3.06**, as now or hereafter amended,

c. *General Public.* Any person with a disability who is accompanied by a service 76 dog shall be provided access to Board properties with his or her service dog and be accompanied by the service dog while on the premises. Access will be in accordance with normal security procedures, and shall be to those areas where the public or third parties customarily have access. If a member of the general public has any issues or requests regarding accessibility, the EEOC/ADA Coordinator for Public Accessibility as provided in Board Policy **3.06**, as now or hereafter amended, shall be contacted.

d. *Trainer of Service Animals.* In accordance with law, trainers of service animals may also be accompanied by a dog that the trainer is in the process of training. Such trainer may be accompanied by the service animal in District facilities and vehicles, on District grounds and at District functions,

#### **4. Responsibility of Parties.**

a. *District.* The District is not responsible for the care or supervision of the service animal. The School through District or school administrative staff shall be responsible for determining whether the service animal meets the standards for acceptance in the school or work setting, by addressing:

- i. whether the animal is a trained service animal; and
- ii. identifying the specific work or tasks the service animal is trained to perform.

b. *Students/Parents/Guardian and Employees.* The student (or the student's parents/guardians) or an employee with a service animal shall be solely responsible for:

- i. supervision and care of the service animal, including any feeding, exercising, walking to relieve, cleaning-up, and stain removal;
- ii. leashing and properly restraining the service animal at all times, unless the handler/student is unable because of a disability to use a leash or other restraining device or the use of such device would interfere with the service animal's performance of work or tasks, in which case the animal must be under the handler's/student's control (e.g., voice, signals or other effective means);
- iii. annual submission of documentation of vaccinations and immunizations;
- iv. damages to District buildings, property, and vehicles caused by the service animal; and
- v. injuries to students, staff, or others caused by the service animal or service-animal in training.

## 5. Exclusion of Service Animals.

a. District administrators may exclude a service animal from District facilities, vehicles, and functions under the following circumstances:

i. The service animal's behavior poses a direct threat to the health and safety of another student, school personnel, or another person. Allergies or fear of animals are not valid reasons for denying access or refusal of services.

ii. The service animal is out of control and the student/handler does not take effective action to control the animal.

iii. The service animal is not on a harness, leash, or other tether, or otherwise under the voice control of the handler/student (e.g., voice control, signals, or other effective means).

iv. The service animal's presence fundamentally alters the nature of the program, activity, or service.

v. The service animal is not housebroken.

b. If a District administrator excludes a service animal for one or more of the above reasons, the District administrator shall give the student (e.g., parents/guardians), employee, or other person with a disability the opportunity to participate in the service, program, or activity without having the service animal on the premises.

## 6. **Grievance Procedures.**

a. A student with a service animal who believes the District has discriminated against him or her on the basis of a disability by excluding the service animal may:

i. file a grievance with the ADA/504 Specialist in accordance with the District's 504/ADA grievance procedures as provided for in Policy **5.001** or **5.81**; and/or

ii. file a complaint with the U.S. Department of Education, Office for Civil Rights.

b. A student with a service animal who believes the District has denied him or her a free and appropriate education (FAPE) under the Individuals with Disabilities Education Act by excluding the service animal, may:

i. file a grievance in accordance with Policy **5.001** or **5.81**; and/or

ii. file a complaint requesting a due process hearing with the ESE Compliance Coordinator, who is located at 3378 Forest Hill Boulevard, Suite A-203, West Palm Beach, Florida, 33406; Telephone: (561) 434-7322.

c. An employee with a service animal, who believes the District discriminated against him or her on the basis of a disability excluding the service animal may:

i. file a grievance pursuant to Policy **3.06**; and/or

ii. file a charge with the U.S. Equal Employment Opportunity Commission or the Florida Human Rights Commission.

7. **Exception/Liability.** A service animal is the personal property of the student, employer, or member of the public. The School Board is not responsible for the training, care, or supervision of a service animal. Furthermore, the student/parent, owner, handler, or employee is liable for any damage to District property, or personal property and any injuries to individuals caused by their service animals.

8. **Appeal of Exclusion of Service Animal from District Property.** If a school official denies a request for access of a service animal or a dog in training, the individual or parents/guardians may file a grievance as provided below:

a. **If related to a student:** The grievance shall be filed with the ADA/504 Specialist as provided in Policy **5.001**.

b. **If related to an employee:** The grievance shall be filed with the 165 EEOC/ADA Coordinator as provided in Policies **3.31**.

c. **If related to a member of the public:** The grievance shall be filed with the EEOC/ADA Coordinator as provided in Policies **3.31**.

## 9. **Administrative Procedures.**



a. The Superintendent or designee shall provide administrative procedures and guidelines, consistent with federal and state laws, for the:

- i. service animals presence in the school and work setting;
- ii. standards of behavior for service animals in the classroom or work setting; and
- iii. transportation of service animals with students, including the training, loading, seating, etc.

STATUTORY AUTHORITY: Fla. Stat. §§ [1001.41](#), [1001.42](#), [413.08](#); [20 U.S.C. §1400](#), *et. seq.*; [34 C.F.R. part 300](#) (Individuals with Disabilities Education Act); [29](#) 180 [U.S.C. § 794](#); [34 C.F.R. part 104](#) (Section 504 of Rehabilitation Act of 1973); [42 U.S.C. § 181](#) [12101](#), *et. seq.*; [28 C.F.R. §§ 35.104](#), [35.136](#) (Americans with Disabilities Act of 1990, as amended by the ADA Amendment Act of 2008); [29 CFR part 35](#) (Federal Equal 183 Employment Opportunity Commission Regulations). LAWS IMPLEMENTED: [Individuals with Disabilities Education Improvement Act of 2004](#); [Americans with Disabilities Act of 1990, as amended by the Americans with Disabilities Amendment Act of 2008](#), effective January 1, 2009; [Section 504 of the Rehabilitation Act of 1973](#). HISTORY: (New) 05/15/13

### **Inspection Database**

The Building Department of the School District Palm Beach County uses a database to track plan review and inspection comments. The comments made during the ADA inspections are stored in the inspection comments part of that database.

The database is available for public inspection at the following web address:

<http://fm.palmbeach.k12.fl.us/inspector/>

To see the inspection records, click on the “**Building Inspections**” tab immediately below the Building Department banner. Two drop-down menu boxes will appear below the tabs. The user will left click on the navigation arrow for the menu box labeled “**Select Project/Permit Number**”. Every District facility with an open project will be displayed in the drop-down menu. Most facilities will appear more than once.

The District facilities are displayed in alphabetical order by the name of the facility. There is a vertical line between the name of the facility and the name of the project. All ADA inspection records are labeled “**ADA Title II Compliance**”. The user should click on the name of the facility that they are interested in that has the ADA text listed on the right side of the facility name. At this point, the menu box will turn blue and **name of the facility | ADA Title II Compliance** will be displayed in the box. The user must then left click on the button labeled “**SEARCH**” which is immediately right of the blue menu box.

At this point, the database will display all the ADA Forms and a description of the form will follow the form number, for example, “**ADA Form 1 – Parking**”. The user must then use the second menu box to select the line labeled “**\*Outstanding Inspection Comments by Project**”. This box will turn blue and the user will then left click on the button labeled “**Print/View Report**”. The database will assemble a report in PDF format that lists all open ADA inspection comments for the selected facility.

If the user wishes to see both open and closed inspection comments, they should select the line labeled “**Project Inspection Comment History**” and proceed as described in the preceding paragraph.

Open comments can only be cleared by a District employee with proper authorization to log into the database. Comments are cleared after the issue in the comment has been corrected.