



## **AGENDA**

### **REGULAR MEETING OF THE CAPE CORAL CHARTER SCHOOL GOVERNING BOARD**

**Tuesday, October 8, 2019**

**City of Cape Coral Council Chambers**

**5:30 PM**

**1. CALL TO ORDER**

A. Chairman Michael Campbell

**2. MOMENT OF SILENCE:**

A. Chairman Michael Campbell

**3. PLEDGE OF ALLEGIANCE:**

A. Chairman Michael Campbell

**4. ROLL CALL:**

A. Chairman Michael Campbell, Vice-Chair Tami Traiger, Vanessa Metzger, Dr. Guido Minaya, Susan Mitchell, Jennifer Nelson, Dist 4, Angela Ticich Parent Representatives: Jennifer Hoagland, Kristifer Jackson, Robert Miniaci

**5. APPROVAL OF MINUTES:**

A. Approval of Minutes of the Regular Governing Board Meeting on September 10, 2019

**6. APPROVAL OF AGENDA REGULAR MEETING:**

A. Approval of the Regular Governing Board Meeting Agenda - October 8, 2019

**7. PUBLIC COMMENT:**

A. Public Comment is limited to three(3) minutes per individual; 45 minutes total comment time.

**8. CONSENT AGENDA:**

A. Approval of NEOLA Policy Updates: Volume 18, Number 2: Policy 1122: Nondiscrimination and Equal Employment Opportunity; Policy

1362: Anti-Harassment

- B. Approval of NEOLA Policy Updates: Volume 18, Number 2: Policy 2260: Nondiscrimination and Access to Equal Educational Opportunity; 3122 Nondiscrimination and Equal Employment Opportunity
- C. Approval of NEOLA Policy Updates: Volume 18, Number 2: Policy 3122 Nondiscrimination and Equal Employment Opportunity
- D. Approval of NEOLA Policy Updates: Volume 18, Number 2: Policy 4362 Anti-harassment; Policy 5517 Anti-Harassment
- E. Approval of NEOLA Policy Updates: Volume 18, Number 2: Policy 5517.02 Sexual Violence; Policy 5517.03 Dating Violence and Abuse; Policy 5610.02 In-School Discipline; Policy 7530.02 Staff and School Officials Use of Wireless Communication Devices; Policy 8315 Information Management
- F. Approval of NEOLA Policy Updates Volume 19, Number 1: Policy 6233 Authority Budget; Policy 6610 Internal Accounts; Policy 8141 Mandatory Reporting of Misconduct by Certified Employees; Policy 8420 Emergency Management, Emergency Preparedness, and Emergency Response Agencies; Policy 8462 Student Abuse, Abandonment, and Neglect; Policy 8500 Food Service Program; 8805 Religious Expression in Public Schools; Policy 8810 The American Flag

**9. SUPERINTENDENT REPORT:**

- A. Student Recognition
- B. Superintendent's Report - Jacquelin Collins

**10. CHAIRMAN REPORT:**

- A. Chairman Michael Campbell

**11. FOUNDATION REPORT:**

- A. Gary Cerny, President

**12. STAFF COMMENT:**

- A. Charter School Electives Teachers - Classroom and Club Presentations

**13. UNFINISHED BUSINESS:**

- A. No Activity

**14. NEW BUSINESS:**

- A. Request for Approval of Florida Safe Schools Assessment Tool (FSSAT) Recommendations - Superintendent Collins
- B. Request for Approval for an Additional School Bus Driver for the Cape Coral Charter Schools - Superintendent Collins
- C. Request for Acceptance of Notice of Intent to Designate the Cape



Coral Charter School Authority School Superintendent position to the Local Agency Senior Management Service Class (SMSC) of the Florida Retirement System Division of Retirement - Leisa Orcutt, Human Resources Manager

**15. FINAL BOARD COMMENT AND DISCUSSION:**

**16. TIME AND DATE OF NEXT MEETING**

- A. The Next Regular Governing Board Meeting will be held on Tuesday, November 12, 2019 at 5:30p.m. in Cape Coral City Council Chambers, 1015 Cultural Park Blvd., Cape Coral, FL 33990

**17. ADJOURNMENT:**

Members of the audience who address the Board/Commission/Committee shall step up to the speaker's lectern and give his/her full name, address and whom he/she represents. Proper decorum shall be maintained at all time. Any audience member who is boisterous or disruptive in any manner to the conduct of this meeting shall be asked to leave or be escorted from the meeting room.

In accordance with the Americans with Disabilities Act and SS 286.26, Florida Statutes, persons needing a special accommodation to participate in this proceeding should contact the Human Resources Department whose Office is located at Cape Coral City Hall, telephone 1-239-574-0530 for assistance; if hearing impaired, telephone the Florida Relay Service Numbers, 1-800-955-8771 (TDD) or 1-800-955-8700 (v) for assistance. In accordance with Florida Statute 286.0105: any person who desires to appeal any decision at this meeting will need a record of the proceedings and for this purpose may need to ensure that a verbatim record of the proceedings is made which includes the testimony and evidence upon which the appeal is based.

<b>Item Number:</b>	<b>1.A.</b>
<b>Meeting Date:</b>	<b>10/8/2019</b>
<b>Item Type:</b>	<b>CALL TO ORDER</b>

**AGENDA REQUEST FORM**  
City Of Cape Coral Charter School Authority

**TITLE:**

Chairman Michael Campbell

**SUMMARY:**

**ADDITIONAL INFORMATION:**

**RECOMMENDED ACTION:**

**Item Number: 2.A.**

**Meeting Date: 10/8/2019**

**Item Type: MOMENT OF SILENCE:**

## **AGENDA REQUEST FORM**

City Of Cape Coral Charter School Authority

**TITLE:**

Chairman Michael Campbell

**SUMMARY:**

**ADDITIONAL INFORMATION:**

**RECOMMENDED ACTION:**

**Item Number: 3.A.**

**Meeting**  
**Date:** 10/8/2019

**Item Type:** PLEDGE OF  
ALLEGIANCE:

**AGENDA REQUEST FORM**  
City Of Cape Coral Charter School  
Authority

**TITLE:**

Chairman Michael Campbell

**SUMMARY:**

**ADDITIONAL INFORMATION:**

**RECOMMENDED ACTION:**

<b>Item Number:</b>	<b>4.A.</b>
<b>Meeting Date:</b>	<b>10/8/2019</b>
<b>Item Type:</b>	<b>ROLL CALL:</b>

**AGENDA REQUEST FORM**  
City Of Cape Coral Charter School Authority

**TITLE:**

Chairman Michael Campbell, Vice-Chair Tami Traiger, Vanessa Metzger, Dr. Guido Minaya, Susan Mitchell, Jennifer Nelson, Dist 4, Angela Ticich Parent Representatives: Jennifer Hoagland, Kristifer Jackson, Robert Miniaci

**SUMMARY:**

**ADDITIONAL INFORMATION:**

**RECOMMENDED ACTION:**

**Item Number: 5.A.**

**Meeting Date:** 10/8/2019

**Item Type:** APPROVAL OF MINUTES:

**AGENDA REQUEST FORM**  
City Of Cape Coral Charter School  
Authority

**TITLE:**

Approval of Minutes of the Regular Governing Board Meeting on September 10, 2019

**SUMMARY:**

**ADDITIONAL INFORMATION:**

**RECOMMENDED ACTION:**

**ATTACHMENTS:**

Description	Type
▣ BOARD MINUTES Sept 10 2019	Backup Material

# GOVERNING BOARD MINUTES

## City of Cape Coral Charter School Authority

### Governing Board Regular Meeting

City Council Chambers  
Tuesday, September 10, 2019 at 5:30p.m.



#### 1. Call to Order

A meeting of the City of Cape Coral Charter School Authority Governing Board of Lee County, Florida, met on Tuesday, September 10, 2019 at City Council Chambers, Cape Coral FL 33990. Chairman Michael Campbell called the meeting to order at 5:30p.m.

#### 2. Moment of Silence

Chairman Michael Campbell

#### 3. Pledge of Allegiance to the Flag of the United States of America

Chairman Campbell

#### 4. Board Member Roll Call

Present: Michael Campbell (C) Tami Traiger (VC), Vanessa Metzger, Dr Guido Minaya, Susan Mitchell, Angela Ticich. Absent Excused: Nelson. Parent Representatives: Hoagland(OHS), Jackson(CME/OES), Miniaci (OMS)

Also Present: Jacquelin Collins, Superintendent

MaryAnne Moniz, Business Manager

Danielle Jensen, Director of Procurement and Food Services

William Wolter, Director of Transportation

Dr Christina Britton, Principal, Oasis High

Donnie Hopper, Principal, Oasis Middle

Brianne Romano, Assistant Principal, Oasis Middle

MaryBeth Grecsek, Interim Principal, Oasis Elementary

Carrie Abes, Interim Assistant Principal, Oasis Elementary

Kevin Brown, Principal, Christa McAuliffe Elementary  
Kelly Weeks, Assistant Principal, Christa McAuliffe Elementary  
Ashley Denton, Educator, Oasis High  
Heath Sterk, Educator, Oasis Middle  
MaryLynn McDaniels, Transportation Coordinator  
Dolores Menendez, City Attorney  
Mark Moriarty, Assistant City Attorney, City of Cape Coral  
Don Gross, Media Director, Spiro & Associates  
Officer Lucas, CCPD Detail

## **5. Approval of Previous Minutes**

Motion made by Member Metzger, Second by Member Minaya to approve the Minutes of the August 13, 2019 Regular Governing Board meeting. *Unanimous*

## **6. Approval of Regular Meeting Agenda**

Motion made by Member Minaya, Second by Member Traiger to approve the Agenda for the Regular Governing Board Meeting on September 10, 2019. *Unanimous.*

## **7. Public Comment**

No Activity

## **8. Consent Agenda**

*Approved.* Motion made by Member Ticich, Second by Member Metzger to approve the Technology Upgrades Threshold 2019-2020 - Danielle Jensen *Unanimous*

*Approved.* Motion made by Member Ticich, Second by Member Metzger to approve Changes to Facility Rental Agreement - Superintendent Collins. *Unanimous*

*Approved.* Motion made by Member Ticich, Second by Member Metzger to approve Teachers-out-of-Field Notification Letter - Superintendent Collins *Unanimous*

*Approved.* Motion made by Member Ticich, Second by Member Metzger to approve Governing Board Meeting Dats 2020 - Superintendent Collins, *Unanimous*



## 9. Superintendent Report

Welcomed full group of parent representatives to the board.

Reminded Governing Board the Town Hall is September 26, 2019 at 6:00-7:30p.m. in the Oasis Middle School cafeteria. Please contact the board secretary to RSVP.

Parent Survey results are in and there is roughly 95% satisfaction rate. Collins gave an overview of the types of questions on the survey; one comment that came up was the teacher turnover rate, which is significantly lower than last year. For example, the high school it is at 17%, as opposed to last year when it was at 41.2%. *Further Comment*

Member Traiger: The Superintendent's Report is a really great document that details all the areas of operations in our system. I'd like to see this shared with the public so that they can understand all that goes into what makes our entire system work, and gives great perspective to all the behind the scenes operations that make our system so great. *Further Comment*

*[The Superintendent's Interim Report can be viewed on the Charter School website: [www.capecharterschools.org](http://www.capecharterschools.org)]*

## 10. Chairman Report

Introduced new parent representative Jennifer Hoagland, Oasis High SAC member, to the Board.

## 11. Foundation Report

No Activity

## 12. Staff Comment

12A. *William Wolter, Director of Transportation:*

Gave overview of the new bus routing system and how our 230 District-aligned stops are determined. Currently, everyday the system uses 17 buses with 68 routes to cover more than 1713 miles for our 1650 students. We have also moved farther into the NE and NW areas. Wolter also explained depot stops and how they are determined. *Further Comment*

Member Metzger: I am hearing about bus overcrowding on the middle school route in the afternoon. Can you please explain what is going on with Sandoval students?

Wolter: Seating depends on school size; you can have up to three students to a seat if they are elementary level. However, they are older kids or use their backpacks and school supplies to take up a seat then the number of seats available lowers. Buses are 72-77 person capacity. *Further Comment*

12B. *Ashley Denton, Educator, Oasis High School;*

*Discussed proposed EF Tours Mediterranean trip with Oasis High students in the summer 2020. The purpose of the excursion is both educational and well as cultural awareness. Further Comment with slide show presentation.*

### 13. Unfinished Business

No Activity

### 14. New Business

14A. *Approved.* Motion made by Member Traiger, Second by Member Minaya to approve the City of Cape Coral Name Rebranding that is Aligned with the Charter Schools' Application Renewal Process - Superintendent Collins, *Unanimous; Motion Carried*

14B. *Approved.* Motion made by Member Minaya, Second by Member Traiger to approve Senior Information Technology Systems Administrator Job Description and Salary Range - Superintendent Collins. *Unanimous; Motion Carried*

Member Minaya: Requested the following language should be inserted in the job description under Skills and Knowledge: "...knowledge of learning engagement and learning management systems platforms." *Further Comment*

Member Metzger: This person is supposed to cover all four schools?

Superintendent Collins: This position reports to the superintendent. Yes, this Senior ITS will oversee all four schools including the administrative networks.

Member Traiger: Perhaps Dr Minaya would like to sit in on these interviews since he has so much experience in this area and with educational needs, in particular?

Superintendent Collins: We don't normally have board members sit in on job interviews, but he's welcome.

City Attorney Dolores Menendez: There is not a legal problem for him to sit in during an interview, but if he sits during one, he has to sit during all (interviews).

Chairman Campbell: This person is responsible for providing 24/7 support to all the schools?  
Collins: Yes. If something goes down anywhere, they must be there for support.



Campbell: I'd like to see an outsourcing of this if possible. If it's the will of the Board, I'd like to investigate if it is possible to outsource this position.

*Board Discussion Held.*

*Unanimous Board approval of the Senior ITS Job Description and Salary Range including language regarding skills and knowledge of learning engagement systems and platforms. The Superintendent has agreed to consult with senior ITS at the City for advisement on the possibility of outsourcing.*

*14C Approved. Motion made by Member Ticich, Second by Member Minaya to approve FY2018-19 Budget Amendment No. 2 - MaryAnne Moniz, Unanimous; Motion Carried*

Presentation included data and outline of why we do budget amendments which are required tools to modify estimates of revenues and expenditures in order to bring everything in line. Business Manager requested Budget Amendment No. 2 to be accepted at an adjusted amount of \$35.8million. *Discussion Held*

Motion made by Member Ticich, Second by Member Minaya to approve FY2018-19 Budget Amendment No. 2. *Unanimous Motion Carried*

## 15. Final Board Comment and Discussion

Chairman Campbell Great start to the year!

Vice-Chair Traiger praised the administrative teams and the Superintendent for working so well together and providing great and timely information. Complimented the administrative teams on the Superintendent's Interim Report which shares system operations and accomplishments with the Governing Board and public, and demonstrates how our system is supported.

Member Metzger complimented the Superintendent and other governing board members for a job well done. She's not getting any emails or complaint calls which is a good sign that everything is going good. She also commented on the great communication and board support. *Further Comment*

Member Ticich agreed parent communication is excellent at OES and also thanked MaryAnne Moniz, Business Manager, for her clear and easy to understand budget reports. *Further Comment*

Member Minaya is pleased to hear about high teacher and staff retention. He considers the system rebranding is really a great idea because Oasis will be united around one system statement. The Reserve funding is also great news and reminds us we are a healthy organization. *Further Comment*

Member Mitchell supports the Christa McAuliffe Elementary name change to *Oasis North*. Also, great job getting through the hurricane – all the information and system calls were very helpful and kept things on track for parents and students. *Further Comment*

**16. Time and Date of Next Regular Meeting**

The next Regular Governing Board Meeting will be held on Tuesday, October 8, 2019 at 5:30 p.m. in City Council Chambers.

**17. Adjournment**

The Governing Board adjourned at 6:48 p.m.

Respectfully Submitted,

Kathleen Paul-Evans

Charter School Authority Board Secretary

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Secretary

Date of approval

Item Number:	6.A.
Meeting Date:	10/8/2019
Item Type:	APPROVAL OF AGENDA REGULAR MEETING:

**AGENDA REQUEST FORM**  
City Of Cape Coral Charter School  
Authority

**TITLE:**

Approval of the Regular Governing Board Meeting Agenda - October 8, 2019

**SUMMARY:**

**ADDITIONAL INFORMATION:**

**RECOMMENDED ACTION:**

<b>Item Number:</b> 7.A. <b>Meeting Date:</b> 10/8/2019 <b>Item Type:</b> PUBLIC COMMENT:
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**AGENDA REQUEST FORM**  
City Of Cape Coral Charter School Authority

**TITLE:**

Public Comment is limited to three(3) minutes per individual; 45 minutes total comment time.

**SUMMARY:**

**ADDITIONAL INFORMATION:**

**RECOMMENDED ACTION:**

<b>Item Number:</b> 8.A. <b>Meeting Date:</b> 10/8/2019 <b>Item Type:</b> CONSENT AGENDA:
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**AGENDA REQUEST FORM**  
City Of Cape Coral Charter School Authority

**TITLE:**

Approval of NEOLA Policy Updates: Volume 18, Number 2: Policy 1122: Nondiscrimination and Equal Employment Opportunity; Policy 1362: Anti-Harassment

**SUMMARY:**

**ADDITIONAL INFORMATION:**

**RECOMMENDED ACTION:**

**ATTACHMENTS:**

<b>Description</b>	<b>Type</b>
▢ NEOLA 1122, 1362	Backup Material



Book	Policy Manual
Section	Vol 18 #2 REVISED
Title	NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY
Code	po1122 8/24/18 fsj 8/14/19lojc
Status	
Adopted	April 12, 2016

## 1122 - NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY

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

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

The superintendent shall appoint compliance officer whose responsibility it will be to require that Federal and State regulations are complied with and that any inquiries or complaints are dealt with promptly in accordance with law. The Superintendent shall also require that proper notice of nondiscrimination for Title II, Title VI, and Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendment Act of 1972, Section 504 of the Rehabilitation Act of 1973, Americans with Disabilities Act of 1990, and the Age Discrimination in Employment Act will be provided to staff members and the general public. Any sections of the Authority's collectively-bargained, negotiated agreements dealing with hiring, promotion, and tenure will contain a statement of nondiscrimination similar to that in the Board's statement above.

### Compliance Officer

The following person is designated by the superintendent as the Compliance Officer (CO):

Name: Keith Graham Leisa Orcutt

Title: Principal-Oasis Middle School Human Resources Manager, Cape Coral Charter School Authority

Phone: 239-945-1999/239-424-6100 X456

Address: 3519 Oasis Blvd.  
Cape Coral, Florida 33914

E-mail: keith.graham@capecharterschools.org leisa.orcutt@capecharterschools.org

The name(s), title(s), and contact information of this/these individual(s) will be published annually on the Authority's web site.

### Complaint Procedures

If a person believes that s/he has been subjected to unlawful discrimination, the person may utilize the following complaint procedures as a means of reaching, at the lowest possible administrative level, a prompt and equitable resolution of the matter.

In accordance with Federal and State law, employees will be notified of their right to file an internal complaint regarding an alleged violation, misinterpretation, or misapplication of Federal and/or State law. In addition, employees will be notified of their right to file a complaint with the U.S. Department of Education's Office for Civil Rights, the Florida Commission on Human Relations, or the Equal Employment Opportunity Commission.

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



## Internal Complaint Procedure

The following internal complaint procedure is available to employees for the prompt and equitable resolution of complaints alleging discrimination based upon disability. This complaint procedure is not available to unsuccessful applicants. Use of the internal complaint procedure is not a prerequisite to the pursuit of other remedies, including the filing of a complaint with the U.S. Department of Education's Office for Civil Rights, the Florida Commission on Human Relations, or the Equal Employment Opportunity Commission.

- A. An employee with a complaint based on alleged discrimination on the basis of disability may first discuss the problem with the compliance officer.
- B. If the informal discussion does not resolve the matter, or if the employee skips Step A, the individual may file a formal written complaint with the compliance officer. The written complaint must contain the name and address of the individual or representative filing the complaint, be signed by the complainant or someone authorized to sign for the complainant, describe the alleged discriminatory action in sufficient detail to inform the compliance officer of the nature and date of the alleged violation, and propose a resolution. The complaint must be filed within thirty (30) calendar days of the circumstances or event giving rise to the complaint, unless the time for filing is extended by the compliance officer for good cause.
- C. The compliance officer will conduct an independent investigation of the matter (which may or may not include a hearing). This complaint procedure contemplates informal, but thorough investigations, affording all interested persons and their representatives, if any, an opportunity to present witnesses and other evidence relevant to the complaint. The compliance officer will provide the complainant with a written disposition of the complaint within ten (10) work days. If no decision is rendered within ten (10) work days, or the decision is unsatisfactory in the opinion of the complainant, the employee may file, in writing, an appeal with the Superintendent. The compliance officer shall maintain the Authority's files and records relating to the complaint.
- D. The Superintendent will, within ten (10) work days of receiving the written appeal, conduct a hearing with all parties involved in an attempt to resolve the complaint.  
  
The Superintendent will render his/her decision within ten (10) work days of the hearing.
- E. The employee may be represented, at his/her own cost, at any of the above-described meetings/hearings.
- F. The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies such as the filing of a complaint with the Office for Civil Rights or the filing of a court case. Use of this internal complaint procedure is not a prerequisite to the pursuit of other remedies.

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

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

At any time, if an employee believes that s/he has been subjected to unlawful discrimination, the individual may file a complaint with the U.S. Department of Education's Office for Civil Rights ("OCR"), the Florida Commission on Human Relations (FCHR), or the Equal Employment Opportunity Commission ("EEOC").

## Appealing to OCR/Florida Commission on Human Relations/EEOC

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

## Retaliation

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

## Training



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

## Notice

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

## Retention of Investigatory Records and Materials

All individuals charged with conducting investigations under this policy shall retain all information, documents, electronically stored information ("ESI"), and electronic media (as defined in Policy 8315) created and received as part of an investigation, including, but not limited to:

1. all written reports/allegations/complaints/statements;
2. narratives of all verbal reports/allegations/complaints/statements;
3. a narrative of all actions taken by District personnel;
4. any written documentation of actions taken by District personnel to include;
5. (x) written witness statements;
6. (x) narratives of, notes from, or audio, video, or digital recordings of witness statements;
7. (x) all documentary evidence;
8. (x) e-mails, texts, or social media posts pertaining to the investigation;
9. contemporaneous notes in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.) pertaining to the investigation;
10. written disciplinary sanctions issued to students or employees and a narrative of verbal disciplinary sanctions issued to students or employees for violations of the policies and procedures prohibiting discrimination or harassment;
11. dated written determinations to the parties;
12. dated written descriptions of verbal notifications to the parties;
13. written documentation of any interim measures offered and/or provided to complainants, including no contact orders issued to both parties, the dates issued, and the dates the parties acknowledged receipt; and
14. documentation of all actions taken, both individual and systemic, to stop the discrimination or harassment, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects.

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

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

Legal

- 29 U.S.C. 621 et seq., Age Discrimination in Employment Act of 1967
- 29 U.S.C. 701 et seq., Rehabilitation Act of 1973
- 42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act
- 42 U.S.C. 12112, Americans with Disabilities Act of 1990
- F.S. 110.1221, 250.481, 760.01, 760.10, 1000.05
- 20 U.S.C. 1681 et seq., Title IX
- 42 U.S.C. 2000e, et seq., Civil Rights Act of 1964
- 29 C.F.R. Part 1635
- 38 U.S.C. 4301 et seq., The Uniformed Services Employment and Reemployment Rights Act

Last Modified by Jacquelin Collins on August 15, 2019



Book	Policy Manual
Section	Vol 18 #2 REVISED
Title	ANTI-HARASSMENT
Code	po1362 8/24/18 fsj 8/14/19lojc
Status	
Adopted	April 12, 2016

## 1362 - ANTI-HARASSMENT

### General Policy Statement

It is the policy of the Governing Board to maintain an educational and work environment that is free from all forms of unlawful harassment, including sexual harassment. This commitment applies to all Authority operations, programs, and activities. All students, administrators, teachers, staff, and all other school personnel share responsibility for avoiding, discouraging, and reporting any form of unlawful harassment. This policy applies to unlawful conduct occurring on school property, or at another location if such conduct occurs during an activity sponsored by the Board.

The ~~Superintendent~~ Compliance Officer will vigorously enforce its prohibition against discriminatory harassment on the basis of race, color, national origin, sex (including sexual orientation, transgender status, or gender identity), disability (including HIV, AIDS, or sickle cell trait), pregnancy, marital status, age (except as authorized by law), religion, military status, ancestry, or genetic information which are classes protected by State and/or Federal law (collectively, "protected classes") (hereinafter referred to as unlawful harassment), and encourages those within the Authority community as well as third parties, who feel aggrieved to seek assistance to rectify such problems. The ~~Superintendent~~ Compliance Officer will investigate all allegations of unlawful harassment and in those cases where unlawful harassment is substantiated, the ~~Superintendent~~ Compliance Officer will take immediate steps to end the harassment, prevent its recurrence, and remedy its effects. Individuals who are found to have engaged in unlawful harassment will be subject to appropriate disciplinary action.

For purposes of this policy, "Authority community" means students, administrators, teachers, staff, as well as Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Board.

For purposes of this policy, "third parties" include, but are not limited to, guests and/or visitors on Authority property (e.g., visiting speakers, participants on opposing athletic teams, parents), vendors doing business with, or seeking to do business with, the Board, and other individuals who come in contact with members of the Authority community at school-related events/activities (whether on or off Authority property).

### Other Violations of the Anti-Harassment Policy

The ~~Superintendent~~ Compliance Officer will also take immediate steps to impose disciplinary action on individuals engaging in any of the following prohibited acts:

- A. Retaliating against a person who has made a report or filed a complaint alleging unlawful harassment, or who has participated as a witness in a harassment investigation.
- B. Filing a malicious or knowingly false report or complaint of unlawful harassment.
- C. Disregarding, failing to investigate adequately, or delaying investigation of allegations of unlawful harassment, when responsibility for reporting and/or investigating unlawful harassment charges comprises part of one's supervisory duties.

### Definitions

#### Bullying

Bullying rises to the level of unlawful harassment when one or more persons systematically and chronically inflict physical hurt or psychological distress on one (1) or more students or employees and that bullying is based upon sex (including sexual orientation, transgender status, or gender identity), race, color, national origin, religion, or disability (including HIV, AIDS, or sickle cell trait), that is, characteristics that are protected by Federal civil rights laws. It is defined as any 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. This unlawful harassment may include, but not be limited to, the following:

- A. teasing;
- B. threats;
- C. intimidation;
- D. stalking;
- E. cyberstalking;
- F. cyberbullying;
- G. gaslighting;
- H. physical violence;
- I. theft;
- J. sexual, religious, or racial harassment;
- K. public humiliation; ~~or~~
- L. destruction of property;

**"Harassment"** means any threatening, insulting, or dehumanizing gesture, use of data or computer software, or written, verbal or physical conduct directed against a student or school employee that:

- A. places a student or school employee in reasonable fear of harm to his/her person or damage to his/her property;
- B. has the effect of substantially interfering with a student's educational performance, opportunities, or benefits; or
- C. has the effect of substantially disrupting the orderly operation of a school.

#### **Sexual Harassment**

Pursuant to Title VII of the Civil Rights Act of 1964 and Title IX of the Educational Amendments of 1972, "sexual harassment" is defined as:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when:

- A. Submission to such conduct is made either implicitly or explicitly a term or condition of an individual's employment, or status in a class, educational program, or activity.
- B. Submission or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individual.
- C. Such conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity.

Sexual harassment may involve the behavior of a person of either gender against a person of the same or opposite gender.

Prohibited acts that constitute sexual harassment may take a variety of forms. Examples of the kinds of conduct that may constitute sexual harassment include, but are not limited to:

- A. Unwelcome sexual propositions, invitations, solicitations, and flirtations.
- B. Unwanted physical and/or sexual contact.
- C. Threats or insinuations that a person's employment, wages, academic grade, promotion, classroom work or assignments, academic status, participation in athletics or extra-curricular programs or events, or other conditions of employment or education may be adversely affected by not submitting to sexual advances.



- D. Unwelcome verbal expressions of a sexual nature, including graphic sexual commentaries about a person's body, dress, appearance, or sexual activities; the unwelcome use of sexually degrading language, jokes, or innuendoes; unwelcome suggestive or insulting sounds or whistles; obscene telephone calls and/or texts.
- E. Sexually suggestive objects, pictures, videotapes, audio recordings, or literature placed in the work or educational environment, which may embarrass or offend individuals.
- F. Unwelcome and inappropriate touching, patting, or pinching; obscene gestures.
- G. A pattern of conduct, which can be subtle in nature, that has sexual overtones and is intended to create or has the effect of creating discomfort and/or humiliation to another.
- H. Remarks speculating about a person's sexual activities or sexual history, or remarks about one's own sexual activities or sexual history.
- I. Consensual sexual relationships where such relationship leads to favoritism of a subordinate employee with whom the superior is sexually involved and where such favoritism adversely affects other employees or otherwise creates a hostile work environment.
- J. Verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping that does not involve conduct of a sexual nature.
- K. Inappropriate boundary invasions by an Authority employee or other adult member of the Authority community into a student's personal space and personal life.

Not all behavior with sexual connotations constitutes unlawful sexual harassment. Sex-based and gender-based conduct must be sufficiently severe, pervasive, and persistent such that it adversely affects, limits, or denies an individual's employment, or such that it creates a hostile or abusive employment or educational environment.

**NOTE: Any teacher, administrator, coach, or other school authority who engages in sexual conduct with a student may also be guilty of a crime.**

### **Sexual Cyberharassment**

Pursuant to Florida law, "sexual cyberharassment" means to publish a sexually explicit image of a person that contains or conveys the personal identification information of the depicted person to an Internet website without the depicted person's consent, for no legitimate purpose, with the intent of causing substantial emotional distress to the depicted person. Sexual cyberharassment may be a form of sexual harassment.

### **Race/Color Harassment**

Prohibited racial harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's race or color and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's race or color, such as racial slurs, nicknames implying stereotypes, epithets, and/or negative references relative to racial customs.

### **Religious (Creed) Harassment**

Prohibited religious harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's religion or creed and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's religious tradition, clothing, or surnames, and/or involves religious slurs.

### **National Origin Harassment**

Prohibited national origin harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's national origin and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's national origin, such as negative comments regarding customs, manner of speaking, language, surnames, or ethnic slurs.



## Pregnancy Harassment

Prohibited pregnancy harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's pregnancy and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's pregnancy and condition of pregnancy.

## Disability Harassment

Prohibited disability harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's disability and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's disabling condition, such as negative comments about speech patterns, movement, physical impairments, or defects/appearances, or the like. Such harassment may further occur where conduct is directed at or pertains to a person's genetic information.

## Reports and Complaints of Harassing Conduct

Members of the Authority community and third parties, which includes all staff, are encouraged to promptly report incidents of unlawful harassing conduct to an administrator, supervisor, or other Authority official so that the Superintendent may address the conduct before it becomes severe, pervasive, or persistent. Any administrator, supervisor, or other Authority official who receives such a complaint shall file it with the Authority's Anti-Harassment Compliance Officer within two (2) business days.

Members of the Authority community or third parties who believe they have been unlawfully harassed by another member of the Authority community or a third party are entitled to utilize the Board's complaint process that is set forth below. Initiating a complaint, whether formally or informally, will not adversely affect the complaining individual's employment or participation in educational or extra-curricular programs unless the complaining individual makes the complaint maliciously or with knowledge that it is false. While there are no time limits for initiating complaints of harassment under this policy, individuals should make every effort to file a complaint as soon as possible after the conduct occurs while the facts are known and potential witnesses are available.

If, during an investigation of reported act of bullying and/or harassment in accordance with Policy 5517.01 – Bullying and Harassment, the principal or his/her designee believes that the reported misconduct may have created a hostile work environment and may have constituted unlawful discriminatory harassment based on sex, race, color, national origin, religion, or disability, the principal or his/her designee will report the act of bullying and/or harassment to one of the Compliance Officers who shall investigate the allegation in accordance with this policy. While the Compliance Officer investigates the allegation, the Principal shall suspend his/her Policy 5517.01 investigation to await the Compliance Officer's written report. The Compliance Officer shall keep the Principal informed of the status of the Policy 1362 investigation and provide him/her with a copy of the resulting written report.

## Anti-Harassment Compliance Officers

The following individuals serve as "Anti-Harassment Compliance Officers" for the Authority. They are hereinafter referred to as the "Compliance Officers".

### Elementary School Principal

Jacquelin Collins  
2017 SW 3rd Lane  
Cape Coral, Florida 33991  
339-283-4511  
jacquelin.collins@capecharterschools.org

### High School Principal/Shannon Treece

3519 Oasis Blvd.  
Cape Coral, Florida 33914  
239-541-1167  
shannon.treece@capecharterschools.org

### Human Resources Manager

Leisa Orcutt  
3519 Oasis Blvd.  
Cape Coral, Florida 33914



[239-424-6100 X456](tel:239-424-6100)  
[leisa.orcutt@capecharterschool.org](mailto:leisa.orcutt@capecharterschool.org)

Superintendent  
Jacquelin Collins  
3519 Oasis Blvd.  
Cape Coral, Florida 33914  
239-424-6100 X447  
[jacquelin.collins@capecharterschools.org](mailto:jacquelin.collins@capecharterschools.org)

The names, titles, and contact information of these individuals will be published annually on the Authority's web site.

The names, titles, and/or contact information of the persons presently serving as Compliance Officers may change from time to time, and such changes shall be deemed technical corrections within the meaning of Bylaw 0131.1 and shall be made pursuant to that bylaw.

A Compliance Officer will be available during regular school/work hours to discuss concerns related to unlawful harassment, to assist students, other members of the Authority community, and third parties who seek support or advice when informing another individual about "unwelcome" conduct, or to intercede informally on behalf of the individual in those instances where concerns have not resulted in the filing of a formal complaint and where all parties are in agreement to participate in an informal process.

Any Board employee who directly observes unlawful harassment of a student is obligated, in accordance with this policy, to report such observations to one of the Anti-Harassment Compliance Officers within two (2) business days. Thereafter, the Compliance Officer or designee must contact the student, if over age eighteen (18) or the student's parents if under the age eighteen (18), within two (2) business days to advise s/he/them of the Superintendent's Compliance Officer's intent to investigate the alleged misconduct, including the obligation of the compliance officer or designee to conduct an investigation following all the procedures outlined for a formal complaint.

Compliance Officers are assigned to accept complaints of unlawful harassment directly from any member of the Authority community or a visitor to the Authority, or to receive complaints that are initially filed with a school building administrator. Upon receipt of a complaint either directly or through a school building administrator, the Compliance Officer will begin either an informal or formal process (depending on the request of the member of the Authority community alleging harassment), or the Compliance Officer will designate a specific individual to conduct such a process. In the case of a formal complaint, the Compliance Officer will prepare, after consultation with the Superintendent, recommendations for the Superintendent or will oversee the preparation of such recommendations by a designee. All members of the Authority community must report incidents of unlawful harassment which are reported to them to a Compliance Officer within five (5) calendar days of learning of the incident.

### **Investigation and Complaint Procedure**

Any employee or other member of the Authority community or visitor to the Authority who believes that s/he has been subjected to unlawful harassment may seek resolution of his/her complaint through either the informal or formal procedures as described below. Further, a process for investigating claims of harassment and a process for rendering a decision regarding whether the claim of legally prohibited harassment or retaliation was substantiated are set forth below.

Due to the sensitivity surrounding complaints of unlawful harassment or retaliation, time lines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) calendar days after the conduct occurs while the facts are known and potential witnesses are available. Once the formal complaint process is begun, the investigation will be completed in a timely manner (ordinarily, within fifteen (15) calendar days of the complaint being received).

The informal and formal procedures set forth below are not intended to interfere with the rights of any individual to pursue a complaint of unlawful harassment or retaliation with the United States Department of Education, Office for Civil Rights, the Florida Civil Rights Commission, or the Equal Employment Opportunity Commission.

### **Informal Complaint Procedure**

The goal of the informal complaint procedure is to stop inappropriate behavior and to investigate and facilitate resolution through an informal means, if possible. The informal complaint procedure is provided as a less formal option for a student who believes s/he has been unlawfully harassed or retaliated against. This informal procedure is not required as a precursor to the filing of a formal complaint.

Employees, other members of the Authority community, or third parties who believe that they have been unlawfully harassed or retaliated against may initiate their complaint through this informal complaint process, but are not required to do so. The



informal process is only available in those circumstances where the parties (alleged target of harassment and alleged harasser(s)) agree to participate in the informal process.

Employees, other members of the Authority community, or third parties who believe that they have been unlawfully harassed or retaliated against may proceed immediately to the formal complaint process and individuals who seek resolution through the informal procedure may request that the informal process be terminated at any time to move to the formal complaint process.

However, all complaints of harassment involving an Authority employee, any other adult member of the Authority community, or a third party against a student will be formally investigated.

As an initial course of action, if an individual feels that s/he is being unlawfully harassed and s/he is able and feels safe doing so, the individual should tell or otherwise inform the harasser that the conduct is unwelcome and must stop. Such direct communication should not be utilized in circumstances involving sexual violence. The complaining individual should address the allegedly harassing conduct as soon after it occurs as possible. The Compliance Officers is available to support and counsel individuals when taking this initial step or to intervene on behalf of the individual if requested to do so. An individual who is uncomfortable or unwilling to inform the harasser of his/her complaint is not prohibited from otherwise filing an informal or a formal complaint. In addition, with regard to certain types of unlawful harassment, such as sexual harassment, the Compliance Officer may advise against the use of the informal complaint process.

An individual who believes s/he has been unlawfully harassed may make an informal complaint, either orally or in writing: (1) to a teacher, other employee, or building administrator; (2) to the Superintendent or other Authority-level employee; and/or (3) directly to one of the Compliance Officers.

All informal complaints must be reported to the Compliance Officer(s) who will either facilitate an informal resolution as described below on his/her own, or appoint another individual to facilitate an informal resolution.

The Authority's informal complaint procedure is designed to provide employees, other members of the Authority community, or third parties who believe they are being unlawfully harassed by another individual with a range of options designed to bring about a resolution of their concerns. Depending upon the nature of the complaint and the wishes of the individual claiming unlawful harassment, informal resolution may involve, but not be limited to, one or more of the following:

- A. Advising the individual about how to communicate the unwelcome nature of the behavior to the alleged harasser.
- B. Distributing a copy of the anti-harassment policy as a reminder to the individuals in the school building or office where the individual whose behavior is being questioned works or attends.
- C. If both parties agree, the Compliance Officer(s) may arrange and facilitate a meeting between the individual claiming harassment and the individual accused of harassment to work out a mutual resolution. Such a meeting is not appropriate in circumstances involving sexual violence.

While there are no set time limits within which an informal complaint must be resolved, the Compliance Officer(s) or designee will exercise his/her authority to attempt to resolve all informal complaints within fifteen (15) calendar days of receiving the informal complaint. Parties who are dissatisfied with the results of the informal complaint process may proceed to file a formal complaint. And, as stated above, parties may request that the informal process be terminated at any time to move to the formal complaint process.

All materials generated as part of the informal complaint process will be retained by the Compliance Officers or designee in accordance with the Board's records retention policy. (See Policy 8310 and Policy 8320)

### **Formal Complaint Procedure**

If a complaint is not resolved through the informal complaint process, if one of the parties has requested that the informal complaint process be terminated to move to the formal complaint process, or if the individual elects to file a formal complaint initially, the formal complaint process as described below shall be implemented.

This formal complaint process is not intended to interfere with the rights of an employee, other member of the Authority community, or third party to pursue a complaint of unlawful harassment with the United States Department of Education, Office for Civil Rights, the Florida Civil Rights Commission, or the Equal Employment Opportunity Commission.

An individual who believes s/he has been subjected to offensive conduct/harassment hereinafter referred to as the "complainant", may file a formal complaint, either orally or in writing with a teacher, principal, or other Authority employee, the Compliance Officer, Superintendent, or other Authority employee. Due to the sensitivity surrounding complaints of unlawful harassment and retaliation, time lines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) calendar days after the conduct occurs while the facts are known and potential witnesses are available. If a complainant informs a teacher, principal, or other Authority employee, the Compliance Officer,



Superintendent, or other Authority employee, either orally or in writing, about any complaint of harassment, that employee must report such information to the Compliance Officer or designee within two (2) business days.

Throughout the course of the process as described herein, the Compliance Officer should keep the parties informed of the status of the investigation and the decision making process.

All formal complaints must include the following information to the extent it is available; the identity of the individual believed to have engaged in, or engaging in, offensive conduct/harassment/retaliation; a detailed description of the facts upon which the complaint is based; a list of potential witnesses; and the resolution sought by the complainant.

If the complainant is unwilling or unable to provide a written statement including the information set forth above, the Compliance Officer shall ask for such details in an oral interview. Thereafter the Compliance Officer will prepare a written summary of the oral interview, and the complainant will be asked to verify the accuracy of the reported charge by signing the document.

Upon receiving a formal complaint, the Compliance Officer will consider whether any action should be taken in the investigatory phase to protect the complainant from further harassment or retaliation including but not limited to a change of work assignment or schedule for the complainant and/or the alleged harasser. In making such a determination, the Compliance Officer should consult the complainant to assess his/her agreement to any action deemed appropriate. If the complainant is unwilling to consent to any change that is deemed appropriate by the Compliance Officer, the Compliance Officer may still take whatever actions s/he deem appropriate in consultation with the Superintendent and/or Board Attorney.

Within five (5) business days of receiving a formal complaint, the Compliance Officer or a designee will initiate a formal investigation to determine whether the complainant has been subjected to offensive conduct/harassment/retaliation. A Principal will not conduct an investigation unless directed to do so by the Compliance Officer.

Simultaneously, the Compliance Officer will inform the individual alleged to have engaged in the harassing conduct, hereinafter referred to as the "respondent", that a complaint has been received. The respondent will be informed about the nature of the allegations and a copy of these administrative procedures and the Board's anti-harassment policy shall be provided to the respondent at that time. The respondent must also be informed of the opportunity to submit a written response to the complaint within five (5) business days.

Although certain cases may require additional time, the Compliance Officer or a designee will attempt to complete an investigation into the allegations of harassment/retaliation within fifteen (15) calendar days of receiving the formal complaint. The investigation will include:

- A. Interviews with the complainant;
- B. Interviews with the respondent;
- C. Interviews with any other witnesses who may reasonably be expected to have any information relevant to the allegations;
- D. consideration of any documentation or other evidence presented by the complainant, respondent, or any other witness which is reasonably believed to be relevant to the allegations.

At the conclusion of the investigation, the Compliance Officer shall consult with the Superintendent. A written report shall then be prepared and delivered to the Superintendent which summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of unlawful harassment as provided in Board policy and State and Federal law as to whether the complainant has been subject to unlawful harassment. The Compliance Officer's recommendations must be based upon the totality of the circumstances, including the ages and maturity levels of those involved. In determining if discriminatory harassment or retaliation occurred, a preponderance of evidence standard will be used. The Compliance Officer may consult with the Board Attorney before finalizing the report to the Superintendent.

Absent extenuating circumstances, within ten (10) business days of receiving the report of the Compliance Officer or the designee, the Superintendent must either issue a final decision regarding whether or not the complaint of harassment has been substantiated or request further investigation. A copy of the Superintendent's final decision will be delivered to both the complainant and the respondent.

If the Superintendent requests additional investigation, the Superintendent must specify the additional information that is to be gathered, and such additional investigation must be completed within ten (10) business days. At the conclusion of the additional investigation, the Superintendent must issue a final written decision as described above.

The decision of the Superintendent shall be final.



The Superintendent reserves the right to investigate and resolve a complaint or report of unlawful harassment regardless of whether the member of the Authority community or third party alleging the unlawful harassment pursues the complaint. The superintendent also reserves the right to have the formal complaint investigation conducted by an external person in accordance with this policy or in such other manner as deemed appropriate by the superintendent.

### Privacy/Confidentiality

The Authority will employ all reasonable efforts to protect the rights of the complainant, the individual(s) against whom the complaint is filed, and the witnesses as much as possible, consistent with the Board's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations. All records generated under the terms of this policy and related administrative procedures shall be maintained as confidential to the extent permitted by law. Confidentiality, however, cannot be guaranteed. All complainants proceeding through the formal investigation process will be advised that their identities may be disclosed to the respondent.

During the course of a formal investigation, the Compliance Officer or his/her designee will instruct all members of the Authority community and third parties who are interviewed about the importance of maintaining confidentiality. Any individual who is interviewed as part of a harassment investigation is expected not to disclose any information that s/he learns or that s/he provides during the course of the investigation.

All public records created as a part of an investigation of a complaint of harassment will be maintained by the Compliance Officer in accordance with the Board's records retention policy. Any records which are considered student records in accordance with the *Family Educational Rights and Privacy Act* will be maintained in a manner consistent with the provisions of the Federal and State laws.

### Sanctions and Monitoring

The Superintendent shall vigorously enforce the Board's prohibitions against unlawful harassment by taking appropriate action reasonably calculated to stop the harassment and prevent further such harassment. While observing the principles of due process, a violation of this policy may result in disciplinary action up to and including the discharge of an employee or the suspension/expulsion of a student. All disciplinary action will be taken in accordance with applicable State law and the terms of the relevant collective bargaining agreement(s). When imposing discipline, the Superintendent shall consider the totality of the circumstances involved in the matter, including the ages and maturity levels of those involved. In those cases where unlawful harassment is not substantiated, the Superintendent may consider whether the alleged conduct nevertheless warrants discipline in accordance with other Board policies, consistent with the terms of the relevant collective bargaining agreement(s).

Where the Superintendent becomes aware that a prior remedial action has been taken against a member of the Authority community, all subsequent sanctions imposed by the Board and/or Superintendent shall be reasonably calculated to end such conduct, prevent its recurrence, and remedy its effects.

### Retaliation

Any act of retaliation against a person who has made a report or filed a complaint alleging unlawful harassment, or who has participated as a witness in a harassment investigation is prohibited. Actions that could be construed as retaliation may result in disciplinary action, up to and including the discharge of the employee or the suspension/expulsion of a student involved in the retaliatory behavior.

### Allegations Constituting Criminal Conduct: Child Abuse/Sexual Misconduct

State law requires any teacher or school employee who knows or suspects that a child under the age of eighteen (18) is a victim of child abuse or neglect to immediately report that knowledge or suspicion to the Department of Children and Family Services. If, during the course of a harassment investigation, the Compliance Officer or a designee has reason to believe or suspect that the alleged conduct reasonably indicates abuse or neglect of the complainant, a report of such knowledge must be made in accordance with State law and Board policy.

If the Compliance Officer has reason to believe that the complainant has been the victim of criminal conduct as defined under Florida law, such knowledge should be reported to local law enforcement.

Any reports made to the local child protection service or to local law enforcement shall not terminate the Compliance Officer's obligation and responsibility to continue to investigate a complaint of harassment. While the Compliance Officer(s) may work cooperatively with outside agencies to conduct concurrent investigations, in no event shall the harassment investigation be inhibited by the involvement of outside agencies without good cause after consultation with the Superintendent.

### Mandatory Reporting of Misconduct by Certificated Employees



The Superintendent is required by State law and Board Policy 8141 to report alleged misconduct by certificated employees of the Authority that affects the health, safety, or welfare of a student. In accordance with Board policy and State law, the Superintendent shall investigate each allegation of such conduct and, if confirmed, shall report such misconduct pursuant to Policy 8141.

### Education and Training

In support of this policy, the Board promotes preventative educational measures to create greater awareness of unlawful discriminatory practices. The Superintendent or designee shall provide appropriate information to all members of the Authority community related to the implementation of this policy and shall provide training for Authority students and staff where appropriate. All training, as well as all information provided regarding this policy and harassment in general, will be age and content appropriate.

### Retention of Investigatory Records and Materials

All individuals charged with conducting investigations under this policy shall retain all information, documents, electronically stored information ("ESI"), and electronic media (as defined in Policy 8315) created and received as part of an investigation, including, but not limited to:

1. all written reports/allegations/complaints/statements;
2. narratives of all verbal reports/allegations/complaints/statements;
3. a narrative of all actions taken by District personnel;
4. any written documentation of actions taken by District personnel;
5. (x) written witness statements;
6. (x) narratives of, notes from, or audio, video, or digital recordings of witness statements;
7. (x) all documentary evidence;
8. (x) e-mails, texts, or social media posts pertaining to the investigation;
9. contemporaneous notes in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.) pertaining to the investigation;
10. written disciplinary sanctions issued to students or employees and a narrative of verbal disciplinary sanctions issued to students or employees for violations of the policies and procedures prohibiting discrimination or harassment;
11. dated written determinations to the parties;
12. dated written descriptions of verbal notifications to the parties;
13. written documentation of any interim measures offered and/or provided to complainants, including no contact orders issued to both parties, the dates issued, and the dates the parties acknowledged receipt; and
14. documentation of all actions taken, both individual and systemic, to stop the discrimination or harassment, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects.

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

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

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## Legal

20 U.S.C. 1400 et seq., The Individuals with Disabilities Improvement Act of 2004, as amended (commonly known as the Individuals with Disabilities Act)

29 U.S.C. 621 et seq., Age Discrimination in Employment Act of 1967

29 U.S.C. 794, Rehabilitation Act of 1973

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

42 U.S.C. 12101 et seq., Americans with Disabilities Act of 1990, as amended

42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act

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F.S. 110.1221, 250.481, 760.01, 760.10, 784.049, 1000.05, 1006.07

42 U.S.C. 2000d et seq.

42 U.S.C. 2000e et seq.

29 C.F.R. Part 1635

29 U.S.C. 6101, The Age Discrimination Act of 1975

20 U.S.C. 1681 et seq.

42 U.S.C. 1983

## Cross References

po8141- Mandatory Reporting of Misconduct by Certificated Employees8141

po5517.01- Bullying and Harassment

po1362- Anti-Harassment

po0131.1- Technical Corrections

po8220 - SCHOOL DAY

po8310 - PUBLIC RECORDS

Last Modified by Jacquelin Collins on August 19, 2019

**Item Number:** 8.B.  
**Meeting Date:** 10/8/2019  
**Item Type:** **CONSENT AGENDA:**

**AGENDA REQUEST FORM**  
City Of Cape Coral Charter School Authority

**TITLE:**

Approval of NEOLA Policy Updates: Volume 18, Number 2: Policy 2260: Nondiscrimination and Access to Equal Educational Opportunity; 3122 Nondiscrimination and Equal Employment Opportunity

**SUMMARY:**

**ADDITIONAL INFORMATION:**

**RECOMMENDED ACTION:**

**ATTACHMENTS:**

<b>Description</b>	<b>Type</b>
▣ NEOLA 2260, 3122	Backup Material



Book	Policy Manual
Section	Vol 18 #2 REVISED
Title	NONDISCRIMINATION AND ACCESS TO EQUAL EDUCATIONAL OPPORTUNITY
Code	po2260 8/24/18 fsj 8/15/19 lojc
Status	
Adopted	April 12, 2016

## 2260 - NONDISCRIMINATION AND ACCESS TO EQUAL EDUCATIONAL OPPORTUNITY

Any form of discrimination or harassment can be devastating to an individual's academic progress, social relationship, and/or personal sense of self-worth. As such, the Governing Board will not discriminate nor tolerate harassment in its educational programs or activities on the basis of race, color, national origin, sex (including sexual orientation or transgender identity), disability (including HIV, AIDS, or sickle cell trait), marital status, age (except as authorized by law), religion, military status, ancestry, or genetic information, which are classes protected by State and/or Federal law (collectively, "protected classes").

The Board also does not discriminate on the basis of protected classes in its employment policies and practices as they relate to students.

Equal educational opportunities shall be available to all students, without regard to the protected classes, age (unless age is a factor necessary to the normal operation or the achievement of any legitimate objective of the program/activity), place of residence within the boundaries of the Authority, or social or economic background, to learn through the curriculum offered in this Authority. Educational programs shall be designed to meet the varying needs of all students.

In order to achieve the aforesaid goal, the Superintendent shall:

### A. Curriculum Content

review current and proposed courses of study and textbooks to detect any bias based upon the protected classes; ascertaining whether or not supplemental materials, singly or taken as a whole, fairly depict the contribution of both genders, various races, ethnic groups, etc., toward the development of human society;

### B. Staff Training

develop an ongoing program of in-service training for school personnel designed to identify and solve problems of bias based upon the protected classes in all aspects of the program;

### C. Student Access

1. review current and proposed programs, activities, facilities, and practices to verify that all students have equal access thereto and are not segregated on the basis of the protected classes in any duty, work, play, classroom, or school practice, except as may be permitted under State and Federal laws and regulations;
2. verify that facilities are made available for non-curricular student activities that are initiated by parents or other members of the community, including but not limited to any group that is officially affiliated with the Boy Scouts of America or any other youth group listed in Title 36 of the United States Code as a patriotic society, pursuant to Board Policy 7510 - Use of Authority Facilities;

In accordance with Florida statute, the Board may establish and maintain a single-gender nonvocational class, extra-curricular activity, or school for elementary, middle, or high school students.

### D. Authority Support

verify that like aspects of the Authority's program receive like support as to staff size and compensation, purchase and maintenance of facilities and equipment, access to such facilities and equipment, and related matters;

### E. Student Assessment



verify that tests, procedures, or guidance and counseling materials, which are designed to evaluate student progress, rate aptitudes, analyze personality, or in any manner establish or tend to establish a category by which a student may be judged, are not differentiated or stereotyped on the basis of the protected classes.

### Authority Compliance Officer

The Superintendent designates the following individuals to serve as the Authority's "Compliance Officer" (also known as "Civil Rights Coordinator") (hereinafter referred to as the "CO"). If the superintendent designates another individual as CO, the Board will be notified of the change.

Name: Keith Graham Leisa Orcutt

Title: Principal, Oasis Middle School Human Resources Manager

Phone: 239-945-1999 239-424-6100 X456

Address: 3519 Oasis Blvd.  
Cape Coral, Florida 33914

E-mail: keith-graham@capecharterschools.org leisa.orcutt@capecharterschool.org

Name: Jacqueline Collins

Title: Superintendent, Cape Coral Charter School Authority

Phone: 239-424-6100 X 447

Address: 3519 Oasis Blvd.  
Cape Coral, Florida 33914

E-mail: jacquelin.collins@capecharterschools.org

The name(s), title(s), and contact information of this/these individual(s) will be published annually on the Authority's web site.

The CO is responsible for coordinating the Authority's efforts to comply with applicable Federal and State laws and regulations, including the Authority's duty to address in a prompt and equitable manner any inquiries or complaints regarding discrimination or denial of equal access. The CO(s) shall also verify that proper notice of nondiscrimination for Title II of the Americans with Disabilities Act (as amended), Title VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendment Act of 1972, Section 504 of the Rehabilitation Act of 1973 (as amended), the Age Discrimination Act of 1975, the Florida Civil Rights Act of 1992, the Florida Educational Equity Act, and/or their implementing regulations is provided to students, their parents, staff members, and the general public. A copy of each of the acts and regulations on which this notice is based may be found in the CO's office.

The Superintendent shall annually attempt to identify children with disabilities, ages 3-22, who reside in the Authority but do not receive public education. In addition, s/he shall establish procedures to identify students who are Limited English Proficient (LEP), including immigrant children and youth, to assess their ability to participate in Authority programs, and develop and administer a program that meets the English language and academic needs of these students. This program shall include procedures for student placement, services, evaluation, and exit procedures and shall be designed to provide students with effective instruction that leads to academic achievement and timely acquisition of proficiency in English. As a part of this program, the Authority will evaluate the progress of students in achieving English language proficiency in the areas of listening, speaking, reading, and writing, on an annual basis (see AP 2260F).

### Reports and Complaints of Unlawful Discrimination and Retaliation

Students and all other members of the Authority community and third parties are encouraged to promptly report incidents of unlawful discrimination and/or retaliation to a teacher, administrator, supervisor, or other Authority official so that the Board may address the conduct. Any teacher, administrator, supervisor, or other Authority employee or official who receives such a complaint shall file it with the CO at his/her first convenience.

Members of the Authority community, which includes students or third parties, who believe they have been unlawfully discriminated/retaliated against are entitled to utilize the complaint process set forth below. Initiating a complaint, whether formally or informally, will not adversely affect the complaining individual's employment or participation in educational or extra-curricular programs. While there are no time limits for initiating complaints under this policy, individuals should make every effort to file a complaint as soon as possible after the conduct occurs while the facts are known and potential witnesses are



available.

If, during an investigation of alleged bullying, aggressive behavior, and/or harassment in accordance with Policy 5517.01 – Bullying and Harassment, the Principal believes that the reported misconduct may constitute unlawful discrimination based on a protected class, the Principal shall report the act to one of the COs who shall investigate the allegation in accordance with this policy. While the CO investigates the allegation, the Principal shall suspend his/her Policy 5517.01 investigation to await the CO's written report. The CO shall keep the Principal informed of the status of the Policy 2260 investigation and provide him/her with a copy of the resulting written report.

The CO will be available during regular school/work hours to discuss concerns related to unlawful discrimination/retaliation. CO shall accept complaints of unlawful discrimination/retaliation directly from any member of the Authority community or a visitor to the Authority, or receive complaints that are initially filed with a school building administrator. Upon receipt of a complaint either directly or through a school building administrator, a CO will begin either an informal or formal process (depending on the request of the person alleging the discrimination/retaliation or the nature of the alleged discrimination/retaliation), or the CO will designate a specific individual to conduct such a process. The CO will provide a copy of this policy to any person who files a complaint. In the case of a formal complaint, the CO will prepare recommendations for the Superintendent or oversee the preparation of such recommendations by a designee. All members of the Authority community must report incidents of discrimination/retaliation that are reported to them to the CO within two (2) business days of learning of the incident/conduct.

Any Board employee who directly observes unlawful discrimination/retaliation of a student is obligated, in accordance with this policy, to report such observations to one of the CO within two (2) business days. Additionally, any Board employee who observes an act of unlawful discrimination/retaliation is expected to intervene to stop the misconduct, unless circumstances make such an intervention dangerous, in which case the staff member should immediately notify other Board employees and/or local law enforcement officials, as necessary, to stop the misconduct. Thereafter, the CO or designee must contact the student, if age eighteen (18) or older, or the student's parents if the student is under the age eighteen (18), within two (2) school days to advise s/he/them of the Board's intent to investigate the alleged wrongdoing.

### **Investigation and Complaint Procedure**

Any student who believes that s/he has been subjected to unlawful discrimination or retaliation may seek resolution of his/her complaint through the procedures described below. The formal complaint procedures involve an investigation of the individual's claims and a process for rendering a decision regarding whether the charges are substantiated.

Due to the sensitivity surrounding complaints of unlawful discrimination or retaliation, timelines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) calendar days after the conduct occurs. Once the formal complaint process is begun, the investigation will be completed in a timely manner (ordinarily, within fifteen (15) business days of the complaint being received).

The procedures set forth below are not intended to interfere with the rights of a student to pursue a complaint of unlawful discrimination or retaliation with the United States Department of Education Office for Civil Rights ("OCR"). The Atlanta Office of the OCR can be reached at 61 Forsyth Street, SW. - Suite 16T70 Atlanta, GA 30303-8909 (404) 562-7886; (404) 562-7884 TDD; (404) 562-7881 FAX; Web: <http://www.ed.gov/ocr>.

### **Informal Complaint Procedure**

The goal of the informal complaint procedure is to quickly stop inappropriate behavior and facilitate resolution through an informal means, if possible. The informal complaint procedure is provided as a less formal option for a student who believes s/he has been unlawfully discriminated or retaliated against. This informal procedure is not required as a precursor to the filing of a formal complaint.

The informal process is only available in those circumstances where the parties (the alleged target of the discrimination and individual(s) alleged to have engaged in the discrimination) agree to participate in it.

Students who believe that they have been unlawfully discriminated/retaliated against may proceed immediately to the formal complaint process and individuals who seek resolution through the informal procedure may request that the informal process be terminated at any time to move to the formal complaint process.

All complaints involving an Authority employee or any other adult member of the Authority community against a student will be formally investigated.

As an initial course of action, if a student feels that s/he is being unlawfully discriminated/retaliated against and s/he is able and feels safe doing so, the individual should tell or otherwise inform the person who engaged in the allegedly discriminatory/retaliatory conduct that it is inappropriate and must stop. The complaining individual should address the alleged misconduct as soon after it occurs as possible. The CO are available to support and counsel individuals when taking this initial step or to intervene on behalf of the individual if requested to do so. An individual who is uncomfortable or unwilling to inform



the person who allegedly engaged in the unlawful conduct of his/her concerns is not prohibited from otherwise filing an informal or a formal complaint. In addition, with regard to certain types of unlawful discrimination, such as sexual discrimination, the CO may advise against the use of the informal complaint process.

A student who believes s/he has been unlawfully discriminated/retaliated against may make an informal complaint, either orally or in writing: (1) to a teacher, other employee, or building administrator in the school the student attends; (2) to the Superintendent or other Authority-level employee; and/or (3) directly to the CO.

All informal complaints must be reported to one of the CO who will either facilitate an informal resolution as described below, or appoint another individual to facilitate an informal resolution.

The Authority's informal complaint procedure is designed to provide students who believe they are being unlawfully discriminated/retaliated against with a range of options aimed at bringing about a prompt resolution of their concerns. Depending upon the nature of the complaint and the wishes of the student claiming unlawful discrimination/retaliation, informal resolution may involve, but not be limited to, one (1) or more of the following:

- A. Advising the student about how to communicate his/her concerns to the person who allegedly engaged in the discriminatory/retaliatory behavior.
- B. Distributing a copy of Policy 2260 – Nondiscrimination and Access to Equal Educational Opportunity as a reminder to the individuals in the school building or office where the individual whose behavior is being questioned works or attends.
- C. If both parties agree, the CO may arrange and facilitate a meeting between the student claiming discrimination/retaliation and the individual accused of engaging in the misconduct to work out a mutual resolution.

While there are no set time limits within which an informal complaint must be resolved, the CO or designee will exercise his/her authority to attempt to resolve all informal complaints within fifteen (15) business days of receiving the informal complaint. Parties who are dissatisfied with the results of the informal complaint process may proceed to file a formal complaint. And, as stated above, parties may request that the informal process be terminated at any time to move to the formal complaint process.

All materials generated as part of the informal complaint process will be retained by the CO in accordance with the Board's records retention policy and/or student records policy. (See Policy 8310 and Policy 8330)

### **Formal Complaint Procedure**

If a complaint is not resolved through the informal complaint process, if one (1) of the parties requested that the informal complaint process be terminated to move to the formal complaint process, or if the student elects to file a formal complaint initially, the formal complaint process shall be implemented.

A student who believes s/he has been subjected to unlawful discrimination/retaliation (hereinafter referred to as the "complainant") may file a formal complaint, either orally or in writing, with a teacher, Principal, or other Authority employee at the student's school, the CO, Superintendent, or another Authority employee who works at another school or at the Authority level. Due to the sensitivity surrounding complaints of unlawful discrimination, timelines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) calendar days after the conduct occurs. If a complainant informs a teacher, Principal, or other Authority employee at the student's school, Superintendent, or other Authority employee, either orally or in writing, about any complaint of discrimination/retaliation, that employee must report such information to the CO within two (2) business days.

Throughout the course of the process, the CO should keep the parties informed of the status of the investigation and the decision-making process.

All formal complaints must include the following information to the extent it is available: the identity of the individual believed to have engaged in, or be engaging in; the discriminatory/retaliatory conduct; a detailed description of the facts upon which the complaint is based; a list of potential witnesses; and the resolution sought by the complainant.

If the complainant is unwilling or unable to provide a written statement including the information set forth above, the CO shall ask for such details in an oral interview. Thereafter, the CO will prepare a written summary of the oral interview, and the complainant will be asked to verify the accuracy of the reported charge by signing the document.

Upon receiving a formal complaint, the CO will consider whether any action should be taken in the investigatory phase to protect the complainant from further discrimination or retaliation, including, but not limited to, a change of work assignment or schedule for the complainant and/or the person alleged to have engaged in the misconduct. In making such a determination, the CO should consult the complainant to assess his/her agreement to the proposed action. If the complainant is unwilling to consent to the proposed change, the CO may still take whatever actions s/he deems appropriate in consultation with the Superintendent.



Within two (2) business days of receiving the complaint, the CO or designee will initiate a formal investigation to determine whether the complainant has been subjected to unlawful discrimination/retaliation. A Principal will not conduct an investigation unless directed to do so by the Superintendent.

Simultaneously, the CO will inform the individual alleged to have engaged in the discriminatory or retaliatory conduct (hereinafter referred to as the "respondent") that a complaint has been received. The respondent will be informed about the nature of the allegations and provided with a copy of any relevant policies and/or administrative guidelines, including Policy 2260 - Nondiscrimination and Access to Equal Educational Opportunity. The respondent must also be informed of the opportunity to submit a written response to the complaint within five (5) business days.

Although certain cases may require additional time, the CO or designee will attempt to complete an investigation into the allegations of discrimination/retaliation within fifteen (15) business days of receiving the formal complaint. The investigation will include:

- A. interviews with the complainant;
- B. interviews with the respondent;
- C. interviews with any other witnesses who may reasonably be expected to have any information relevant to the allegations;
- D. consideration of any documentation or other information presented by the complainant, respondent, or any other witness that is reasonably believed to be relevant to the allegations.

At the conclusion of the investigation, the CO or designee shall prepare and deliver a written report to the Superintendent that summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of unlawful discrimination/retaliation as provided in Board policy and State and Federal law as to whether the complainant has been subjected to unlawful discrimination/retaliation. The CO's recommendations must be based upon the totality of the circumstances, including the ages and maturity levels of those involved. In determining if unlawful discrimination or retaliation occurred, a preponderance of evidence standard will be used.

Absent extenuating circumstances, within five (5) business days of receiving the report of the CO or designee, the Superintendent must either issue a final decision regarding whether the charges have been substantiated or request further investigation. A copy of the Superintendent's final decision will be delivered to both the complainant and the respondent.

If the Superintendent requests additional investigation, the Superintendent must specify the additional information that is to be gathered, and such additional investigation must be completed within five (5) days. At the conclusion of the additional investigation, the Superintendent shall issue a final written decision as described above.

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

The decision of the Superintendent shall be final.

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

The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies such as the filing of a complaint with the Office for Civil Rights or the filing of a court case. Use of this internal complaint procedure is not a prerequisite to the pursuit of other remedies.

### **Privacy/Confidentiality**

The Authority will employ all reasonable efforts to protect the rights of the complainant, the respondent(s), and the witnesses as much as possible, consistent with the Board's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations. All records generated under the terms of this policy shall be maintained as confidential to the extent permitted by law. Confidentiality, however, cannot be guaranteed. All complainants proceeding through the formal investigation process will be advised that their identities may be disclosed to the respondent(s).

During the course of a formal investigation, the CO or designee will instruct each person who is interviewed about the importance of maintaining confidentiality. Any individual who is interviewed as part of an investigation is expected not to disclose to third parties any information that s/he learns and/or provides during the course of the investigation.

All records created as a part of an investigation of a complaint of discrimination/retaliation will be maintained by the CO in accordance with the Board's records retention policy. Any records that are considered student education records in accordance



with the Family Educational Rights and Privacy Act or under Florida's student records law will be maintained in a manner consistent with the provisions of the Federal and State law.

### Sanctions and Monitoring

The Board shall vigorously enforce its prohibitions against unlawful discrimination/retaliation by taking appropriate action reasonably calculated to stop and prevent further misconduct. While observing the principles of due process, a violation of this policy may result in disciplinary action up to and including the discharge of an employee or the suspension/expulsion of a student. All disciplinary action will be taken in accordance with applicable State law. When imposing discipline, the Superintendent shall consider the totality of the circumstances involved in the matter, including the ages and maturity levels of those involved. In those cases where unlawful discrimination/retaliation is not substantiated, the Board may consider whether the alleged conduct nevertheless warrants discipline in accordance with other Board policies.

Where the Board becomes aware that a prior remedial action has been taken against a member of the Authority community, all subsequent sanctions imposed by the Board and/or Superintendent shall be reasonably calculated to end such conduct, prevent its recurrence, and remedy its effects.

### Retaliation

Retaliation against a person who makes a report or files a complaint alleging unlawful discrimination, or participates as a witness in an investigation is prohibited. Specifically, the Board will not retaliate against, coerce, intimidate, threaten or interfere with any individual because the person opposed any act or practice made unlawful by any Federal or State civil rights law, or because that individual made a charge, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under those laws, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws.

### Education and Training

In support of this policy, the Board promotes preventative educational measures to create greater awareness of unlawful discriminatory practices. The Superintendent or designee shall provide appropriate information to all members of the Authority community related to the implementation of this policy and shall provide training for Authority students and staff where appropriate. All training, as well as all information, provided regarding the Board's policy and discrimination in general, will be age and content appropriate.

### Retention of Investigatory Records and Materials

All individuals charged with conducting investigations under this policy shall retain all information, documents, electronically stored information ("ESI"), and electronic media (as defined in Policy 8315) created and received as part of an investigation, including, but not limited to:

1. all written reports/allegations/complaints/statements;
2. narratives of all verbal reports/allegations/complaints/statements;
3. a narrative of all actions taken by District personnel;
4. any written documentation of actions taken by District personnel to include;
5. (X) written witness statements;
6. (X) narratives of, notes from, or audio, video, or digital recordings of witness statements;
7. (X) all documentary evidence;
8. (X) e-mails, texts, or social media posts pertaining to the investigation;
9. contemporaneous notes in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.) pertaining to the investigation;
10. written disciplinary sanctions issued to students or employees and a narrative of verbal disciplinary sanctions issued to students or employees for violations of the policies and procedures prohibiting discrimination or harassment;



11. dated written determinations to the parties;
12. dated written descriptions of verbal notifications to the parties;
13. written documentation of any interim measures offered and/or provided to complainants, including no contact orders issued to both parties, the dates issued, and the dates the parties acknowledged receipt; and
14. documentation of all actions taken, both individual and systemic, to stop the discrimination or harassment, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects.

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

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

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Legal	<p>Vocational Education Program Guidelines for Eliminating Discrimination and Denial of Services, Department of Education, Office of Civil Rights, March 1979</p> <p>Fourteenth Amendment, U.S. Constitution</p> <p>F.S. 760.021, 760.08</p> <p>F.S. 1002.311</p> <p>20 U.S.C. Section 1701 et seq., Equal Educational Opportunities Act of 1974</p> <p>20 U.S.C. Section 7905, Boy Scouts of America Equal Access Act</p> <p>42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act</p> <p>29 U.S.C. Section 794, Rehabilitation Act of 1973, as amended</p> <p>42 U.S.C. 12101 et seq., The Americans with Disabilities Act of 1990, as amended</p> <p>42 U.S.C. 6101 et seq., Age Discrimination Act of 1975</p> <p>Vocational Education Program Guidelines for Eliminating Discrimination and Denial of Services, Department of Education, Office of Civil Rights, March 1979</p> <p>F.S. 553.501 et seq., Florida Americans with Disabilities Accessibility Implementation Act</p> <p>F.S. 1000.05, Florida Educational Equity Act</p> <p>F.A.C. 6A-19.001</p> <p>Fourteenth Amendment, U.S. Constitution</p> <p>20 U.S.C. Section 1681, Title IX of Education Amendment Act</p> <p>42 U.S.C. Section 2000 et seq., Civil Rights Act of 1964</p> <p>34 C.F.R. Part 110 (7/27/93)</p> <p>29 C.F.R. Part 1635</p> <p>Title III of the No Child Left Behind Act of 2001</p>
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Book	Policy Manual
Section	Vol 18 #2 REVISED
Title	NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY
Code	po3122 8/24/18 fsj 8/15/19 lojc
Status	
Adopted	April 12, 2016

### 3122 - NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY

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

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

The Superintendent shall appoint compliance officer whose responsibility it will be to require that Federal and State regulations are complied with and that any inquiries or complaints are dealt with promptly in accordance with law. The Superintendent shall also require that proper notice of nondiscrimination for Title II, Title VI, and Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendment Act of 1972, Section 504 of the Rehabilitation Act of 1973, Americans with Disabilities Act of 1990, and the Age Discrimination in Employment Act will be provided to staff members and the general public. Any sections of the Authority's collectively-bargained, negotiated agreements dealing with hiring, promotion, and tenure will contain a statement of nondiscrimination similar to that in the Board's statement above.

#### Compliance Officer

The following person is designated as the Compliance Officer (CO):

Name: ~~Keith Graham~~ Leisa Orcutt

Title: ~~Principal, Oasis Middle School~~ Human Resources Manager

Phone: ~~239-945-1995~~ 239-424-6100 X456

Address: 3519 Oasis Blvd.  
Cape Coral, Florida 33914

E-mail: ~~keith.graham@capecharterschools.org~~ leisa.orcutt@capecharterschools.org

The name(s), title(s), and contact information of this/these individual(s) will be published annually on the Authority's web site.

#### Complaint Procedures

If a person believes that s/he has been subjected to unlawful discrimination, the person may utilize the following complaint procedures as a means of reaching, at the lowest possible administrative level, a prompt and equitable resolution of the matter.

In accordance with Federal and State law, employees will be notified of their right to file an internal complaint regarding an alleged violation, misinterpretation, or misapplication of Federal and/or State law. In addition, employees will be notified of their right to file a complaint with the U.S. Department of Education's Office for Civil Rights, the Florida Commission on Human Relations, or the Equal Employment Opportunity Commission.

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



## Internal Complaint Procedure

The following internal complaint procedure is available to employees for the prompt and equitable resolution of complaints alleging discrimination based upon disability. This complaint procedure is not available to unsuccessful applicants. Use of the internal complaint procedure is not a prerequisite to the pursuit of other remedies, including the filing of a complaint with the U.S. Department of Education's Office for Civil Rights, the Florida Commission on Human Relations, or the Equal Employment Opportunity Commission.

- A. An employee with a complaint based on alleged discrimination on the basis of disability may first discuss the problem with the compliance officer.
- B. If the informal discussion does not resolve the matter, or if the employee skips Step A, the individual may file a formal written complaint with the compliance officer. The written complaint must contain the name and address of the individual or representative filing the complaint, be signed by the complainant or someone authorized to sign for the complainant, describe the alleged discriminatory action in sufficient detail to inform the compliance officer of the nature and date of the alleged violation, and propose a resolution. The complaint must be filed within thirty (30) calendar days of the circumstances or event giving rise to the complaint, unless the time for filing is extended by the compliance officer for good cause.
- C. The compliance officer will conduct an independent investigation of the matter (which may or may not include a hearing). This complaint procedure contemplates informal, but thorough investigations, affording all interested persons and their representatives, if any, an opportunity to present witnesses and other evidence relevant to the complaint. The compliance officer will provide the complainant with a written disposition of the complaint within ten (10) work days. If no decision is rendered within ten (10) work days, or the decision is unsatisfactory in the opinion of the complainant, the employee may file, in writing, an appeal with the Superintendent. The compliance officer shall maintain the Authority's files and records relating to the complaint.
- D. The Superintendent will, within ten (10) work days of receiving the written appeal, conduct a hearing with all parties involved in an attempt to resolve the complaint.  
  
The Superintendent will render his/her decision within ten (10) work days of the hearing.
- E. The employee may be represented, at his/her own cost, at any of the above-described meetings/hearings.
- F. The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies such as the filing of a complaint with the Office for Civil Rights or the filing of a court case. Use of this internal complaint procedure is not a prerequisite to the pursuit of other remedies.

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

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

At any time, if an employee believes that s/he has been subjected to unlawful discrimination, the individual may file a complaint with the U.S. Department of Education's Office for Civil Rights ("OCR"), the Florida Commission on Human Relations (FCHR), or the Equal Employment Opportunity Commission ("EEOC").

## Appealing to OCR/Florida Commission on Human Relations/EEOC

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

## Retaliation

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

## Training



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

## Notice

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

## Retention of Investigatory Records and Materials

All individuals charged with conducting investigations under this policy shall retain all information, documents, electronically stored information ("ESI"), and electronic media (as defined in Policy 8315) created and received as part of an investigation, including, but not limited to:

1. all written reports/allegations/complaints/statements;
2. narratives of all verbal reports/allegations/complaints/statements;
3. a narrative of all actions taken by District personnel;
4. any written documentation of actions taken by District personnel to include:
5. (X) written witness statements;
6. (X) narratives of, notes from, or audio, video, or digital recordings of witness statements;
7. (X) all documentary evidence;
8. (X) e-mails, texts, or social media posts pertaining to the investigation;
9. contemporaneous notes in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.) pertaining to the investigation;
10. written disciplinary sanctions issued to students or employees and a narrative of verbal disciplinary sanctions issued to students or employees for violations of the policies and procedures prohibiting discrimination or harassment;
11. dated written determinations to the parties;
12. dated written descriptions of verbal notifications to the parties;
13. written documentation of any interim measures offered and/or provided to complainants, including no contact orders issued to both parties, the dates issued, and the dates the parties acknowledged receipt; and
14. documentation of all actions taken, both individual and systemic, to stop the discrimination or harassment, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects.

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

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



Legal	<p>29 U.S.C. 701 et seq., Rehabilitation Act of 1973</p> <p>F.S. 1000.05</p> <p>F.S. 760.01, 760.10</p> <p>42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act</p> <p>29 U.S.C. 621 et seq., Age Discrimination in Employment Act of 1967</p> <p>29 U.S.C. 701 et seq., Rehabilitation Act of 1973</p> <p>F.S. 110.1221, 250.481, 760.01, 760.10, 1000.05</p> <p>20 U.S.C. 1681 et seq., Title IX</p> <p>42 U.S.C., 2000e, et seq., Civil Rights Act of 1964</p> <p>42 U.S.C. 12112, Americans with Disabilities Act of 1990</p> <p>29 C.F.R. Part 1635</p> <p>38 U.S.C. 4301 et seq., The Uniformed Services Employment and Reemployment Rights Act</p>
Cross References	<p>ap 3122C- Comparative Analysis of Employment Related Provisions of ADA and Section 504</p> <p>ap 3122B- Complaint Procedures for Nondiscrimination and Equal Opportunity/Access</p> <p>ap3122A- Federal Regulations for Section 504 34 C.F.R. CH. 1 (7-1-88 Edition) Subpart B- Employment Practices</p> <p>ap 3122- Nondiscrimination And Equal Employment Opportuntiy</p>

Last Modified by Jacquelin Collins on August 15, 2019

**Item Number:** 8.C.  
**Meeting Date:** 10/8/2019  
**Item Type:** **CONSENT AGENDA:**

**AGENDA REQUEST FORM**  
City Of Cape Coral Charter School Authority

**TITLE:**

Approval of NEOLA Policy Updates: Volume 18, Number 2: Policy 3122 Nondiscrimination and Equal Employment Opportunity

**SUMMARY:**

**ADDITIONAL INFORMATION:**

**RECOMMENDED ACTION:**

**ATTACHMENTS:**

<b>Description</b>	<b>Type</b>
▢ NEOLA 3362	Backup Material



Book	Policy Manual
Section	Vol 18 #2 REVISED
Title	ANTI-HARASSMENT
Code	po3362 8/24/18 fsj 8/15/19 lojc
Status	
Adopted	April 12, 2016

## 3362 - ANTI-HARASSMENT

### General Policy Statement

It is the policy of the Governing Board to maintain an educational and work environment that is free from all forms of unlawful harassment, including sexual harassment. This commitment applies to all Authority operations, programs, and activities. All students, administrators, teachers, staff, and all other school personnel share responsibility for avoiding, discouraging, and reporting any form of unlawful harassment. This policy applies to unlawful conduct occurring on school property, or at another location if such conduct occurs during an activity sponsored by the Board.

The Superintendent will vigorously enforce its prohibition against discriminatory harassment on the basis of race, color, national origin, sex (including sexual orientation or transgender identity), disability (including HIV, AIDS, or sickle cell trait), marital status, age (except as authorized by law), religion, military status, ancestry, or genetic information which are classes protected by State and/or Federal law (collectively, "protected classes") (hereinafter referred to as unlawful harassment), and encourages those within the Authority community as well as third parties, who feel aggrieved to seek assistance to rectify such problems. The Superintendent will investigate all allegations of unlawful harassment and in those cases where unlawful harassment is substantiated, the Superintendent will take immediate steps to end the harassment, prevent its recurrence, and remedy its effects. Individuals who are found to have engaged in unlawful harassment will be subject to appropriate disciplinary action.

For purposes of this policy, "Authority community" means students, administrators, teachers, staff, as well as Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Board.

For purposes of this policy, "third parties" include, but are not limited to, guests and/or visitors on Authority property (e.g., visiting speakers, participants on opposing athletic teams, parents), vendors doing business with, or seeking to do business with, the Board, and other individuals who come in contact with members of the Authority community at school-related events/activities (whether on or off Authority property).

### Other Violations of the Anti-Harassment Policy

The Superintendent will also take immediate steps to impose disciplinary action on individuals engaging in any of the following prohibited acts:

- A. Retaliating against a person who has made a report or filed a complaint alleging unlawful harassment, or who has participated as a witness in a harassment investigation.
- B. Filing a malicious or knowingly false report or complaint of unlawful harassment.
- C. Disregarding, failing to investigate adequately, or delaying investigation of allegations of unlawful harassment, when responsibility for reporting and/or investigating unlawful harassment charges comprises part of one's supervisory duties.

### Definitions

#### Bullying

Bullying rises to the level of unlawful harassment when one or more persons systematically and chronically inflict physical hurt or psychological distress on one (1) or more students or employees and that bullying is based upon sex, race, color, national origin, religion, or disability, that is, characteristics that are protected by Federal civil rights laws. It is defined as any 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. This unlawful harassment may include, but not be limited to, the following:

- A. teasing;
- B. threats;
- C. intimidation;
- D. stalking;
- E. cyberstalking;
- F. cyberbullying;
- G. gaslighting;
- H. physical violence;
- I. theft;
- J. sexual, religious, or racial harassment;
- K. public humiliation; or
- L. destruction of property.

**"Harassment"** means any threatening, insulting, or dehumanizing gesture, use of data or computer software, or written, verbal or physical conduct directed against a student or school employee that:

- A. places a student or school employee in reasonable fear of harm to his/her person or damage to his/her property;
- B. has the effect of substantially interfering with a student's educational performance, opportunities, or benefits; or
- C. has the effect of substantially disrupting the orderly operation of a school.

### **Sexual Harassment**

Pursuant to Title VII of the Civil Rights Act of 1964 and Title IX of the Educational Amendments of 1972, "sexual harassment" is defined as:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when:

- A. Submission to such conduct is made either implicitly or explicitly a term or condition of an individual's employment, or status in a class, educational program, or activity.
- B. Submission or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individual.
- C. Such conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity.

Sexual harassment may involve the behavior of a person of either gender against a person of the same or opposite gender.

Prohibited acts that constitute sexual harassment may take a variety of forms. Examples of the kinds of conduct that may constitute sexual harassment include, but are not limited to:

- A. Unwelcome sexual propositions, invitations, solicitations, and flirtations.
- B. Unwanted physical and/or sexual contact.
- C. Threats or insinuations that a person's employment, wages, academic grade, promotion, classroom work or assignments, academic status, participation in athletics or extra-curricular programs or events, or other conditions of employment or education may be adversely affected by not submitting to sexual advances.



- D. Unwelcome verbal expressions of a sexual nature, including graphic sexual commentaries about a person's body, dress, appearance, or sexual activities; the unwelcome use of sexually degrading language, jokes, or innuendoes; unwelcome suggestive or insulting sounds or whistles; obscene telephone calls.
- E. Sexually suggestive objects, pictures, videotapes, audio recordings, or literature placed in the work or educational environment, which may embarrass or offend individuals.
- F. Unwelcome and inappropriate touching, patting, or pinching; obscene gestures.
- G. A pattern of conduct, which can be subtle in nature, that has sexual overtones and is intended to create or has the effect of creating discomfort and/or humiliation to another.
- H. Remarks speculating about a person's sexual activities or sexual history, or remarks about one's own sexual activities or sexual history.
- I. Consensual sexual relationships where such relationship leads to favoritism of a subordinate employee with whom the superior is sexually involved and where such favoritism adversely affects other employees or otherwise creates a hostile work environment.
- J. Verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping that does not involve conduct of a sexual nature.
- K. Inappropriate boundary invasions by an Authority employee or other adult member of the Authority community into a student's personal space and personal life.

Not all behavior with sexual connotations constitutes unlawful sexual harassment. Sex-based and gender-based conduct must be sufficiently severe, pervasive, and persistent such that it adversely affects, limits, or denies an individual's employment, or such that it creates a hostile or abusive employment or educational environment.

**NOTE: Any teacher, administrator, coach, or other school authority who engages in sexual conduct with a student may also be guilty of a crime.**

#### **Race/Color Harassment**

Prohibited racial harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's race or color and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's race or color, such as racial slurs, nicknames implying stereotypes, epithets, and/or negative references relative to racial customs.

#### **Religious (Creed) Harassment**

Prohibited religious harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's religion or creed and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's religious tradition, clothing, or surnames, and/or involves religious slurs.

#### **National Origin Harassment**

Prohibited national origin harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's national origin and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's national origin, such as negative comments regarding customs, manner of speaking, language, surnames, or ethnic slurs.

#### **Disability Harassment**

Prohibited disability harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's disability and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's disabling condition, such as negative comments about speech patterns, movement,



physical impairments, or defects/appearances, or the like. Such harassment may further occur where conduct is directed at or pertains to a person's genetic information.

### Reports and Complaints of Harassing Conduct

Members of the Authority community and third parties, which includes all staff, are encouraged to promptly report incidents of unlawful harassing conduct to an administrator, supervisor, or other Authority official so that the Superintendent may address the conduct before it becomes severe, pervasive, or persistent. Any administrator, supervisor, or other Authority official who receives such a complaint shall file it with the Authority's Anti-Harassment Compliance Officer within two (2) business days.

Members of the Authority community or third parties who believe they have been unlawfully harassed by another member of the Authority community or a third party are entitled to utilize the Board's complaint process that is set forth below. Initiating a complaint, whether formally or informally, will not adversely affect the complaining individual's employment or participation in educational or extra-curricular programs unless the complaining individual makes the complaint maliciously or with knowledge that it is false. While there are no time limits for initiating complaints of harassment under this policy, individuals should make every effort to file a complaint as soon as possible after the conduct occurs while the facts are known and potential witnesses are available.

If, during an investigation of reported act of bullying and/or harassment in accordance with Policy 5517.01 - Bullying and Harassment, the principal or his/her designee believes that the reported misconduct may have created a hostile work environment and may have constituted unlawful discriminatory harassment based on sex, race, color, national origin, religion, or disability, the principal or his/her designee will report the act of bullying and/or harassment to one of the Compliance Officers who shall investigate the allegation in accordance with this policy. While the Compliance Officer investigates the allegation, the Principal shall suspend his/her Policy 5517.01 investigation to await the Compliance Officer's written report. The Compliance Officer shall keep the Principal informed of the status of the Policy 3362 investigation and provide him/her with a copy of the resulting written report.

### Anti-Harassment Compliance Officers

The following individuals serve as "Anti-Harassment Compliance Officers" for the Authority. They are hereinafter referred to as the "Compliance Officers".

Elementary School Principal Superintendent  
Jacquelin Collins  
2817 SW 3rd Lane 351 Oasis Blvd.  
Cape Coral, Florida 33914  
239-283-4511 424-6100 X447  
joaquelin.collins@capecharterschools.org

High School Principal Human Resources Manager  
Shannon Treese Leisa Orcutt  
3519 Oasis Blvd.  
Cape Coral, Florida 33914  
239-541-1167 424-6100 X456  
shannon.treese.leisa.orcutt@capecharterschools.org

The names, titles, and contact information of these individuals will be published annually on the Authority's web site.

The names, titles, and/or contact information of the persons presently serving as Compliance Officers may change from time to time, and such changes shall be deemed technical corrections within the meaning of Bylaw 0131.1 and shall be made pursuant to that bylaw.

A Compliance Officer(s) will be available during regular school/work hours to discuss concerns related to unlawful harassment, to assist students, other members of the Authority community, and third parties who seek support or advice when informing another individual about "unwelcome" conduct, or to intercede informally on behalf of the individual in those instances where concerns have not resulted in the filing of a formal complaint and where all parties are in agreement to participate in an informal process.

Any Board employee who directly observes unlawful harassment of a student is obligated, in accordance with this policy, to report such observations to one of the Anti-Harassment Compliance Officers within two (2) business days. Thereafter, the Compliance Officer or designee must contact the student, if over age eighteen (18) or the student's parents if under the age eighteen (18), within two (2) business days to advise s/he/them of the Superintendent's intent to investigate the alleged misconduct, including the obligation of the compliance officer or designee to conduct an investigation following all the procedures outlined for a formal complaint.



Compliance Officer(s) are assigned to accept complaints of unlawful harassment directly from any member of the Authority community or a visitor to the Authority, or to receive complaints which are initially filed with a school building administrator. Upon receipt of a complaint either directly or through a school building administrator, the Compliance Officer will begin either an informal or formal process (depending on the request of the member of the Authority community alleging harassment), or the Compliance Officer will designate a specific individual to conduct such a process. In the case of a formal complaint, the Compliance Officer will prepare, after consultation with the Superintendent, recommendations for the Superintendent or will oversee the preparation of such recommendations by a designee. All members of the Authority community must report incidents of unlawful harassment which are reported to them to a Compliance Officer within five (5) calendar days of learning of the incident.

### Investigation and Complaint Procedure

Any employee or other member of the Authority community or visitor to the Authority who believes that s/he has been subjected to unlawful harassment may seek resolution of his/her complaint through either the informal or formal procedures as described below. Further, a process for investigating claims of harassment and a process for rendering a decision regarding whether the claim of legally prohibited harassment or retaliation was substantiated are set forth below.

Due to the sensitivity surrounding complaints of unlawful harassment or retaliation, time lines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) calendar days after the conduct occurs while the facts are known and potential witnesses are available. Once the formal complaint process is begun, the investigation will be completed in a timely manner (ordinarily, within fifteen (15) calendar days of the complaint being received).

The informal and formal procedures set forth below are not intended to interfere with the rights of any individual to pursue a complaint of unlawful harassment or retaliation with the United States Department of Education, Office for Civil Rights, the Florida Civil Rights Commission, or the Equal Employment Opportunity Commission.

### Informal Complaint Procedure

The goal of the informal complaint procedure is to stop inappropriate behavior and to investigate and facilitate resolution through an informal means, if when possible. The informal complaint procedure is provided as a less formal option for a student who believes s/he has been unlawfully harassed or retaliated against. This informal procedure is not required as a precursor to the filing of a formal complaint.

Employees, other members of the Authority community, or third parties who believe that they have been unlawfully harassed or retaliated against may initiate their complaint through this informal complaint process, but are not required to do so. The informal process is only available in those circumstances where the parties (alleged target of harassment and alleged harasser(s)) agree to participate in the informal process.

Employees, other members of the Authority community, or third parties who believe that they have been unlawfully harassed or retaliated against may proceed immediately to the formal complaint process and individuals who seek resolution through the informal procedure may request that the informal process be terminated at any time to move to the formal complaint process.

However, all complaints of harassment involving an Authority employee, any other adult member of the Authority community, or a third party against a student will be formally investigated.

As an initial course of action, if an individual feels that s/he is being unlawfully harassed and s/he is able and feels safe doing so, the individual should tell or otherwise inform the harasser that the conduct is unwelcome and must stop. Such direct communication should not be utilized in circumstances involving sexual violence. The complaining individual should address the allegedly harassing conduct as soon after it occurs as possible. The Compliance Officer(s) is/are available to support and counsel individuals when taking this initial step or to intervene on behalf of the individual if requested to do so. An individual who is uncomfortable or unwilling to inform the harasser of his/her complaint is not prohibited from otherwise filing an informal or a formal complaint. In addition, with regard to certain types of unlawful harassment, such as sexual harassment, the Compliance Officer(s) may advise against the use of the informal complaint process.

An individual who believes s/he has been unlawfully harassed may make an informal complaint, either orally or in writing: (1) to a teacher, other employee, or building administrator; (2) to the Superintendent or other Authority-level employee; and/or (3) directly to one of the Compliance Officers.

All informal complaints must be reported to the Compliance Officers who will either facilitate an informal resolution as described below on his/her own, or appoint another individual to facilitate an informal resolution.

The Authority's informal complaint procedure is designed to provide employees, other members of the Authority community, or third parties who believe they are being unlawfully harassed by another individual with a range of options designed to bring about a resolution of their concerns. Depending upon the nature of the complaint and the wishes of the individual claiming unlawful harassment, informal resolution may involve, but not be limited to, one or more of the following:



- A. Advising the individual about how to communicate the unwelcome nature of the behavior to the alleged harasser.
- B. Distributing a copy of the anti-harassment policy as a reminder to the individuals in the school building or office where the individual whose behavior is being questioned works or attends.
- C. If both parties agree, the Compliance Officers may arrange and facilitate a meeting between the individual claiming harassment and the individual accused of harassment to work out a mutual resolution. Such a meeting is not appropriate in circumstances involving sexual violence.

While there are no set time limits within which an informal complaint must be resolved, the Compliance Officers or designee will exercise his/her authority to attempt to resolve all informal complaints within fifteen (15) calendar days of receiving the informal complaint. Parties who are dissatisfied with the results of the informal complaint process may proceed to file a formal complaint. And, as stated above, parties may request that the informal process be terminated at any time to move to the formal complaint process.

All materials generated as part of the informal complaint process will be retained by the Compliance Officers or designee in accordance with the Board's records retention policy. (See Policy 8310 and Policy 8320)

### **Formal Complaint Procedure**

If a complaint is not resolved through the informal complaint process, if one of the parties has requested that the informal complaint process be terminated to move to the formal complaint process, or if the individual elects to file a formal complaint initially, the formal complaint process as described below shall be implemented.

This formal complaint process is not intended to interfere with the rights of an employee, other member of the Authority community, or third party to pursue a complaint of unlawful harassment with the United States Department of Education, Office for Civil Rights, the Florida Civil Rights Commission, or the Equal Employment Opportunity Commission.

An individual who believes s/he has been subjected to offensive conduct/harassment hereinafter referred to as the "complainant", may file a formal complaint, either orally or in writing with a teacher, principal, ~~or other Authority employee~~, the Compliance Officer, Superintendent, or other Authority employee. Due to the sensitivity surrounding complaints of unlawful harassment and retaliation, time lines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) calendar days after the conduct occurs while the facts are known and potential witnesses are available. If a complainant informs a teacher, principal, ~~pol, or other Authority employee~~, the Compliance Officer, Superintendent, or other Authority employee, either orally or in writing, about any complaint of harassment, that employee must report such information to the Compliance Officer or designee within two (2) business days.

Throughout the course of the process as described herein, the Compliance Officer should keep the parties informed of the status of the investigation and the decision making process.

All formal complaints must include the following information to the extent it is available: the identity of the individual believed to have engaged in, or engaging in, offensive conduct/harassment/retaliation; a detailed description of the facts upon which the complaint is based; a list of potential witnesses; and the resolution sought by the complainant.

If the complainant is unwilling or unable to provide a written statement including the information set forth above, the Compliance Officer shall ask for such details in an oral interview. Thereafter the Compliance Officer will prepare a written summary of the oral interview, and the complainant will be asked to verify the accuracy of the reported charge by signing the document.

Upon receiving a formal complaint, the Compliance Officer will consider whether any action should be taken in the investigatory phase to protect the complainant from further harassment or retaliation including but not limited to a change of work assignment or schedule for the complainant and/or the alleged harasser. In making such a determination, the Compliance Officer should consult the complainant to assess his/her agreement to any action deemed appropriate. If the complainant is unwilling to consent to any change that is deemed appropriate by the Compliance Officer, the Compliance Officer may still take whatever actions s/he deem appropriate in consultation with the Superintendent and/or Board Attorney.

Within five (5) business days of receiving a formal complaint, the Compliance Officer or a designee will initiate a formal investigation to determine whether the complainant has been subjected to offensive conduct/harassment/retaliation. A Principal will not conduct an investigation unless directed to do so by the Compliance Officer.

Simultaneously, the Compliance Officer will inform the individual alleged to have engaged in the harassing conduct, hereinafter referred to as the "respondent", that a complaint has been received. The respondent will be informed about the nature of the allegations and a copy of these administrative procedures and the Board's anti-harassment policy shall be provided to the respondent at that time. The respondent must also be informed of the opportunity to submit a written response to the complaint



within five (5) business days.

Although certain cases may require additional time, the Compliance Officer or a designee will attempt to complete an investigation into the allegations of harassment/retaliation within fifteen (15) calendar days of receiving the formal complaint. The investigation will include:

- A. Interviews with the complainant;
- B. Interviews with the respondent;
- C. interviews with any other witnesses who may reasonably be expected to have any information relevant to the allegations;
- D. consideration of any documentation or other evidence presented by the complainant, respondent, or any other witness which is reasonably believed to be relevant to the allegations.

At the conclusion of the investigation, the Compliance Officer shall consult with the superintendent. A written report shall then be prepared and delivered to the superintendent which summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of unlawful harassment as provided in Board policy and State and Federal law, ~~as to whether the complainant has been subject to unlawful harassment.~~ The Compliance Officer's recommendations must be based upon the totality of the circumstances, including the ages and maturity levels of those involved. In determining if discriminatory harassment or retaliation occurred, a preponderance of evidence standard will be used.

Absent extenuating circumstances, within ten (10) business days of receiving the report of the Compliance Officer or the designee, the superintendent must either issue a final decision regarding the outcome of the investigation or request a continuation of investigation, ~~whether or not the complaint of harassment has been substantiated or request further investigation.~~ A copy of the superintendent's final decision will be delivered to both the complainant and the respondent.

If the superintendent requests additional investigation, the superintendent must specify the additional information that is to be gathered, and such additional investigation must be completed within ten (10) business days. At the conclusion of the additional investigation, the superintendent must issue a final written decision as described above.

The decision of the Superintendent shall be final.

The superintendent reserves the right to investigate and resolve a complaint or report of unlawful harassment regardless of whether the member of the Authority community or third party alleging the unlawful harassment pursues the complaint. The superintendent also reserves the right to have the formal complaint investigation conducted by an external person in accordance with this policy or in such other manner as deemed appropriate by the superintendent.

### **Privacy/Confidentiality**

The Authority will employ all reasonable efforts to protect the rights of the complainant, the individual(s) against whom the complaint is filed, and the witnesses as much as possible, consistent with the Board's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations. All records generated under the terms of this policy and related administrative procedures shall be maintained as confidential to the extent permitted by law. Confidentiality, however, cannot be guaranteed. ~~All complainants proceeding through the formal investigation process will be advised that their identities may be disclosed to the respondent.~~

During the course of a formal investigation, the Compliance Officer or his/her designee will instruct all members of the Authority community and third parties who are interviewed about the importance of maintaining confidentiality. Any individual who is interviewed as part of a harassment investigation is expected not to disclose any information that s/he learns or that s/he provides during the course of the investigation.

~~All public records created as a part of an investigation of a complaint of harassment will be maintained by the Compliance Officer in accordance with the Board's records retention policy. Any records which are considered student records in accordance with the Family Educational Rights and Privacy Act will be maintained in a manner consistent with the provisions of the Federal and State laws.~~

### **Sanctions and Monitoring**

The Superintendent shall vigorously enforce the Board's prohibitions against unlawful harassment by taking appropriate action reasonably calculated to stop the harassment and prevent further such harassment. While observing the principles of due process, a violation of this policy may result in disciplinary action up to and including the discharge of an employee or the suspension/expulsion of a student. All disciplinary action will be taken in accordance with applicable State law and the terms of



the relevant collective bargaining agreement(s). When imposing discipline, the Superintendent shall consider the totality of the circumstances involved in the matter, including the ages and maturity levels of those involved. In those cases where unlawful harassment is not substantiated, the Superintendent may consider whether the alleged conduct nevertheless warrants discipline in accordance with other Board policies, consistent with the terms of the relevant collective bargaining agreement(s).

Where the Superintendent becomes aware that a prior remedial action has been taken against a member of the Authority community, all subsequent sanctions imposed by the Board and/or Superintendent shall be reasonably calculated to end such conduct, prevent its recurrence, and remedy its effects.

### Retention of Public Records, Student Records, and Investigatory Records and Materials

All individuals charged with conducting investigations under this policy shall retain all information, documents, electronically stored information ("ESI"), and electronic media (as defined in Policy 8315) created and received as part of an investigation, including, but not limited to:

1. all written reports/allegations/complaints/statements;
2. narratives of all verbal reports/allegations/complaints/statements;
3. a narrative of all actions taken by District personnel;
4. any written documentation of actions taken by District personnel to include;
5. (X ) written witness statements;
6. (X ) narratives of, notes from, or audio, video, or digital recordings of witness statements;
7. (X ) all documentary evidence;
8. (X ) e-mails, texts, or social media posts pertaining to the investigation;
9. contemporaneous notes in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.) pertaining to the investigation;
10. written disciplinary sanctions issued to students or employees and a narrative of verbal disciplinary sanctions issued to students or employees for violations of the policies and procedures prohibiting discrimination or harassment;
11. dated written determinations to the parties;
12. dated written descriptions of verbal notifications to the parties;
13. written documentation of any interim measures offered and/or provided to complainants, including no contact orders issued to both parties, the dates issued, and the dates the parties acknowledged receipt; and
14. documentation of all actions taken, both individual and systemic, to stop the discrimination or harassment, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects.

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

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

### Retaliation



Any act of retaliation against a person who has made a report or filed a complaint alleging unlawful harassment, or who has participated as a witness in a harassment investigation is prohibited.

### **Allegations Constituting Criminal Conduct: Child Abuse/Sexual Misconduct**

State law requires any teacher or school employee who knows or suspects that a child under the age of eighteen (18) is a victim of child abuse or neglect to immediately report that knowledge or suspicion to the Department of Children and Family Services. If, during the course of a harassment investigation, the Compliance Officer or a designee has reason to believe or suspect that the alleged conduct reasonably indicates abuse or neglect of the complainant, a report of such knowledge must be made in accordance with State law and Board policy.

If the Compliance Officer has reason to believe that the complainant has been the victim of criminal conduct as defined under Florida law, such knowledge should be reported to local law enforcement.

Any reports made to the local child protection service or to local law enforcement shall not terminate the Compliance Officer's obligation and responsibility to continue to investigate a complaint of harassment. While the Compliance Officers may work cooperatively with outside agencies to conduct concurrent investigations, in no event shall the harassment investigation be inhibited by the involvement of outside agencies without good cause after consultation with the Superintendent.

### **Mandatory Reporting of Misconduct by Certificated Employees**

The Superintendent is required by State law and Board Policy 8141 to report alleged misconduct by certificated employees of the Authority that affects the health, safety, or welfare of a student. In accordance with Board policy and State law, the Superintendent shall investigate each allegation of such conduct and, if confirmed, shall report such misconduct pursuant to Policy 8141.

### **Education and Training**

In support of this policy, the Board promotes preventative educational measures to create greater awareness of unlawful discriminatory practices. The Superintendent or designee shall provide appropriate information to all members of the Authority community related to the implementation of this policy and shall provide training for Authority students and staff where appropriate. All training, as well as all information provided regarding this policy and harassment in general, will be age and content appropriate.

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Legal	42 U.S.C. 2000e et seq.
	42 U.S.C. 1983
	20 U.S.C. 1400 et seq., The Individuals with Disabilities Improvement Act of 2004, as amended (commonly known as the Individuals with Disabilities Act)
	29 U.S.C. 621 et seq., Age Discrimination in Employment Act of 1967
	29 U.S.C. 794, Rehabilitation Act of 1973
	42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act
	National School Boards Association Inquiry and Analysis - May 2008
	F.S. 110.1221, 760.01, 760.10, 1000.05, 1006.07
	20 U.S.C. 1681 et seq.
	29 C.F.R. Part 1635
	29 U.S.C. 6101, The Age Discrimination Act of 1975
	42 U.S.C. 12101 et seq., Americans with Disabilities Act of 1990, as amended
	42 U.S.C. 2000d et seq.

## Cross References

po0131.1 - TECHNICAL CORRECTIONS

po3362 - ANTI-HARASSMENT

po5517.01 - BULLYING AND HARASSMENT

po8141 - MANDATORY REPORTING OF MISCONDUCT BY CERTIFICATED EMPLOYEES

po8310 - PUBLIC RECORDS

po8320 - RECORDS MANAGEMENT

Last Modified by Jacquelin Collins on August 19, 2019



<b>Item Number:</b> 8.D. <b>Meeting Date:</b> 10/8/2019 <b>Item Type:</b> <b>CONSENT AGENDA:</b>
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**AGENDA REQUEST FORM**  
City Of Cape Coral Charter School Authority

**TITLE:**

Approval of NEOLA Policy Updates: Volume 18, Number 2: Policy 4362 Anti-harassment; Policy 5517 Anti-Harassment

**SUMMARY:**

**ADDITIONAL INFORMATION:**

**RECOMMENDED ACTION:**

**ATTACHMENTS:**

<b>Description</b>	<b>Type</b>
▢ NEOLA 4362, 5517	Backup Material

Book	Policy Manual
Section	Vol 18 #2 REVISED
Title	ANTI-HARASSMENT
Code	pe4362 8/24/18 fsj 8/15/19 lojc
Status	
Adopted	April 12, 2016

## 4362 - ANTI-HARASSMENT

### General Policy Statement

It is the policy of the Governing Board to maintain an educational and work environment that is free from all forms of unlawful harassment, including sexual harassment. This commitment applies to all Authority operations, programs, and activities. All students, administrators, teachers, staff, and all other school personnel share responsibility for avoiding, discouraging, and reporting any form of unlawful harassment. This policy applies to unlawful conduct occurring on school property or at another location if such conduct occurs during an activity sponsored by the Board.

The Superintendent will vigorously enforce its prohibition against discriminatory harassment on the basis of race, color, national origin, sex (including sexual orientation or transgender status or gender identity), disability (including HIV, AIDS, or sickle cell trait), marital status, age (except as authorized by law), religion, military status, ancestry, or genetic information which are classes protected by State and/or Federal law (collectively, "protected classes") (hereinafter referred to as unlawful harassment), and encourages those within the Authority community as well as third parties, who feel aggrieved to seek assistance to rectify such problems. The Superintendent will investigate all allegations of unlawful harassment and in those cases where unlawful harassment is substantiated, the Superintendent will take immediate steps to end the harassment, prevent its recurrence, and remedy its effects. Individuals who are found to have engaged in unlawful harassment will be subject to appropriate disciplinary action.

For purposes of this policy, "Authority community" means students, administrators, teachers, staff, as well as Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Board.

For purposes of this policy, "third parties" include, but are not limited to, guests and/or visitors on Authority property (e.g., visiting speakers, participants on opposing athletic teams, parents), vendors doing business with, or seeking to do business with, the Board, and other individuals who come in contact with members of the Authority community at school-related events/activities (whether on or off Authority property).

### Other Violations of the Anti-Harassment Policy

The Superintendent will also take immediate steps to impose disciplinary action on individuals engaging in any of the following prohibited acts:

- A. Retaliating against a person who has made a report or filed a complaint alleging unlawful harassment, or who has participated as a witness in a harassment investigation.
- B. Filing a malicious or knowingly false report or complaint of unlawful harassment.
- C. Disregarding, failing to investigate adequately, or delaying investigation of allegations of unlawful harassment, when responsibility for reporting and/or investigating unlawful harassment charges comprises part of one's supervisory duties.

### Definitions

#### Bullying

Bullying rises to the level of unlawful harassment when one or more persons systematically and chronically inflict physical pain or psychological distress on one (1) or more students or employees and that bullying is based upon sex (including sexual orientation, transgender status or gender identity), race, color, national origin, religion, or disability, that is, characteristics that are protected by Federal civil rights laws. It is defined as any 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. This unlawful harassment may include, but not be limited to, the following:

- A. teasing;
- B. threats;
- C. intimidation;
- D. stalking;
- E. cyberstalking;
- F. cyberbullying;
- G. gaslighting;
- H. physical violence;
- I. theft;
- J. sexual, religious, or racial harassment;
- K. public humiliation; or
- L. destruction of property.

**"Harassment"** means any threatening, insulting, or dehumanizing gesture, use of data or computer software, or written, verbal or physical conduct directed against a student or school employee that:

- A. places a student or school employee in reasonable fear of harm to his/her person or damage to his/her property;
- B. has the effect of substantially interfering with a student's educational performance, opportunities, or benefits; or
- C. has the effect of substantially disrupting the orderly operation of a school.

### **Sexual Harassment**

Pursuant to Title VII of the Civil Rights Act of 1964 and Title IX of the Educational Amendments of 1972, "sexual harassment" is defined as:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when:

- A. Submission to such conduct is made either implicitly or explicitly a term or condition of an individual's employment, or status in a class, educational program, or activity.
- B. Submission or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individual.
- C. Such conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity.

Sexual harassment may involve the behavior of a person of either gender against a person of the same or opposite gender.

Prohibited acts that constitute sexual harassment may take a variety of forms. Examples of the kinds of conduct that may constitute sexual harassment include, but are not limited to:

- A. Unwelcome sexual propositions, invitations, solicitations, and flirtations.
- B. Unwanted physical and/or sexual contact.
- C. Threats or insinuations that a person's employment, wages, academic grade, promotion, classroom work or assignments, academic status, participation in athletics or extra-curricular programs or events, or other conditions of employment or education may be adversely affected by not submitting to sexual advances.



- D. Unwelcome verbal expressions of a sexual nature, including graphic sexual commentaries about a person's body, dress, appearance, or sexual activities; the unwelcome use of sexually degrading language, jokes, or innuendoes; unwelcome suggestive or insulting sounds or whistles; obscene telephone calls and/or texts.
- E. Sexually suggestive objects, pictures, videotapes, audio recordings, or literature, placed in the work or educational environment, which may embarrass or offend individuals.
- F. Unwelcome and inappropriate touching, patting, or pinching; obscene gestures.
- G. A pattern of conduct, which can be subtle in nature, that has sexual overtones and is intended to create or has the effect of creating discomfort and/or humiliation to another.
- H. Remarks speculating about a person's sexual activities or sexual history, or remarks about one's own sexual activities or sexual history.
- I. Consensual sexual relationships where such relationship leads to favoritism of a subordinate employee with whom the superior is sexually involved and where such favoritism adversely affects other employees or otherwise creates a hostile work environment.
- J. Verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping that does not involve conduct of a sexual nature.
- K. Inappropriate boundary invasions by an Authority employee or other adult member of the Authority community into a student's personal space and personal life.

Not all behavior with sexual connotations constitutes unlawful sexual harassment. Sex-based and gender-based conduct must be sufficiently severe, pervasive, and persistent such that it adversely affects, limits, or denies an individual's employment, or such that it creates a hostile or abusive employment or educational environment.

**NOTE: Any teacher, administrator, coach, or other school authority who engages in sexual conduct with a student may also be guilty of a crime.**

#### **Race/Color Harassment**

Prohibited racial harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's race or color and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's race or color, such as racial slurs, nicknames implying stereotypes, epithets, and/or negative references relative to racial customs.

#### **Religious (Creed) Harassment**

Prohibited religious harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's religion or creed and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's religious tradition, clothing, or surnames, and/or involves religious slurs.

#### **National Origin Harassment**

Prohibited national origin harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's national origin and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's national origin, such as negative comments regarding customs, manner of speaking, language, surnames, or ethnic slurs.

#### **Disability Harassment**

Prohibited disability harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's disability and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's disabling condition, such as negative comments about speech patterns, movement,



physical impairments, or defects/appearances, or the like. Such harassment may further occur where conduct is directed at or pertains to a person's genetic information.

### Reports and Complaints of Harassing Conduct

Members of the Authority community and third parties, which includes all staff, are encouraged to promptly report incidents of unlawful harassing conduct to an administrator, supervisor or other Authority official so that the Superintendent may address the conduct before it becomes severe, pervasive, or persistent. Any administrator, supervisor, or other Authority official who receives such a complaint shall file it with the Authority's Anti-Harassment Compliance Officer within two (2) business days.

Members of the Authority community or third parties who believe they have been unlawfully harassed by another member of the Authority community or a third party are entitled to utilize the Board's complaint process that is set forth below. Initiating a complaint, whether formally or informally, will not adversely affect the complaining individual's employment or participation in educational or extra-curricular programs unless the complaining individual makes the complaint maliciously or with knowledge that it is false. While there are no time limits for initiating complaints of harassment under this policy, individuals should make every effort to file a complaint as soon as possible after the conduct occurs while the facts are known and potential witnesses are available.

If, during an investigation of reported act of bullying and/or harassment in accordance with Policy 5517.01 – Bullying and Harassment, the principal or his/her designee believes that the reported misconduct may have created a hostile work environment and may have constituted unlawful discriminatory harassment based on sex (including sexual orientation or transgender status or gender identity), race, color, national origin, religion, or disability, the principal or his/her designee will report the act of bullying and/or harassment to one of the Compliance Officers who shall investigate the allegation in accordance with this policy. While the Compliance Officer investigates the allegation, the Principal shall suspend his/her Policy 5517.01 investigation to await the Compliance Officer's written report. The Compliance Officer shall keep the Principal informed of the status of the Policy 4362 investigation and provide him/her with a copy of the resulting written report.

### Anti-Harassment Compliance Officers

The following individuals serve as "Anti-Harassment Compliance Officers" for the Authority. They are hereinafter referred to as the "Compliance Officers".

#### Superintendent

Jacquelin Collins

2519 Oasis Blvd.

Cape Coral, Florida 33914-114

239-424-6100 X447

[jacquelin.collins@capecharterschools.org](mailto:jacquelin.collins@capecharterschools.org)

#### Human Resources Manager

Leisa Orcutt

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Cape Coral, FL 33914

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[leisa.orcutt@capecharterschools.org](mailto:leisa.orcutt@capecharterschools.org)

The names, titles, and contact information of these individuals will be published annually on the Authority's web site.

The names, titles, and/or contact information of the persons presently serving as Compliance Officers may change from time to time, and such changes shall be deemed technical corrections within the meaning of Bylaw 0131.1 and shall be made pursuant to that bylaw.

A Compliance Officer will be available during regular school/work hours to discuss concerns related to unlawful harassment, to assist students, other members of the Authority community, and third parties who seek support or advice when informing another individual about "unwelcome" conduct, or to intercede informally on behalf of the individual in those instances where concerns have not resulted in the filing of a formal complaint and where all parties are in agreement to participate in an informal process.

Any Board employee who directly observes unlawful harassment of a student is obligated, in accordance with this policy, to report such observations to one of the Anti-Harassment Compliance Officers within two (2) business days. Thereafter, the Compliance Officer or designee must contact the student, if over age eighteen (18) or the student's parents if under the age eighteen (18), within two (2) business days to advise s/he/them of the Superintendent's intent to investigate the alleged misconduct, including the obligation of the compliance officer or designee to conduct an investigation following all the procedures outlined for a formal complaint.



Compliance Officers are assigned to accept complaints of unlawful harassment directly from any member of the Authority community or a visitor to the Authority, or to receive complaints that are initially filed with a school building administrator. Upon receipt of a complaint either directly or through a school building administrator, the Compliance Officer will begin either an informal or formal process (depending on the request of the member of the Authority community alleging harassment), or the Compliance Officer will designate a specific individual to conduct such a process. In the case of a formal complaint, the Compliance Officer will prepare, after consultation with the Superintendent, recommendations for the Superintendent or will oversee the preparation of such recommendations by a designee. All members of the Authority community must report incidents of unlawful harassment that are reported to them to a Compliance Officer within five (5) calendar days of learning of the incident.

### **Investigation and Complaint Procedure**

Any employee or other member of the Authority community or visitor to the Authority who believes that s/he has been subjected to unlawful harassment may seek resolution of his/her complaint through either the informal or formal procedures as described below. Further, a process for investigating claims of harassment and a process for rendering a decision regarding whether the claim of legally prohibited harassment or retaliation was substantiated are set forth below.

Due to the sensitivity surrounding complaints of unlawful harassment or retaliation, time lines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) calendar days after the conduct occurs while the facts are known and potential witnesses are available. Once the formal complaint process is begun, the investigation will be completed in a timely manner (ordinarily, within fifteen (15) calendar days of the complaint being received).

The informal and formal procedures set forth below are not intended to interfere with the rights of any individual to pursue a complaint of unlawful harassment or retaliation with the United States Department of Education, Office for Civil Rights, the Florida Civil Rights Commission, or the Equal Employment Opportunity Commission.

### **Informal Complaint Procedure**

The goal of the informal complaint procedure is to stop inappropriate behavior and to investigate and facilitate resolution through an informal means, if possible. The informal complaint procedure is provided as a less formal option for a student who believes s/he has been unlawfully harassed or retaliated against. This informal procedure is not required as a precursor to the filing of a formal complaint.

Employees, other members of the Authority community, or third parties who believe that they have been unlawfully harassed or retaliated against may initiate their complaint through this informal complaint process, but are not required to do so. The informal process is only available in those circumstances where the parties (alleged target of harassment and alleged harasser(s)) agree to participate in the informal process.

Employees, other members of the Authority community, or third parties who believe that they have been unlawfully harassed or retaliated against may proceed immediately to the formal complaint process and individuals who seek resolution through the informal procedure may request that the informal process be terminated at any time to move to the formal complaint process.

However, all complaints of harassment involving an Authority employee, any other adult member of the Authority community, or a third party against a student will be formally investigated.

As an initial course of action, if an individual feels that s/he is being unlawfully harassed and s/he is able and feels safe doing so, the individual should tell or otherwise inform the harasser that the conduct is unwelcome and must stop. Such direct communication should not be utilized in circumstances involving sexual violence. The complaining individual should address the allegedly harassing conduct as soon after it occurs as possible. The Compliance Officers is available to support and counsel individuals when taking this initial step or to intervene on behalf of the individual if requested to do so. An individual who is uncomfortable or unwilling to inform the harasser of his/her complaint is not prohibited from otherwise filing an informal or a formal complaint. In addition, with regard to certain types of unlawful harassment, such as sexual harassment, the Compliance Officer may advise against the use of the informal complaint process.

An individual who believes s/he has been unlawfully harassed may make an informal complaint, either orally or in writing: (1) to a teacher, other employee, or building administrator; (2) to the Superintendent or other Authority-level employee; and/or (3) directly to one of the Compliance Officers.

All informal complaints must be reported to the Compliance Officers who will either facilitate an informal resolution as described below on his/her own, or appoint another individual to facilitate an informal resolution.

The Authority's informal complaint procedure is designed to provide employees, other members of the Authority community, or third parties who believe they are being unlawfully harassed by another individual with a range of options designed to bring about a resolution of their concerns. Depending upon the nature of the complaint and the wishes of the individual claiming unlawful harassment, informal resolution may involve, but not be limited to, one or more of the following:



- A. Advising the individual about how to communicate the unwelcome nature of the behavior to the alleged harasser.
- B. Distributing a copy of the anti-harassment policy as a reminder to the individuals in the school building or office where the individual whose behavior is being questioned works or attends.
- C. If both parties agree, the Compliance Officers may arrange and facilitate a meeting between the individual claiming harassment and the individual accused of harassment to work out a mutual resolution. Such a meeting is not appropriate in circumstances involving sexual violence.

While there are no set time limits within which an informal complaint must be resolved, the Compliance Officers or designee will exercise his/her authority to attempt to resolve all informal complaints within fifteen (15) calendar days of receiving the informal complaint. Parties who are dissatisfied with the results of the informal complaint process may proceed to file a formal complaint. And, as stated above, parties may request that the informal process be terminated at any time to move to the formal complaint process.

All materials generated as part of the informal complaint process will be retained by the Compliance Officers or designee in accordance with the Board's records retention policy. (See Policy 8310 and Policy 8320)

### Formal Complaint Procedure

If a complaint is not resolved through the informal complaint process, if one of the parties has requested that the informal complaint process be terminated to move to the formal complaint process, or if the individual elects to file a formal complaint initially, the formal complaint process as described below shall be implemented.

This formal complaint process is not intended to interfere with the rights of an employee, other member of the Authority community, or third party to pursue a complaint of unlawful harassment with the United States Department of Education, Office for Civil Rights, the Florida Civil Rights Commission, or the Equal Employment Opportunity Commission.

An individual who believes s/he has been subjected to offensive conduct/harassment hereinafter referred to as the "complainant", may file a formal complaint, either orally or in writing with a teacher, principal, or other Authority employee, the Compliance Officer, Superintendent, or other Authority employee. Due to the sensitivity surrounding complaints of unlawful harassment and retaliation, time lines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) calendar days after the conduct occurs while the facts are known and potential witnesses are available. If a complainant informs a teacher, principal, the Compliance Officer, Superintendent, or other Authority employee, either orally or in writing, about any complaint of harassment, that employee must report such information to the Compliance Officer or designee within two (2) business days.

Throughout the course of the process as described herein, the Compliance Officer should keep the parties informed of the status of the investigation and the decision making process.

All formal complaints must include the following information to the extent it is available: the identity of the individual believed to have engaged in, or engaging in, offensive conduct/harassment/retaliation; a detailed description of the facts upon which the complaint is based; a list of potential witnesses; and the resolution sought by the complainant.

If the complainant is unwilling or unable to provide a written statement including the information set forth above, the Compliance Officer shall ask for such details in an oral interview. Thereafter, the Compliance Officer will prepare a written summary of the oral interview, and the complainant will be asked to verify the accuracy of the reported charge by signing the document.

Upon receiving a formal complaint, the Compliance Officer will consider whether any action should be taken in the investigatory phase to protect the complainant from further harassment or retaliation including but not limited to a change of work assignment or schedule for the complainant and/or the alleged harasser. In making such a determination, the Compliance Officer should consult the complainant to assess his/her agreement to any action deemed appropriate. If the complainant is unwilling to consent to any change that is deemed appropriate by the Compliance Officer, the Compliance Officer may still take whatever actions s/he deems appropriate in consultation with the Superintendent and/or Board Attorney.

Within five (5) business days of receiving a formal complaint, the Compliance Officer or a designee will initiate a formal investigation to determine whether the complainant has been subjected to offensive conduct/harassment/retaliation. A Principal will not conduct an investigation unless directed to do so by the Compliance Officer.

Simultaneously, the Compliance Officer will inform the individual alleged to have engaged in the harassing conduct, hereinafter referred to as the "respondent", that a complaint has been received. The respondent will be informed about the nature of the allegations and a copy of these administrative procedures and the Board's anti-harassment policy shall be provided to the respondent at that time. The respondent must also be informed of the opportunity to submit a written response to the complaint.



within five (5) business days.

Although certain cases may require additional time, the Compliance Officer or a designee will attempt to complete an investigation into the allegations of harassment/retaliation within fifteen (15) calendar days of receiving the formal complaint. The investigation will include:

- A. interviews with the complainant;
- B. interviews with the respondent;
- C. interviews with any other witnesses who may reasonably be expected to have any information relevant to the allegations;
- D. consideration of any documentation or other evidence presented by the complainant, respondent, or any other witness which is reasonably believed to be relevant to the allegations.

At the conclusion of the investigation, the Compliance Officer shall consult with the superintendent. A written report shall then be prepared and delivered to the superintendent, which summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of unlawful harassment as provided in Board policy and State and Federal law as to whether as either substantiating or refuting the complainant has been subject to unlawful harassment. The Compliance Officer's recommendations must be based upon the totality of the circumstances, including the ages and maturity levels of those involved. In determining if discriminatory harassment or retaliation occurred, a preponderance of evidence standard will be used.

Absent extenuating circumstances, within ten (10) business days of receiving the report of the Compliance Officer or the designee, the superintendent must either issue a final decision regarding the complaint of harassment that has been substantiated or request further investigation. A copy of the Superintendent's final decision will be delivered to both the complainant and the respondent.

If the superintendent requests additional investigation, the Superintendent must specify the additional information that is to be gathered, and such additional investigation must be completed within ten (10) business days. At the conclusion of the additional investigation, the Superintendent must issue a final written decision as described above.

The decision of the Superintendent shall be final.

The Superintendent reserves the right to investigate and resolve a complaint or report of unlawful harassment regardless of whether the member of the Authority community or third party alleging the unlawful harassment pursues the complaint. The Superintendent also reserves the right to have the formal complaint investigation conducted by an external person in accordance with this policy or in such other manner as deemed appropriate by the superintendent.

### **Privacy/Confidentiality**

The Authority will employ all reasonable efforts to protect the rights of the complainant, the individual(s) against whom the complaint is filed, and the witnesses as much as possible, consistent with the Board's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations. All records generated under the terms of this policy and related administrative procedures shall be maintained as confidential to the extent permitted by law. Confidentiality, however, cannot be guaranteed.

During the course of a formal investigation, the Compliance Officer or his/her designee will instruct all members of the Authority community and third parties who are interviewed about the importance of maintaining confidentiality. Any individual who is interviewed as part of a harassment investigation is expected not to disclose any information that s/he learns or that s/he provides during the course of the investigation. Any violations of confidentiality may result in disciplinary action up to and including termination of employment or the suspension/expulsion of a student.

All public records created as a part of an investigation of a complaint of harassment will be maintained by the Compliance Officer in accordance with the Board's records retention policy. Any records which are considered student records in accordance with the *Family Educational Rights and Privacy Act* will be maintained in a manner consistent with the provisions of the Federal and State laws.

### **Sanctions and Monitoring**

The Superintendent shall vigorously enforce the Board's prohibitions against unlawful harassment by taking appropriate action reasonably calculated to stop the harassment and prevent further such harassment. While observing the principles of due process, a violation of this policy may result in disciplinary action up to and including the discharge of an employee or the suspension/expulsion of a student. All disciplinary action will be taken in accordance with applicable State law and the terms of



the relevant collective bargaining agreement(s). When imposing discipline, the Superintendent shall consider the totality of the circumstances involved in the matter, including the ages and maturity levels of those involved. In those cases where unlawful harassment is not substantiated, the Superintendent may consider whether the alleged conduct nevertheless warrants discipline in accordance with other Board policies, consistent with the terms of the relevant collective bargaining agreement(s).

Where the Superintendent becomes aware that a prior remedial action has been taken against a member of the Authority community, all subsequent sanctions imposed by the Board and/or Superintendent shall be reasonably calculated to end such conduct, prevent its reoccurrence, and remedy its effects.

### **Retaliation**

Any act of retaliation against a person who has made a report or filed a complaint alleging unlawful harassment, or who has participated as a witness in a harassment investigation is prohibited.

### **Allegations Constituting Criminal Conduct: Child Abuse/Sexual Misconduct**

State law requires any teacher or school employee who knows or suspects that a child under the age of eighteen (18) is a victim of child abuse or neglect to immediately report that knowledge or suspicion to the Department of Children and Family Services. If, during the course of a harassment investigation, the Compliance Officer or a designee has reason to believe or suspect that the alleged conduct reasonably indicates abuse or neglect of the complainant, a report of such knowledge must be made in accordance with State law and Board policy.

If the Compliance Officer has reason to believe that the complainant has been the victim of criminal conduct as defined under Florida law, such knowledge should be reported to local law enforcement.

Any reports made to the local child protection service or to local law enforcement shall not terminate the Compliance Officer's obligation and responsibility to continue to investigate a complaint of harassment. While the Compliance Officers or designees may work cooperatively with outside agencies to conduct concurrent investigations, in no event shall the harassment investigation be inhibited by the involvement of outside agencies without good cause after consultation with the Superintendent.

### **Mandatory Reporting of Misconduct by Certificated Employees**

The Superintendent is required by State law and Board Policy 8141 to report alleged misconduct by certificated employees of the Authority that affects the health, safety, or welfare of a student. In accordance with Board policy and State law, the Superintendent shall investigate each allegation of such conduct and, if confirmed, shall report such misconduct pursuant to Policy 8141.

### **Education and Training**

In support of this policy, the Board promotes preventative educational measures to create greater awareness of unlawful discriminatory practices. The Superintendent or designee shall provide appropriate information to all members of the Authority community related to the implementation of this policy and shall provide training for Authority students and staff where appropriate. All training, as well as all information provided regarding this policy and harassment in general, will be age and content appropriate.

### Retention of Investigatory Records and Materials

All individuals charged with conducting investigations under this policy shall retain all information, documents, electronically stored information ("ESI"), and electronic media (as defined in Policy 8315) created and received as part of an investigation, including but not limited to:

1. all written reports/allegations/complaints/statements;
2. narratives of all verbal reports/allegations/complaints/statements;
3. a narrative of all actions taken by District personnel;
4. any written documentation of actions taken by District personnel;
5. (x) written witness statements;
6. (x) narratives of, notes from, or audio, video or digital recordings of witness statements;
7. (x) all documentary evidence;

8. (x) emails, texts or social media posts pertaining to the investigation;
9. contemporaneous notes in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.) pertaining to the investigation;
10. written disciplinary sanctions issued to students or employees and a narrative of verbal disciplinary sanctions issued to students or employees for violations of the policies and procedures prohibiting discrimination or harassment;
11. dated written determinations to the parties;
12. dated written descriptions of verbal notifications to the parties;
13. written documentation of any interim measures offered and/or provided to complainants, including no contact orders issued to both parties, the dates issued, and the dates the parties acknowledged receipt; and
14. documentation of all actions taken, both individual and systemic, to stop the discrimination or harassment, prevent its recurrence, eliminate any hostile environment and remedy its discriminatory effects.

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

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



Legal

49 C.F.R. Part 382, Part 391, 382.101 et seq.

49 C.F.R. Part 40 (DOT)

21 C.F.R. 1308.11-15

21 U.D.C. 812, Schedules I-V of Section 202 of the Controlled Substances Act

F.S.1012.45, 112.0455, 440.102

20 U.S.C. 1400 et seq., The Individuals with Disabilities Improvement Act of 2004, as amended (commonly known as the Individuals with Disabilities Act)

29 U.S.C. 621 et seq., Age Discrimination in Employment Act of 1967

29 U.S.C. 794, Rehabilitation Act of 1973

42 U.S.C. 12101 et seq., Americans with Disabilities Act of 1990, as amended

42 U.S.C. 2000d et seq.

42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act

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F.S. 110.1221, 760.01, 760.10, 1000.05, 1006.07

20 U.S.C. 1681 et seq.

29 C.F.R. Part 1635

29 U.S.C. 6101, The Age Discrimination Act of 1975

42 U.S.C. 2000e et seq.

42 U.S.C. 1983

Last Modified by Jacquelin Collins on August 19, 2019

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## 5517 - ANTI-HARASSMENT

### General Policy Statement

It is the policy of the Governing Board to maintain an educational and work environment that is free from all forms of unlawful harassment, including sexual harassment. This commitment applies to all Authority operations, programs, and activities. All students, administrators, teachers, staff, and all other school personnel share responsibility for avoiding, discouraging, and reporting any form of unlawful harassment. This policy applies to unlawful conduct occurring on school property, or at another location if such conduct occurs during an activity sponsored by the Board.

The Board will vigorously enforce its prohibition against discriminatory harassment on the basis of race, color, national origin, sex (including sexual orientation or transgender status, or gender identity), disability (including HIV, AIDS, or sickle cell trait), pregnancy, marital status, age (except as authorized by law), religion, military status, ancestry, or genetic information which are classes protected by State and/or Federal law (collectively, "protected classes") (hereinafter referred to as unlawful harassment); and encourages those within the Authority community as well as third parties, who feel aggrieved to seek assistance to rectify such problems. The Board will investigate all allegations of unlawful harassment and in those cases where unlawful harassment is substantiated, the Board will take immediate steps to end the harassment, prevent its reoccurrence, and remedy its effects. Individuals who are found to have engaged in unlawful harassment will be subject to appropriate disciplinary action up to and including termination of employment or suspension/expulsion from school.

For purposes of this policy, "Authority community" means students, administrators, teachers, staff, as well as Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Board.

For purposes of this policy, "third parties" include, but are not limited to, guests and/or visitors on Authority property (e.g., visiting speakers, participants on opposing athletic teams, parents), vendors doing business with, or seeking to do business with, the Board, and other individuals who come in contact with members of the Authority community at school-related events/activities (whether on or off Authority property).

### Other Violations of the Anti-Harassment Policy

The Board will also take immediate steps to impose disciplinary action on individuals engaging in any of the following prohibited acts:

- Retaliating against a person who has made a report or filed a complaint alleging unlawful harassment, or who has participated as a witness in a harassment investigation.
- Filing a malicious or knowingly false report or complaint of unlawful harassment.
- Disregarding, failing to investigate adequately, or delaying investigation of allegations of unlawful harassment, when responsibility for reporting and/or investigating unlawful harassment charges comprises part of one's supervisory duties.

### Definitions

#### Bullying

Bullying rises to the level of unlawful harassment when one or more persons systematically and chronically inflict physical hurt or psychological distress on one (1) or more students or employees and that bullying is based upon sex, race, color, national origin, religion, or disability, that is, characteristics that are protected by Federal civil rights laws. It is defined as any 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:

- A. teasing;
- B. threats;
- C. intimidation;
- D. stalking;
- E. cyberstalking;
- F. cyberbullying;
- G. ~~gaslighting~~;
- H. physical violence;
- I. theft;
- J. sexual, religious, or racial harassment;
- K. public humiliation; or
- L. ~~destruction~~ of property.

#### Harassment

Harassment means any threatening, insulting, or dehumanizing gesture, use of data or computer software, or written, verbal or physical conduct directed against a student or school employee that:

- A. places a student or school employee in reasonable fear of harm to his/her person or damage to his/her property;
- B. has the effect of substantially interfering with a student's educational performance, opportunities, or benefits; or
- C. has the effect of substantially disrupting the orderly operation of a school.

#### Sexual Harassment

Pursuant to Title VII of the Civil Rights Act of 1964 and Title IX of the Educational Amendments of 1972, "sexual harassment" is defined as:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when:

- A. Submission to such conduct is made either implicitly or explicitly a term or condition of an individual's employment, or status in a class, educational program, or activity.
- B. Submission or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individual.
- C. Such conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity.

Sexual harassment may involve the behavior of a person of either gender against a person of the same or opposite gender.

Prohibited acts that constitute sexual harassment may take a variety of forms. Examples of the kinds of conduct that may constitute sexual harassment include, but are not limited to:

- A. Unwelcome sexual propositions, invitations, solicitations, and flirtations.
- B. Physical and/or sexual assault.
- C. Threats or insinuations that a person's employment, wages, academic grade, promotion, classroom work or assignments, academic status, participation in athletics or extra-curricular programs or events, or other conditions of employment or education may be adversely affected by not submitting to sexual advances.



- D. Unwelcome verbal expressions of a sexual nature, including graphic sexual commentaries about a person's body, dress, appearance, or sexual activities; the unwelcome use of sexually degrading language, jokes, or innuendoes; unwelcome suggestive or insulting sounds or whistles; obscene telephone calls and/or text messages.
- E. Sexually suggestive objects, pictures, videotapes, audio recordings, or literature, placed in the work or educational environment, which may embarrass or offend individuals.
- F. Unwelcome and inappropriate touching, patting, or pinching; obscene gestures.
- G. A pattern of conduct, which can be subtle in nature, that has sexual overtones and is intended to create or has the effect of creating discomfort and/or humiliation to another.
- H. Remarks speculating about a person's sexual activities or sexual history, or remarks about one's own sexual activities or sexual history.
- I. Verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping that does not involve conduct of a sexual nature.
- J. Inappropriate boundary invasions by an Authority employee or other adult member of the Authority community into a student's personal space and personal life.

Not all behavior with sexual connotations constitutes unlawful sexual harassment. Sex-based or gender-based conduct must be sufficiently severe, pervasive, and persistent such that it adversely affects, limits, or denies an individual's education, or such that it creates a hostile or abusive educational environment, or such that it is intended to, or has the effect of, denying or limiting a student's ability to participate in or benefit from the educational program or activities.

**NOTE: Any teacher, administrator, coach, or other school authority who engages in sexual conduct with a student may also be guilty of a crime.**

### **Sexual Cyberharassment**

Pursuant to Florida law, "sexual cyberharassment" means to publish a sexually explicit image of a person that contains or conveys the personal identification information of the depicted person to an Internet website without the depicted person's consent, for no legitimate purpose, with the intent of causing substantial emotional distress to the depicted person. Sexual cyberharassment may be a form of sexual harassment.

### **Race/Color Harassment**

Prohibited racial harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's race or color and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's race or color, such as racial slurs, nicknames implying stereotypes, epithets, and/or negative references relative to racial customs.

### **Religious (Creed) Harassment**

Prohibited religious harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's religion or creed and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's religious tradition, clothing, or surnames, and/or involves religious slurs.

### **National Origin Harassment**

Prohibited national origin harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's national origin and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's national origin, such as negative comments regarding customs, manner of speaking, language, surnames, or ethnic slurs.

### **Disability Harassment**



Prohibited disability harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's disability and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's disabling condition, such as negative comments about speech patterns, movement, physical impairments, or defects/appearances, or the like.

### **Pregnancy Harassment**

Prohibited pregnancy harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's pregnancy and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's pregnancy and condition of pregnancy.

### **Reports and Complaints of Harassing Conduct**

Students and all other members of the Authority community, as well as third parties, are encouraged to promptly report incidents of unlawful harassing conduct to a teacher, administrator, supervisor, or other Authority employee or official so that the Board may address the conduct before it becomes severe, pervasive, or persistent. Any teacher, administrator, supervisor, or other Authority employee or official who receives such a complaint shall file it with the Authority's Anti-Harassment Compliance Officer at his/her first convenience.

Members of the Authority community, which includes students, or third parties who believe they have been unlawfully harassed are entitled to utilize the Board's complaint process that is set forth below. Initiating a complaint, whether formally or informally, will not adversely affect the complaining individual's employment or participation in educational or extra-curricular programs unless the complaining individual makes the complaint maliciously or with knowledge that it is false. While there are no time limits for initiating complaints of harassment under this policy, individuals should make every effort to file a complaint as soon as possible after the conduct occurs while the facts are known and potential witnesses are available.

If, during an investigation of reported act of bullying and/or harassment in accordance with Policy 5517.01 – Bullying and Harassment, the principal or his/her designee believes that the reported misconduct may have created a hostile learning environment and may have constituted unlawful discriminatory harassment based on sex, race, color, national origin, religion, or disability, the principal or his/her designee will report the act of bullying and/or harassment to one of the Compliance Officers who shall investigate the allegation in accordance with this policy. While the Compliance Officer investigates the allegation, the Principal shall suspend his/her Policy 5517.01 investigation to await the Compliance Officer's written report. The Compliance Officer shall keep the Principal informed of the status of the Policy 5517 investigation and provide him/her with a copy of the resulting written report.

### **Anti-Harassment Compliance Officers**

The following individuals serve as "Anti-Harassment Compliance Officers" for the Authority. They are hereinafter referred to as the "Compliance Officers".

#### Assistant Principal Superintendent

Keith Graham Jacquelin Collins

3519 Oasis Blvd.

Cape Coral, FL 33914

239-424-6100 X447

keith.graham@capecharterschools.org, jacquelin.collins@capecharterschools.org

#### Interim Assistant Principal Human Resources Manager

Amanda Santore

Leisa Orcutt

3519 Oasis Blvd.

Cape Coral, FL 33914

239-424-6100 X456

amanda.santore@leisa.orcutt@capecoralcharterschools.org

The names, titles, and contact information for these individuals will be published annually on the Authority's web site.

A Compliance Officer will be available during regular school/work hours to discuss concerns related to unlawful harassment, to assist students, other members of the Authority community, and third parties who seek support or advice when informing another individual about "unwelcome" conduct, or to intercede informally on behalf of the student.



Any Board employee who directly observes unlawful harassment of a student is obligated, in accordance with this policy, to report such observations to one of the Compliance Officers within two (2) business days. Thereafter, the Compliance Officer or designee must contact the student, if age eighteen (18) or older, or the student's parents if under the age of eighteen (18), within two (2) business days to advise s/he/them of the Board's intent to investigate the alleged misconduct, including the obligation of the compliance officer or designee to conduct an investigation following all the procedures outlined for a formal complaint.

The Compliance Officers are assigned to accept complaints of unlawful harassment directly from any member of the Authority community or a visitor to the Authority, or to receive complaints that are initially filed with a school building administrator. Upon receipt of a complaint either directly or through a school building administrator, a Compliance Officer will begin either an informal or formal process (depending on the request of the member of the Authority community alleging harassment or the nature of the alleged harassment), or the Compliance Officer will designate a specific individual to conduct such a process. In the case of a formal complaint, the Compliance Officer will prepare recommendations for the Superintendent or will oversee the preparation of such recommendations by a designee. All members of the Authority community must report incidents of harassment that are reported to them to the Compliance Officer within two (2) calendar days of learning of the incident.

### **Investigation and Complaint Procedure**

Any student who believes that s/he has been subjected to unlawful harassment may seek resolution of his/her complaint through either the informal or formal procedures as described below. Further, a process for investigating claims of harassment and a process for rendering a decision regarding whether the claim of legally prohibited harassment was substantiated are set forth below.

Due to the sensitivity surrounding complaints of unlawful harassment, time lines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) days after the conduct occurs while the facts are known and potential witnesses are available. Once the formal complaint process is begun, the investigation will be completed in a timely manner (ordinarily, within fifteen (15) calendar days of the complaint being received).

The informal and formal procedures set forth below are not intended to interfere with the rights of a student to pursue a complaint of unlawful harassment with the United States Department of Education, Office for Civil Rights, the Florida Civil Rights Commission, or the Equal Employment Opportunity Commission.

### **Informal Complaint Procedure**

The goal of the informal complaint procedure is to stop inappropriate behavior and to investigate and facilitate resolution through an informal means, if possible. The informal complaint procedure is provided as a less formal option for a student who believes s/he has been unlawfully harassed. This informal procedure is not required as a precursor to the filing of a formal complaint.

Students, other members of the Authority community or third parties who believe that they have been unlawfully harassed may initiate their complaint through this informal complaint process, but are not required to do so. The informal process is only available in those circumstances where the parties (alleged target of harassment and alleged harasser(s)) agree to participate in the informal process.

Students, other members of the Authority community or third parties who believe that they have been unlawfully harassed may proceed immediately to the formal complaint process and individuals who seek resolution through the informal procedure may request that the informal process be terminated at any time to move to the formal complaint process.

However, all complaints of harassment involving an Authority employee or any other adult member of the Authority community against a student will be formally investigated.

As an initial course of action, if a student feels that s/he is being unlawfully harassed and s/he is able and feels safe doing so, the individual should tell or otherwise inform the harasser that the conduct is unwelcome and must stop. The complaining individual should address the allegedly harassing conduct as soon after it occurs as possible. The Compliance Officers ~~is~~ are available to support and counsel individuals when taking this initial step or to intervene on behalf of the individual if requested to do so. An individual who is uncomfortable or unwilling to inform the harasser of his/her complaint is not prohibited from otherwise filing an informal or a formal complaint. In addition, with regard to certain types of unlawful harassment, such as sexual harassment, the Compliance Officer may advise against the use of the informal complaint process.

A student who believes s/he has been unlawfully harassed may make an informal complaint, either orally or in writing: (1) to a teacher, other employee, or building administrator in the school the student attends; (2) to the Superintendent or other Authority employee; and/or (3) directly to one of the Compliance Officers.

All informal complaints must be reported to the Compliance Officers who will either facilitate an informal resolution as described below on his/her own, or appoint another individual to facilitate an informal resolution.



The Authority's informal complaint procedure is designed to provide students, other members of the Authority community and third parties who believe they are being unlawfully harassed by a student with a range of options designed to bring about a resolution of their concerns. Depending upon the nature of the complaint and the wishes of the student claiming unlawful harassment, informal resolution may involve, but not be limited to, one or more of the following:

- A. Advising the student about how to communicate the unwelcome nature of the behavior to the alleged harasser.
- B. Distributing a copy of the anti-harassment policy as a reminder to the individuals in the school building or office where the individual whose behavior is being questioned works or attends.
- C. If both parties agree, the Compliance Officers may arrange and facilitate a meeting between the student claiming harassment and the individual accused of harassment to work out a mutual resolution.

While there are no set time limits within which an informal complaint must be resolved, the Compliance Officers or designee will exercise his/her authority to attempt to resolve all informal complaints within fifteen (15) days of receiving the informal complaint. Parties who are dissatisfied with the results of the informal complaint process may proceed to file a formal complaint. And, as stated above, parties may request that the informal process be terminated at any time to move to the formal complaint process.

~~All materials generated as part of the informal complaint process will be retained by the Compliance Officers or designee in accordance with the Board's records retention policy. (See Policy 6310 and Policy 6320)~~

### **Formal Complaint Procedure**

If a complaint is not resolved through the informal complaint process, if one of the parties has requested that the informal complaint process be terminated to move to the formal complaint process, or if the student elects to file a formal complaint initially, the formal complaint process as described below shall be implemented.

This formal complaint process is not intended to interfere with the rights of a student, other member of the Authority community, or third party to pursue a complaint of unlawful harassment with the United States Department of Education, Office for Civil Rights, the Florida Civil Rights Commission, or the Equal Employment Opportunity Commission.

A student who believes she/he has been subjected to offensive conduct/harassment hereinafter referred to as the "complainant", may file a formal complaint, either orally or in writing with a teacher, principal, or other Authority employee at the student's school, the Compliance Officer, Superintendent, or other Authority employee who works at another school or at the Authority level. Due to the sensitivity surrounding complaints of unlawful harassment, time lines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) days after the conduct occurs while the facts are known and potential witnesses are available. If a complainant informs a teacher, principal, or other Authority employee at the student's school, the Compliance Officer, Superintendent, or other Authority employee, either orally or in writing, about any complaint of harassment, that employee must report such information to the Compliance Officer or designee within two (2) business days.

Throughout the course of the process as described herein, the Compliance Officer should keep the parties informed of the status of the investigation and the decision making process.

All formal complaints must include the following information to the extent it is available: the identity of the individual believed to have engaged in, or engaging in, offensive conduct/harassment; a detailed description of the facts upon which the complaint is based; and a list of potential witnesses and the resolution sought by the complainant.

If the complainant is unwilling or unable to provide a written statement including the information set forth above, the Compliance Officer shall ask for such details in an oral interview. Thereafter the Compliance Officer will prepare a written summary of the oral interview, and the complainant will be asked to verify the accuracy of the reported charge by signing the document.

Upon receiving a formal complaint, the Compliance Officer will consider whether any action should be taken in the investigatory phase to protect the complainant from further harassment or retaliation including but not limited to a change of class schedule for the complainant or the alleged harasser, or possibly a change of school for either or both of the parties. In making such a determination, the Compliance Officer should consult the complainant to assess his/her agreement to any action deemed appropriate. If the complainant is unwilling to consent to any change that is deemed appropriate by the Compliance Officer, the Compliance Officer may still take whatever actions s/he deems appropriate in consultation with the Superintendent and/or Board Attorney.

Within two (2) business days of receiving a formal complaint, the Compliance Officer will inform the individual alleged to have engaged in the harassing conduct, hereinafter referred to as the "respondent", that a complaint has been received. The



respondent will be informed about the nature of the allegations and a copy of these administrative procedures and the Board's anti-harassment policy shall be provided to the respondent at that time. The respondent must also be informed of the opportunity to submit a written response to the complaint within five (5) business days.

Within five (5) business days of receiving the complaint, the Compliance Officer or a designee will initiate a formal investigation to determine whether the complainant has been subject to offensive conduct/harassment. A principal will not conduct an investigation unless directed to do so by the Compliance Officer.

Simultaneously, the Compliance Officer will inform the individual alleged to have engaged in the harassing or retaliatory conduct, hereinafter referred to as the "respondent", that a complaint has been received. The respondent will be informed about the nature of the allegations and provided with a copy of any relevant administrative procedures, including the Board's anti-harassment policy. The respondent must also be informed of the opportunity to submit a written response to the complaint within five (5) business days.

Although certain cases may require additional time, the Compliance Officer or a designee will attempt to complete an investigation into the allegations of harassment within fifteen (15) calendar days of receiving the formal complaint. The investigation will include:

- A. Interviews with the complainant;
- B. interviews with the respondent;
- C. interviews with any other witnesses who may reasonably be expected to have any information relevant to the allegations;
- D. consideration of any documentation or other evidence presented by the complainant, respondent, or any other witness which is reasonably believed to be relevant to the allegations.

At the conclusion of the investigation, the Compliance Officer or the designee shall prepare and deliver a written report to the Superintendent which summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of unlawful harassment as provided in Board policy and State and Federal law as to whether either substantiating or refuting the complainant has been subject to unlawful harassment. In determining if discrimination occurred, a preponderance of evidence standard will be used. The Compliance Officer's recommendations must be based upon the totality of the circumstances, including the ages and maturity levels of those involved. The Compliance Officer may consult with the Board Attorney before finalizing the report to the Superintendent.

Absent extenuating circumstances, within ten (10) business days of receiving the report of the Compliance Officer or the designee, the Superintendent must either issue a final decision regarding whether or not the complaint of harassment that has been substantiated or request further investigation. A copy of the Superintendent's final decision will be delivered to both the complainant and the respondent.

If the Superintendent requests additional investigation, the Superintendent must specify the additional information that is to be gathered, and such additional investigation must be completed within ten (10) business days. At the conclusion of the additional investigation, the Superintendent must issue a final written decision as described above.

The decision of the Superintendent shall be final.

The Board reserves the right to investigate and resolve a complaint or report of unlawful harassment regardless of whether the member of the Authority community or third party alleging the unlawful harassment pursues the complaint. The Board also reserves the right to have the formal complaint investigation conducted by an external person in accordance with this policy or in such other manner as deemed appropriate by the Board or its designee.

### Privacy/Confidentiality

The Authority will employ all reasonable efforts to protect the rights of the complainant, the individual(s) against whom the complaint is filed, and the witnesses as much as possible, consistent with the Board's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations. All records generated under the terms of this policy and related administrative procedures shall be maintained as confidential to the extent permitted by law. Confidentiality cannot be guaranteed however. All complainants proceeding through the formal investigation process will be advised that their identities may be disclosed to the respondent.

During the course of a formal investigation, the Compliance Officer or his/her designee will instruct all members of the Authority community and third parties who are interviewed about the importance of maintaining confidentiality. Any individual who is interviewed as part of a harassment investigation is expected not to disclose any information that s/he learns or that s/he provides during the course of the investigation. Any violations of confidentiality may result in disciplinary action up to and



including termination of employment or the suspension/expulsion of a student.

All public records created as a part of an investigation of a complaint of harassment will be maintained by the Compliance Officer in accordance with the Board's records retention policy. Any records which are considered student records in accordance with the *Family Educational Rights and Privacy Act* will be maintained in a manner consistent with the provisions of the Federal law and State laws.

### **Sanctions and Monitoring**

The Board shall vigorously enforce its prohibitions against unlawful harassment by taking appropriate action reasonably calculated to stop the harassment and prevent further such harassment. While observing the principles of due process, a violation of this policy may result in disciplinary action up to and including the discharge of an employee or the suspension/expulsion of a student. All disciplinary action will be taken in accordance with applicable State law and the terms of the relevant collective bargaining agreement(s). When imposing discipline, the Superintendent shall consider the totality of the circumstances involved in the matter, including the ages and maturity levels of those involved. In those cases where unlawful harassment is not substantiated, the ~~Board~~ Superintendent may consider whether the alleged conduct nevertheless warrants discipline in accordance with other Board policies, consistent with the terms of the relevant collective bargaining agreement(s).

Where the Board Superintendent becomes aware that a prior remedial action has been taken against a member of the Authority community, all subsequent sanctions imposed by the Board and/or Superintendent shall be reasonably calculated to end such conduct, prevent its recurrence, and remedy its effects.

### **Retaliation**

Any act of retaliation against a person who has made a report or filed a complaint alleging unlawful harassment, or who has participated as a witness in a harassment investigation is prohibited.

### **Allegations Constituting Criminal Conduct: Child Abuse/Sexual Misconduct**

State law requires any teacher or school employee who knows or suspects that a child with a disability under the age of twenty-one (21) or that a child under the age of eighteen (18) is a victim of child abuse or neglect to immediately report that knowledge or suspicion to the Department of Children and Family Services. If, during the course of a harassment investigation, the Compliance Officer or a designee has reason to believe or suspect that the alleged conduct reasonably indicates abuse or neglect of the complainant, a report of such knowledge must be made in accordance with State law and Board policy.

If the Compliance Officer or a designee has reason to believe that the complainant has been the victim of criminal conduct as defined under Florida law, such knowledge should be reported to local law enforcement.

Any reports made to the local child protection service or to local law enforcement shall not terminate the Compliance Officer's or a designee's obligation and responsibility to continue to investigate a complaint of harassment. While the Compliance Officers or a designee may work cooperatively with outside agencies to conduct concurrent investigations, in no event shall the harassment investigation be inhibited by the involvement of outside agencies without good cause after consultation with the Superintendent.

### **Mandatory Reporting of Misconduct by Certificated Employees**

The Superintendent is required by State law and Board Policy 8141 to report alleged misconduct by certificated employees of the Authority that affects the health, safety, or welfare of a student. In accordance with Board policy and State law, the Superintendent shall investigate each allegation of such conduct and, if confirmed, shall report such misconduct pursuant to Policy 8141.

### **Education and Training**

In support of this policy, the Board promotes preventative educational measures to create greater awareness of unlawful discriminatory practices. The Superintendent shall provide appropriate information to all members of the Authority community related to the implementation of this policy shall provide training for Authority students and staff where appropriate. All training, as well as all information provided regarding this policy and harassment in general will be age and content appropriate.

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

All individuals charged with conducting investigations under this policy shall retain all information, documents, electronically stored information ("ESI"), and electronic media (as defined in Policy 8315) created and received as part of an investigation, including, but not limited to:



1. all written reports/allegations/complaints/statements;
2. narratives of all verbal reports/allegations/complaints/statements;
3. a narrative of all actions taken by District personnel;
4. any written documentation of actions taken by District personnel;
5. ( ) written witness statements;
6. ( ) narratives of, notes from, or audio, video, or digital recordings of witness statements;
7. ( ) all documentary evidence;
8. ( ) e-mails, texts, or social media posts pertaining to the investigation;
9. contemporaneous notes in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.) pertaining to the investigation;
10. written disciplinary sanctions issued to students or employees and a narrative of verbal disciplinary sanctions issued to students or employees for violations of the policies and procedures prohibiting discrimination or harassment;
11. dated written determinations to the parties;
12. dated written descriptions of verbal notifications to the parties;
13. written documentation of any interim measures offered and/or provided to complainants, including no contact orders issued to both parties, the dates issued, and the dates the parties acknowledged receipt; and
14. documentation of all actions taken, both individual and systemic, to stop the discrimination or harassment, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects.

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

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

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Legal	<p>F.S. 110.1221, 784.049, 1000.05, 1006.07</p> <p>20 U.S.C. 1400 et seq., The Individuals with Disabilities Improvement Act of 2004, as amended (commonly known as The Individuals with Disabilities Act)</p> <p>42 U.S.C. 2000d et seq.</p> <p>42 U.S.C. 2000e et seq.</p> <p>29 U.S.C. 621 et seq., Age Discrimination in Employment Act of 1967</p> <p>29 U.S.C. 794, Rehabilitation Act of 1973</p> <p>29 U.S.C. 6101, The Age Discrimination Act of 1975</p> <p>42 U.S.C. 12101 et seq., Americans with Disabilities Act of 1990, as amended</p> <p>20 U.S.C. 1681 et seq.</p> <p>42 U.S.C. 1983</p> <p>National School Boards Association Inquiry and Analysis – May 2008</p>
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## Cross References

po5517 - ANTI-HARASSMENT

po5517.01 - BULLYING AND HARASSMENT

po8141 - MANDATORY REPORTING OF MISCONDUCT BY CERTIFICATED EMPLOYEES

po8310 - PUBLIC RECORDS

po8320 - RECORDS MANAGEMENT

Last Modified by Jacquelin Collins on August 19, 2019

**Item Number: 8.E.**  
**Meeting Date: 10/8/2019**  
**Item Type: CONSENT AGENDA:**

**AGENDA REQUEST FORM**  
City Of Cape Coral Charter School Authority

**TITLE:**

Approval of NEOLA Policy Updates: Volume 18, Number 2: Policy 5517.02 Sexual Violence; Policy 5517.03 Dating Violence and Abuse; Policy 5610.02 In-School Discipline; Policy 7530.02 Staff and School Officials Use of Wireless Communication Devices; Policy 8315 Information Management

**SUMMARY:**

**ADDITIONAL INFORMATION:**

**RECOMMENDED ACTION:**

**ATTACHMENTS:**

<b>Description</b>	<b>Type</b>
▣ NEOLA 5517.02, 5517.03, 5610.02, 7530.02, 8315	Backup Material



Book	Policy Manual
Section	Vol 18 #2 REVISED
Title	SEXUAL VIOLENCE
Code	po5517.02 7/23/18 jc 8/24 fsj 8/15/19 lojc
Status	
Adopted	April 12, 2016

## 5517.02 - SEXUAL VIOLENCE

The Governing Board does not discriminate on the basis of race, color, national origin, sex (including sexual orientation, transgender status, or gender identity), disability (including HIV, AIDS, or sickle cell trait), pregnancy, marital status, age (except as authorized by law), religion, military status, ancestry, or genetic information which are classes protected by State and/or Federal law (collectively, "protected classes") in its education programs and activities. The Board is committed to maintaining an education and work environment that is free from all forms of unlawful harassment, including sexual harassment.

Sexual harassment, including sexual violence, interferes with students' rights to receive an education free from discrimination, and, in the case of sexual violence, is a crime. Pursuant to its Title IX obligations, the Board is committed to eliminating sexual violence in all forms and will take appropriate action against any individual found responsible for violating this policy. To further its commitment against sexual violence, the Board provides reporting options, an investigative and disciplinary process, and other related services as appropriate.

This policy applies to all student complaints, whether filed by a student, his/her parent, an employee, or third party on the student's behalf. It applies to all District operations, programs, and activities, as well as to unlawful conduct occurring on school property or during a Board-sponsored activity. All students, administrators, teachers, staff, and all other school personnel share responsibility for avoiding, discouraging, and reporting any form of unlawful harassment.

### Definitions

#### Sexual Harassment

As detailed further in Policy 5517, sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual harassment may involve the behavior of a person of either gender against a person of the same or opposite gender.

Examples include, but are not limited to:

- A. unwelcome sexual propositions, invitations, solicitations, and flirtations;
- B. unwanted physical and/or sexual contact;
- C. threats or insinuations implying that a person's conditions of education may be adversely affected by not submitting to sexual advances;
- D. unwelcome sexual verbal expressions, including graphic sexual commentaries about a person's body, dress, appearance, or sexual activities; unwelcome sexually degrading language, jokes or innuendoes; unwelcome suggestive or insulting sounds or whistles; obscene telephone calls;
- E. sexually suggestive objects, pictures, videotapes, audio recordings or literature;
- F. unwelcome and inappropriate touching, patting, or pinching; obscene gestures;
- G. a pattern of conduct, which can be subtle in nature, that has sexual overtones and is intended to create or has the effect of creating discomfort and/or humiliation to another;
- H. speculations about a person's sexual activities or sexual history, or remarks about one's own sexual activities or sexual history;



- I. inappropriate boundary invasions into a student's personal space and personal life; and
- J. verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping that does not involve conduct of a sexual nature.

## Sexual Violence

Sexual violence, as used in this policy, refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent (e.g., due to the student's age, intellectual or other disability, or use of drugs or alcohol).

Sexual violence includes rape, sexual assault, sexual battery, sexual abuse, and sexual coercion. Sexual violence can be carried out by school employees, other students, or third parties. All such acts of sexual violence are forms of sexual harassment and, in turn, sex discrimination prohibited by Title IX.

Harassing conduct creates a hostile environment when it interferes with or limits a student's ability to participate in or benefit from the school's program. A single or isolated incident of sexual harassment may create a hostile environment if the incident is sufficiently severe. For example, a single instance of rape is sufficiently severe to create a hostile environment.

## Anti-Harassment Compliance Officers

The Board designates the following individuals to serve as "Anti-Harassment Compliance Officers" for the District. They are hereinafter referred to as the "Compliance Officers".

~~Keith Graham~~ ~~Donnie Hopper~~  
~~Donnie Hopper~~ Jacquelin Collins  
~~Principal Superintendent~~  
~~239-424-6100 X447~~  
~~3519 Oasis Blvd.~~  
~~Cape Coral, Florida 33914~~  
~~keith.graham-Donnie.HopperDonnie.Hopper.jacquelin.collins@capecharterschools.org~~

~~Shannon Treece~~ ~~Kevin Brown~~ ~~Kevin Brown~~ Leisa Orcutt  
~~Principal Human Resources Manager~~  
~~239-424-6100 239-283-4511 239-283-4511 239-283-4511 239-424-6100 X456~~  
~~3519 Oasis Blvd. 2017 SW 3rd Lane 2017 SW 3rd Lane~~  
~~Cape Coral, Florida 33914 33991 33991 33991 33914~~  
~~shannon.treece-Kevin.Brown Kevin.Brown leisa.orcutt@capecharterschools.org~~

The names, titles, and contact information of these individuals will be published annually on the Authority's web site.

The Compliance Officers are available during regular school/work hours to discuss Title IX questions, sexual violence concerns, and to assist students, other members of the Authority community, and third parties. Compliance Officers shall accept sexual violence complaints directly from any members of the School Authority community or a visitor to the Authority, as well as those initially filed within a school building administrator. Upon receiving a complaint, the Compliance Officer or designee will discuss confidentiality issues with the complainant (and his/her parent, if the complainant is a minor), and open an investigation as described below.

## Complaint Procedures

### Reporting

~~Students and Board employees are required, and to report sexual violence promptly to an administrator, supervisor, or other school official. Students,~~ parents, community members, and third parties are strongly encouraged, to report sexual violence promptly to a teacher, administrator, supervisor, or other school official. Reports can be made orally or in writing, and should be as specific as possible. The person making the report shall identify the alleged victim, perpetrator(s), and witness(es), and describe in detail what occurred, including date(s), time(s), and location(s). The Authority, however, will investigate and address all reports to the extent possible.

A student has a right to file criminal and/or Title IX complaints simultaneously. A student does not need to wait until the Title IX investigation is completed before filing a criminal complaint. Likewise, questions or complaints relating to sexual violence or any other Title IX concerns may also be filed with the U.S. Department of Education's Office for Civil Rights.

Any teacher, administrator, supervisor, or other school employee or official who receives such a complaint shall file it with the Authority's Compliance Officer within two (2) school days, and shall comply with his/her mandatory reporting responsibilities.



pursuant to State law. The Compliance Officer will oversee the Authority's investigation and response to any Title IX-related complaints, but s/he may delegate the investigative process to another individual ("designee"). The Board reserves the right to have the formal complaint investigation conducted by an external person in accordance with this policy.

### **Confidentiality**

The Authority respects students' privacy and will only disclose information regarding alleged sexual violence to individuals who are responsible for handling the school's response, the student's parents (if the student is a minor or is considered a dependent under Section 152 of the Internal Revenue Code), or as otherwise required by law. During the ~~course of a formal~~ investigative process, the Compliance Officer/designee will instruct all interviewees about the importance of maintaining confidentiality. Interviewees will be directed not to disclose any information that s/he learns or that s/he provides during the course of the investigation to third parties.

Students or their parents sometimes ask that the students' names not be disclosed to the alleged perpetrators or that no investigation or disciplinary action be pursued to address the alleged sexual violence. Upon such a request, the Compliance Officer/designee will inform the student and his/her parent that honoring the request may limit the Authority's ability to respond fully to the incident, including pursuing disciplinary action against the alleged perpetrator. The official will also explain that Title IX includes protections against retaliation, and that school officials will not only take steps to prevent retaliation but also take strong responsive action if it occurs.

Should the student or his/her parents continue to request complete confidentiality, the Compliance Officer/designee will balance the student's privacy request with the Authority's obligation to provide a safe and non-discriminatory environment for all students. Should the official determine that the Authority may honor the student's or parent's request and remain in compliance with its Federal and State obligations, the Authority may limit its investigation and/or formal action against the alleged perpetrator. The Authority will, however, take other action to address the sexual violence. This may include increasing monitoring and security, offering schedule changes, and conducting climate surveys.

If the Compliance Officer/designee determines that the Authority must disclose the student's identity to an alleged perpetrator, s/he will inform the student and his/her parents prior to disclosure. The Authority will then afford interim protection measures to the student as appropriate.

### **Investigation**

The Authority is committed to investigating all sexual violence complaints in an adequate, reliable, impartial, and prompt manner. The investigation will seek to determine whether the conduct occurred, and if so, what actions the school will take to end the sexual violence, eliminate the hostile environment, prevent its recurrence, and remedy its effects.

The investigation may include:

- A. interviewing the complainant, perpetrator, and any witnesses;
- B. reviewing law enforcement investigation documents;
- C. reviewing student and personnel files;
- D. gathering and examining other relevant documents or evidence; and
- E. providing a disciplinary hearing as needed.

The Authority affords both parties a balanced and fair process. Specifically, the complainant has the same rights throughout the proceeding as the alleged perpetrator. Both parties, for example, will have an equal opportunity to present relevant witnesses and other evidence at a disciplinary hearing. Likewise, the Authority's appeal process is available to both parties. The Authority, however, does not require complainants to be present for the hearing or appeal. Further, the Authority will not permit parties to personally question or cross-examine each other directly.

In resolving a complaint, the Authority uses a preponderance of the evidence standard, determining whether it is more likely that not that sexual violence occurred.

### **Timeline**

The Compliance Officer/designee must contact the student, if age eighteen (18) or older, or the student's parents if under the age eighteen (18), within two (2) school days after receipt of a report of sexual violence to advise s/he/them of the Board's intent to investigate the alleged misconduct. The Compliance Officer/designee will also inform the alleged perpetrator of the opportunity to submit a written response to the complaint within five (5) business days. The Authority's investigation, including a disciplinary hearing process (but not appeal), may take up to sixty (60) calendar days to complete. This timeframe may be



extended on a case-by-case basis, depending on the complexity and severity of the matter, criminal investigation requirements, and school breaks. During this period, the Authority will provide the complainant with periodic updates on the status of the investigation.

### **Interim Measures**

During the investigation, the Authority will take interim steps to facilitate the complainant's equal access to its education programs. These steps may include, but are not limited to: (1) notifying the complainant of his/her options to avoid contact with the alleged perpetrator; (2) allowing the complainant to change his/her academic, extracurricular, transportation, dining, and working situation as appropriate; and (3) informing complainant of other available resources, such as counseling, legal assistance, and victim advocacy. Specific interim measures will be considered and offered on a case-by-case basis.

### **Notice**

Upon completing its investigation, the Authority will notify both parties in writing about the outcome of the complaint and any appeal. Specifically, the Authority will notify the complainant: (1) as to whether the investigation substantiated the allegations; (2) of individual remedies offered to the complainant; (3) of sanctions imposed on the perpetrator that directly relate to the complainant; and (4) other steps the Authority has taken to eliminate the hostile environment and prevent recurrence. The alleged perpetrator will be notified of the investigation's result and disciplinary consequence to him/her, if any. The Authority will not notify the alleged perpetrator about the individual remedies afforded to the complainant. All aforementioned notifications will comply with Federal and State privacy laws, including the Family Education Rights and Privacy Act (FERPA).

### **Remedies**

The Authority will provide a prompt and equitable resolution. If the investigation substantiates the complaint, the Authority will take steps to end the sexual violence, eliminate the hostile environment, prevent its recurrence, and remedy its effects. In addition to imposing disciplinary consequences on the perpetrator, the Authority will consider the following individual and global remedies, on a case-by-case basis:

- A. providing medical, counseling, and academic support services to the complainant and/or perpetrator;
- B. re-arranging schedules at the complainant's request;
- C. affording the complainant extra time to complete or retake classes without academic penalty;
- D. reviewing any disciplinary proceedings against the complainant;
- E. training or retraining employees/students;
- F. developing materials on sexual violence;
- G. conducting sexual violence prevention programs; and
- H. conducting climate checks.

The Authority will not offer mediation in cases involving sexual violence. Disciplinary consequences against offenders may include suspension, expulsion, termination, and any other sanctions the Board deems appropriate. Any discipline meted out to offenders will comply with special education and Section 504 laws and regulations.

### **Appeals Process**

Both complainants and perpetrators may appeal the outcome of the investigation. Any appeal opportunities afforded to the alleged perpetrator are also afforded to the complainant. Any party wishing to appeal the outcome of the investigation must submit a written appeal to the Board within ten (10) school days after receipt of the written notice of the outcome of the investigation. The Board shall, within twenty (20) work days, conduct a hearing concerning the appeal. The Board shall provide a written decision to the appealing individual within ten (10) work days following completion of the hearing.

### **Retaliation**

Federal law strictly prohibits retaliation against a complainant or witness. The Authority will inform complainant of this prohibition and direct him/her to report retaliation, whether by students or school officials, to the Compliance Officer. Upon learning of retaliation, school officials will take strong responsive action as appropriate.

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



All individuals charged with conducting investigations under this policy shall retain all information, documents, electronically stored information ("ESI"), and electronic media (as defined in Policy 8315) created and received as part of an investigation, including, but not limited to: written disciplinary sanctions issued to students or employees and a narrative of verbal disciplinary sanctions issued to students or employees for violations of the policies and procedures prohibiting discrimination or harassment;

- dated written determinations to the parties;
- dated written descriptions of verbal notifications to the parties;
- written documentation of any interim measures offered and/or provided to complainants, including no contact orders issued to both parties, the dates issued, and the dates the parties acknowledged receipt; and
- documentation of all actions taken, both individual and systemic, to stop the discrimination or harassment, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects.

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

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

## Training

All staff will be trained so they know to report harassment to appropriate school officials. This training will include practical information about how to identify and report sexual harassment, including sexual violence. The training will be provided to any employees likely to witness or receive complaints involving sexual harassment and/or sexual violence, including teachers, school law enforcement unit employees or school resource officers, school administrators, school counselors, and health personnel. Further, school administrators responsible for investigating allegations of sexual harassment and sexual violence will be trained how to conduct such investigations and respond properly to such charges.

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Legal	20 U.S.C. 1681 et seq., Title IX of the Education Amendments of 1972 (Title IX)
	20 U.S.C. 1400 et seq., The Individuals with Disabilities Education Improvement Act of 2004 (IDEIA)
	42 U.S.C. 2000c et seq., Title IV of the Civil Rights Act of 1964
	42 U.S.C. 2000d et seq.
	42 U.S.C. 2000e et seq.
	42 U.S.C. 1983
	34 C.F.R. Part 106
	Dear Colleague Letter on Sexual Violence (Office for Civil Rights, 2011)
	OCR's Revised Sexual Harassment Guidance (2001)

Cross References	po5517 - ANTI-HARASSMENT
	po5517.02 - SEXUAL VIOLENCE



Book	Policy Manual
Section	Vol 18 #2 REVISED
Title	DATING VIOLENCE AND ABUSE
Code	po5517.03 8/24/18 fsj 8/16/19 lojc
Status	
Adopted	April 12, 2016

### 5517.03 - DATING VIOLENCE AND ABUSE

The Governing Board strictly prohibits any act of dating violence and abuse committed by one student against another on school property, during a school-sponsored activity, or during school-sponsored transportation.

#### Dating Violence and Abuse Defined

For purposes of this policy, dating violence and abuse shall be defined as emotional, verbal, sexual, or physical abuse of a student who is in a current or was in a past dating relationship by the other person in that dating relationship. Abuse may include insults, coercion, social sabotage, sexual harassment, stalking, threats, and/or acts of mental abuse such as gaslighting, physical, or sexual abuse. It may also be a pattern of demeaning, coercive, abusive actions that amount to emotional or psychological abuse. Dating violence and abuse may also include abuse, harassment, and stalking via electronic devices such as cell phones and computers, as well as harassment through a third party.

#### Reporting Acts of Dating Violence and Abuse

Any student who is the victim of an act of dating violence and abuse, or has cause to believe that s/he is in immediate danger of becoming the victim of an act of dating violence and abuse, should report the matter to the Principal or to any member of the school staff.

Any Board employee who receives a report of an act of dating violence and abuse, who directly observes an act of dating violence and abuse perpetrated by one student against another, or who has reason to believe that a student is a victim of dating violence and abuse shall report such report abuse, observations, or suspicions to the Principal.

Any resident of the community or other member of the school community, including students, parents, volunteers, and visitors, who observes an act of dating violence and abuse perpetrated by one student against another, or who has reason to believe that a student is a victim of dating violence and abuse is strongly encouraged to report the matter to the Principal or other District administrator live or official. These reports can be made either in person or anonymously.

#### Investigating Reports of Dating Violence and Abuse

Upon receiving a report of alleged dating violence and abuse, the Principal shall conduct an investigation of the allegation promptly. As part of the investigation, the Principal shall contact the parent(s) of the alleged victim and/or the parent(s) of the alleged perpetrator, if they are under the age of eighteen (18), to inform them of the report.

The investigation of the report should include interviews of the alleged victim, the individual accused of perpetrating the dating violence and abusive behavior, and any other person who may have witnessed the alleged act or who may reasonably be expected to have information relevant to the situation. All interviewed parties and witnesses will be provided an opportunity to present any evidence that they reasonably believe to be relevant to the situation.

The Board reserves the right to investigate a report of dating violence and abuse regardless of whether the student who is allegedly the victim of the dating violence and abuse wants to pursue the matter.

#### Consequences

At the conclusion of the investigation the Principal will determine ~~whether or not~~ if the allegation of dating violence and abuse was substantiated. If the Principal determines that a student has committed an act of dating violence and abuse, that violation of this policy shall result in disciplinary action in accordance with the Student Code of Conduct, which may include suspension, assignment to another school or program, or recommendation for expulsion. All disciplinary action shall be taken in accordance



with State law and applicable Board policy. (See Policy 5500 and Policy 5600) When imposing discipline, the totality of the circumstances involved in the matter, including the ages and maturity levels of those involved, shall be considered.

Suspensions for acts of teen violence and abuse may be appealed in accordance with the procedures set forth in the Student Code of Conduct. (See Policy 5500)

Further, the Department of Children and Families shall be notified if the student who is found to have perpetrated the act of dating violence and abuse is eighteen (18) years of age or older and the student who was the victim of the act of dating violence and abuse is a minor.

In those cases where teen dating violence and abuse is not substantiated, the Principal may consider whether the alleged conduct nevertheless warrants disciplinary action in accordance with the Student Code of Conduct or other Board policies.

### **Support and Reasonable Accommodations**

If requested during or after the investigation, the Principal shall make reasonable accommodations for the student who is allegedly experiencing dating violence and abuse including, but not limited to the following:

- A. Stay Away Contract, that is, a contract with the alleged perpetrator to stay away from the victim while on school grounds, on school transportation, and during school sponsored programs and events;
- B. Class schedule changes;
- C. Protection that will enable safe egress/regress from school, as well as movement within the school; and
- D. Referrals for outside support or counseling.

Students should provide the Principal with a copy of an order of protection that has been issued by the court. The Principal shall then contact the student whose behavior is to be regulated by that order of protection and initiate a Stay Away Contract that is consistent with the terms of that order and provides penalties for known violations of the contract. Further, the Principal shall notify law enforcement immediately if s/he knows or has reason to believe that a criminal or civil restraining order has been violated.

The School Resource Officer shall respond immediately to a report of a violation of a criminal or civil restraining order.

### **Other Violations of the Dating Violence and Abuse Policy**

The Superintendent will also take immediate steps to impose disciplinary action on individuals engaging in any of the following prohibited acts:

- A. Retaliating against a person who has made a report or filed a complaint alleging dating violence and abuse, or who has participated as a witness in an investigation of such an allegation.
- B. Filing a malicious or knowingly false report or complaint of dating violence and abuse.
- C. Disregarding, failing to investigate adequately, or delaying investigation of allegations of dating violence and abuse, when responsibility for reporting and investigating allegations of dating violence and abuse comprises part of one's supervisory duties.

### **Privacy/Confidentiality**

The Authority will respect the privacy of the complainant, the individual(s) against whom the complaint is filed, and the witnesses as much as possible, consistent with the Board's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations. All records generated under the terms of this policy and its related administrative procedures shall be maintained as confidential to the extent permitted by law.

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

**All individuals charged with conducting investigations under this policy shall retain all information, documents, electronically stored information ("ESI"), and electronic media (as defined in Policy 8315) created and received as part of an investigation, including, but not limited to:**

1. all written reports/allegations/complaints/statements;



2. narratives of all verbal reports/allegations/complaints/statements;
- 
3. a narrative of all actions taken by District personnel;
- 
4. any written documentation of actions taken by District personnel to include;
- 
5. (X ) written witness statements;
- 
6. (X ) narratives of, notes from, or audio, video, or digital recordings of witness statements;
- 
7. (X ) all documentary evidence;
- 
8. (X ) e-mails, texts, or social media posts pertaining to the investigation;
- 
9. contemporaneous notes in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.) pertaining to the investigation;
- 
10. written disciplinary sanctions issued to students or employees and a narrative of verbal disciplinary sanctions issued to students or employees for violations of the policies and procedures prohibiting discrimination or harassment;
- 
11. dated written determinations to the parties;
- 
12. dated written descriptions of verbal notifications to the parties;
- 
13. written documentation of any interim measures offered and/or provided to complainants, including no contact orders issued to both parties, the dates issued, and the dates the parties acknowledged receipt; and
- 
14. documentation of all actions taken, both individual and systemic, to stop the discrimination or harassment, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects.

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

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

#### **Education and Training**

In support of this policy, the Board promotes preventative educational measures to create greater awareness of dating violence and abuse. The Superintendent shall require that the Authority's comprehensive health curriculum in grades 7-12 include a component about dating violence and abuse that is age appropriate and includes the content required by State law.

Further, the Superintendent shall provide appropriate training to all members of the Authority staff related to dating violence and abuse, and the implementation of this policy.

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Legal F.S. 1003.42, 1006.148

Cross References po5500 - STUDENT CONDUCT  
po5540 - THE SCHOOLS AND INVESTIGATIONS INVOLVING STUDENTS

Last Modified by Jacquelin Collins on August 19, 2019



Book	Policy Manual
Section	Vol 18 #2 REVISED
Title	IN-SCHOOL DISCIPLINE 8/15/19 8/16/19lajc
Code	po5610.02 8/24/18 fsj
Status	
Adopted	November 8, 2016

#### 5610.02 - IN-SCHOOL DISCIPLINE

It is the purpose of this policy to allow for an alternative to out-of-school suspension. ~~The availability of in-school discipline options is dependent upon the financial ability of the Governing Board to support them.~~

~~"In-school suspension" means the temporary removal of a student from the school's regular school program and placement in an alternative program under the supervision of Board personnel for a period not to exceed ten (10) school days.~~

In-school discipline includes ( x ) detention ( x ) in-school restriction ( . ) Saturday School ( x ) in-school suspension, which is the temporary removal of a student from his/her regular class(es) and assigning the student to a location in the building under the supervision of School Board personnel for a period not to exceed ten ( 10 ) school days.

Students assigned to in-school suspension will be given credit for all classroom assignments completed provided the student submits the assignments upon return to his/her class.

In-school discipline will ~~only~~ be offered at the discretion of the Principal for offenses found in the Student Code of Conduct/Student Discipline Code.

The Superintendent is to establish administrative procedures for the proper operation of such programs. As long as the in-school disciplinary alternatives are served entirely in the school setting, they will not require any notice, hearing, or appeal rights.

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Legal	F.S. 1006.07
Cross References	ap5610.02- In-School Discipline

Last Modified by Jacquelin Collins on August 19, 2019

Book	Policy Manual
Section	Vol 18 #2 REVISED
Title	NEW POLICY - VOL. 18, NO. 2 - STAFF AND SCHOOL OFFICIALS USE OF WIRELESS COMMUNICATION DEVICES
Code	pa7530.02 8/24/18 fsj 8/16/19 lo 8/20/19 jc
Status	

## **NEW POLICY - VOL. 18, NO. 2**

### **7530.02 - STAFF AND SCHOOL OFFICIALS USE OF WIRELESS COMMUNICATION DEVICES**

Use of wireless communication devices ("WCD") (as defined in Bylaw 0100) has become pervasive in the workplace. Whether the WCD is Board-owned and assigned to a specific employee or school official or personally-owned by the employee or school official (regardless of whether the Board pays the employee an allowance for his/her use of the device, the Board reimburses the employee or school official on a per use basis for their business-related use of his/her WCD, or the employee or school official receives no remuneration for his/her use of a personally-owned WCD, the employee or school official is responsible for using the device in a safe and appropriate manner and in accordance with this policy and its accompanying procedure, as well as other pertinent Board policies and procedures.

#### **Conducting District Business Using a WCD**

**[NOTE: FIRST SET OF OPTIONS - CHOOSE OPTION A OR OPTION B]**

#### **[OPTION A]**

☒ Employees and school officials are permitted to use a Board-owned and/or personally-owned WCD to make/receive calls, send/receive e-mails, send/receive texts, send/receive instant messages ( ), or ( ) \_\_\_\_\_ **[END OF OPTION]** that concern District business of any kind.

Employees and school officials are responsible for archiving such communication(s) in accordance with the District's System's requirements. **[Staff members must archive all correspondence for each contracted year of employment.]**

**[END OF OPTION A]**

#### **[OPTION B]**

☐ Employees and school officials are prohibited from using a Board-owned and/or personally-owned WCD that concern District business of any kind other than to ( ) make/receive telephone calls ( ), send/receive emails on a District-issued e-mail account ( ), or \_\_\_\_\_ **[END OF OPTION]**.

Employees and school officials who receive District business-related communication(s) on Board-owned and personally-owned WCDs on a function that is not permitted under this policy are still responsible for the following:

- A. archiving such communication(s) sent or received in accordance with the District's requirements; and
- B. responding to an individual who sends such communication using the employee's or school official's District-issued e-mail account with the following message: "On \_\_\_\_\_ **[insert date]**, I received a message from you on my ( ) Board-owned ( ) personally-owned WCD. Pursuant to Board Policy 7530.02, please contact me with such communications regarding District business of any kind via my wireless communication device, the District issued email account from which I am sending this message ( ), or \_\_\_\_\_ **[End of Option]**. Thank you."

**[END OF OPTION B]**

**[END OF FIRST SET OF OPTIONS]**

#### **Safe and Appropriate Use of a WCD**



**[NOTE: SECOND SET OF OPTIONS - CHOOSE OPTION A OR OPTION B]****[OPTION A]**

☐ Employees and school officials whose job responsibilities include regular or occasional driving and who use a WCD for business use are expected to refrain from using their device while driving. Safety must come before all other concerns. Regardless of the circumstances, including slow or stopped traffic, employees and school officials should pull off to the side of the road and safely stop the vehicle before placing or accepting a call. Reading or sending a text message, instant message, or e-mail, or browsing the Internet using a WCD while driving is a violation of State law and is strictly prohibited. If accepting a call is unavoidable and pulling over is not an option, employees are expected to keep the call short, use hands-free options (e.g., headsets or voice activation) if available, refrain from the discussion of complicated or emotional topics, and keep their eyes on the road. Special care should be taken in situations where there is traffic, inclement weather, or the employee is driving in an unfamiliar area. In the interest of safety for employees, school officials, and other drivers, employees and school officials are required to comply with all applicable State laws and local ordinances while driving, including any laws that prohibit texting or using a cell phone or other WCD while driving.

☐ In situations where job responsibilities include regular driving and accepting of business calls, the employee or school official should use hands-free equipment to facilitate the provisions of this policy.

**OPTION B**

☒ Employees and school officials are responsible for operating Board-owned vehicles and potentially hazardous equipment in a safe and prudent manner, and therefore, employees are prohibited from using a WCD while operating such vehicles or equipment. In the interest of safety for both Board employees and other drivers, employees are required to comply with all applicable laws while driving.

**[NOTE: END OF SECOND SET OF OPTIONS]**

All employees and school officials must comply with Policy 8625 – Ban on Texting While Driving.

**Duty to Maintain Confidentiality of Student Personally Identifiable Information - Public and Student Record Requirements**

Employees and school officials are subject to all applicable policies and procedures pertaining to protection of the security, integrity, and availability of the data stored on a WCD regardless of whether they are Board-owned and assigned to a specific employee or personally-owned by the employee.

WCD communications, including calls, text messages, instant messages, and e-mails sent or received may not be secure. Therefore, employees should use discretion when using a WCD to relay confidential information, particularly as it relates to students.

Additionally, WCD communications, including text messages, instant messages, and e-mails sent and/or received by a public employee or school official using a WCD may constitute public records.

Further, WCD communications about students, including text messages, instant messages, and e-mails sent and/or received by a District employee or school official using his/her WCD may constitute education records if the content includes personally identifiable information about a student.

Communications, including text messages, instant messages, and e-mails sent and/or received by a District employee or school official using his/her WCD, that are public records or student records are subject to retention and disclosure, upon request, in accordance with Policy 8310 – Public Records. Cellular/Wireless communications that are student records should be maintained pursuant to Policy 8330 – Students Records.

It is the responsibility of the District employee or school official who uses a WCD for District business-related use to archive all text messages, instant messages and e-mails sent and/or received using his/her WCD in accordance with the District's requirements.

Finally, cellular/wireless communications and other electronically stored information (ESI) stored on the staff member's or school official's WCD may be subject to a litigation hold pursuant to Policy 8315 – Information Management. Staff and school officials are required to comply with District requests to produce copies of cellular/wireless communications in their possession that are either public records or education records or that constitute ESI that is subject to a litigation hold.

**[NOTE: START OF THIRD SET OF OPTIONS - CHOOSE OPTION A OR OPTION B]****☐ OPTION A [TO BE SELECTED IF BOARD ADOPTED POLICY 7530.01 V1]**



At the conclusion of an individual's employment (whether through resignation, nonrenewal, or termination), the employee is responsible for verifying all public records, student records, and ESI subject to a litigation hold that are maintained on the employee's WCD are transferred to the District's custody (e.g., server, alternative storage device). The District's IT department/staff is available to assist in this process. Once all public records, student records, and ESI subject to a litigation hold are transferred to the District's custody, the employee is required to delete the records/ESI from his/her WCD. The employee will be required to sign a document confirming that all such records/information has been transferred to the District's custody and deleted from his/her WCD.

Similarly, if an employee intends to dispose of, or otherwise stop using, a personally-owned WCD on which s/he has maintained public records, student records and/or ESI that is subject to a litigation hold, the employee must transfer the records/ESI to the District's custody before disposing of, or otherwise ceasing to use, the personally-owned WCD. The employee is responsible for securely deleting such records/ESI before disposing of, or ceasing to use, the personally-owned WCD.

Failure to comply with these requirements may result in disciplinary action.

**[x ] OPTION B [TO BE SELECTED IF BOARD ADOPTED POLICY 7530.01 V2]**

At the conclusion of an individual's employment (whether through resignation, nonrenewal, or termination), the employee is responsible for informing the Superintendent or his/her designee of all public records, student records, and ESI subject to a Litigation Hold that is maintained on the employee's Board-owned WCD. The District's IT department/staff will then transfer the records/ESI to an alternative storage device.

**[x ]** If the employee utilized a personally-owned WCD for District-related communications, and the device contains public records, students records, and/or ESI subject to a litigation hold, the employee must transfer the records/ESI to the District's custody (e.g., server, alternative storage device) prior to the conclusion of his/her employment. The District's IT department/staff is available to assist in this process. Once all public records, student records, and ESI subject to a litigation hold are transferred to the District's custody, the employee is required to delete the records/ESI from his/her personally-owned WCD. The employee will be required to sign a document confirming that all such records/information has been transferred to the District's custody and deleted from his/her personally-owned WCD.

**[NOTE: END OF THIRD SET OF OPTIONS]**

If a WCD is lost, stolen, hacked, or otherwise subjected to unauthorized access, the employee or school official must immediately notify the Superintendent so a determination can be made as to whether any public records, students records, and/or ESI subject to a litigation hold has been compromised and/or lost. Pursuant to Policy 8305 - Information Security and its accompanying procedure, the Superintendent shall determine whether any security breach notification laws may have application to the situation. Appropriate notifications will be sent unless the records/information stored on the WCD was encrypted.

The Board prohibits employees and school officials from maintaining the following types of records and/or information on their WCDs:

- A. ☒ social security numbers
- B. ☐ driver's license numbers
- C. ☒ credit and debit card information
- D. ☐ financial account numbers
- E. ☒ student personally identifiable information
- F. ☒ information required to be kept confidential pursuant to the Americans with Disabilities Act (ADA)
- G. ☒ personal health information as defined by the Health Insurance Portability and Accountability Act (HIPAA)
- H. ☐ \_\_\_\_\_

**[ ]** If an employee or school official maintains records and/or information on a WCD that is confidential, privileged, or otherwise protected by State and/or Federal law, the employee is required to encrypt the records and/or information.

**[ ]** It is ☐ required ☒ suggested that employees and school officials lock and password protect their WCDs when not in use.



☐ Employees and school officials are responsible for making sure no third parties (including family members) have access to records and/or information, which is maintained on a WCD in their possession, that is confidential, privileged, or otherwise protected by State and/or Federal law.

### Privacy Issues

Except in emergency situations or as otherwise authorized by the Superintendent or as necessary to fulfill their job responsibilities, employees and school officials are prohibited from using WCDs to capture, record, and/or transmit the words or sounds (i.e., audio) and/or images (i.e., pictures/video) of any student, staff member, or other person in the school or while attending a school-related activity. Using a WCD to capture, record, and/or transmit audio and/or pictures/video of an individual without proper consent is considered an invasion of privacy and is not permitted.

**[NOTE: START FOURTH SET OF OPTIONS - CHOOSE OPTION A OR OPTION B OR OPTION C]**

#### ☐ **OPTION A**

The use of a WCD that contains built-in cameras (i.e., devices that take still or motion pictures, whether in a digital or other format) is prohibited in ☐ classrooms, ☐ gymnasiums, locker rooms, shower facilities, rest/bathrooms ☐ and/or swimming pool.

#### ☐ **OPTION B**

The use of a WCD in ☐ classrooms, ☐ gymnasiums, locker rooms, shower facilities, rest/bathrooms and/or ☐ swimming pool is prohibited.

#### ☒ **OPTION C**

WCDs, including but not limited to those with cameras, may not be activated or utilized at any time in any school situation where a reasonable expectation of personal privacy exists. These locations and circumstances include, but are not limited to, ☐ classrooms, ☒ gymnasiums, locker rooms, shower facilities, rest/bathrooms, and any other areas where students or others may change clothes or be in any stage or degree of disrobing or changing clothes. The Superintendent and building principals are authorized to determine other specific locations and situations where use of a WCD is absolutely prohibited.

**[NOTE: END OF FOURTH SET OF OPTIONS]**

### Potential Disciplinary Action

Violation of any provision of this policy may constitute just cause for disciplinary action up to and including termination.

Use of a WCD in any manner contrary to local, State, or Federal laws may also result in disciplinary action up to and including termination.

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Legal	F.S. Chapter 119
	F.S. 1001.41
	F.S. 1001.42
	F.S. 1001.43
	F.S. 1002.221
	F.A.C. 6A-10.081
	Protecting Children in the 21st Century Act, Pub. L. No. 110-385, Title II, Stat. 4096 (2008)
	Children's Internet Protection Act (CIPA), Pub. L. No. 106-554 (2001)
	20 U.S.C. 1232g
	34 C.F.R. Part 99

## Cross-References

po0100 - DEFINITIONS

po5722 - SCHOOL-SPONSORED PUBLICATIONS AND PRODUCTIONS

po8330 - STUDENT RECORDS

po9700.01 - ADVERTISING AND COMMERCIAL ACTIVITIES

ap7540.02 - WEB PAGE SPECIFICATIONS

ap9700B - CRITERIA FOR COMMERCIAL MESSAGES

Last Modified by Jacquelin Collins on August 19, 2019



Book	Policy Manual
Section	Vol 18 #2 REVISED
Title	INFORMATION MANAGEMENT
Code	po8315 8/24/18 fsj 8/20/19 jc
Status	
Adopted	April 12, 2016

## 8315 - INFORMATION MANAGEMENT

The Governing Board recognizes its responsibility, in certain circumstances, to maintain information created, maintained or otherwise stored by the Authority outside the "Records Retention Schedule" in AP 8310A. In such situations, a litigation hold procedure will be utilized to identify and preserve information relevant to a specific matter. All paper documents and electronically stored information ("ESI") subject to a litigation hold shall be handled in accordance with the requirements of AP 8315. "Information" includes both paper documents and electronically stored information ("ESI"). When implementing the "Litigation Hold," the Authority will identify individuals in possession or custody of paper documents, ESI and electronic media containing ESI, and inform them of their obligation to preserve the documents and ESI outside the "Records Retention Schedule" in AP 8310A. The Authority will also identify third parties with custody or control over paper documents, ESI, or electronic media storing ESI, and request them to preserve that information. All information falling within a "Litigation Hold," which is under the control of the Authority, must be preserved in a readily accessible form and cannot be disposed of under the "Records Retention and Disposal" requirements of AP 8310E. Failure to comply with a litigation hold notice may result in disciplinary action, up to and including possible termination.

~~Instances where the Board must maintain information outside the "Records Retention Schedule" in AP 8310A include:~~

- ~~A. when the Board has specific information and/or written notice from an individual, parent, or student of an intent to file an appeal of student discipline to State court;~~
- ~~B. when the Board has specific information and/or written notice that litigation is imminent even though the litigation has not yet been filed in Federal or State court;~~
- ~~C. when the Board is served with litigation, including, but not limited to, notice of a lawsuit in Federal or State court, or notice of a student disciplinary appeal to State court;~~
- ~~D. when the Board receives specific information and/or written notification from an employee, labor union, or other person of an intent to file a claim against the Board, its members, employees or agents at an administrative agency such as the Equal Employment Opportunity Commission, Florida Employment Relations Commission, U.S. Department of Education Office for Civil Rights, State Personnel Board of Review, or a Civil Service Commission regarding a claim against the Board, its members, employees or agents;~~
- ~~E. when the Board receives specific information and/or written notification from an administrative agency such as the Equal Employment Opportunity Commission, Florida Employment Relations Commission, U.S. Department of Education Office for Civil Rights, State Personnel Board of Review, or a Civil Service Commission regarding a claim against the Board, its members, employees or agents;~~
- ~~F. when the Board receives written notification from a third party requesting that the Board maintain information that could be at issue in litigation or potential litigation against that third party;~~
- ~~G. when the Superintendent recommends the termination of an employee to the Board pursuant to a labor contract;~~
- ~~H. when the Board explores, contemplates or initiates litigation.~~

### Definitions

"Documents" includes, but is not limited to, writings, drawings, graphs, charts, photographs, blueprints, sound recordings, images and other data or data compilations stored in any medium from which information can be obtained or translated if necessary.

"ESI" includes, but is not limited to, writings, drawings, graphs, charts, photographs, blueprints, sound recordings, images and other data or data compilations stored in any electronic media from which information can be obtained or translated if necessary. It includes, but is not limited to, e-mails, e-mail attachments, instant messages, word processing files, spreadsheets, pictures, application program and data files, databases, data files, metadata, system files, electronic calendar appointments, scheduling program files, TIFF files, PDF files, MPG files, JPG files, GIF files, network share files, internal websites, external



websites, newsgroups, directories, security and access information, legacy data, audio recordings, voice mails, phone logs, faxes, internet histories, caches, cookies or logs of activity on computer systems that may have been used to process or store electronic data.

"Electronic media" includes, but is not limited to, hard drives (including portable hard disk drives "HDD's"), floppy drives, disaster recovery media, and storage media (including DVD's, CD's, floppy discs, Zip discs/drives, Jazz discs/drives, USB memory drives, jump disc/drives, flash discs/drives, keychain discs/drives, thumb discs/drives, smart cards, micro-film, backup tapes, cassette tapes, cartridges, etc.), accessed, used and/or stored on/in/through the following locations: networks and servers; laptop and desktop work computers; home and personal computers; other computer systems; backup computers or servers; archives; ~~wireless communication device as defined in Bylaw 0100~~ personal digital assistants ("PDAs" ~~including Palm, Blackberry, cellular phone, tablet PC, etc.~~); pagers; firewalls; audit trails and logs, printers; copiers; scanners; digital cameras; photographic devices; and video cameras and devices. Electronic media shall also include any item containing or maintaining ESI that is obtained by the Authority for Board member or employee usage or that an employee uses for such purpose (even if privately owned by the Board member or employee) from the date this policy is adopted into the future.

### **Initiation and Removal of a "Litigation Hold"**

The Board or the Superintendent may initiate a litigation hold ~~"Litigation Hold"~~ under this policy. If the Superintendent initiates a litigation hold ~~"Litigation Hold"~~, s/he or the Board's legal counsel will notify the Board of the reason the Litigation Hold was instituted and its scope. When implementing a Litigation Hold, the Board or Superintendent may utilize an Electronically Stored Information Team ("ESI Team"). The Board's legal counsel shall be involved in implementation of the ~~"Litigation Hold Procedure"~~ litigation hold procedure outlined in AP 8315.

A litigation hold ~~"Litigation Hold"~~ shall remain in place until removed by the Board. A litigation hold ~~"Litigation Hold"~~ may be removed when the litigation or administrative agency matter has been resolved or can no longer be initiated. Any information maintained under this policy shall fall back under the "Records Retention Schedule" in AP 8310A once the litigation hold ~~"Litigation Hold"~~ is removed.

The Superintendent shall develop administrative procedures outlining the procedures to be followed by Board members and employees when initiating and implementing a litigation hold ~~"Litigation Hold"~~. This policy and its related administrative procedures shall be posted and distributed in the manner described in AP 8315.

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Legal Federal Rules of Civil Procedures 34, 37f

Cross References ap8310A- Public Records

Last Modified by Jacquelin Collins on August 19, 2019



**Item Number: 8.F.**  
**Meeting Date: 10/8/2019**  
**Item Type: CONSENT AGENDA:**

**AGENDA REQUEST FORM**  
City Of Cape Coral Charter School Authority

**TITLE:**

Approval of NEOLA Policy Updates Volume 19, Number 1: Policy 6233 Authority Budget; Policy 6610 Internal Accounts; Policy 8141 Mandatory Reporting of Misconduct by Certified Employees; Policy 8420 Emergency Management, Emergency Preparedness, and Emergency Response Agencies; Policy 8462 Student Abuse, Abandonment, and Neglect; Policy 8500 Food Service Program; 8805 Religious Expression in Public Schools; Policy 8810 The American Flag

**SUMMARY:**

**ADDITIONAL INFORMATION:**

**RECOMMENDED ACTION:**

**ATTACHMENTS:**

<b>Description</b>	<b>Type</b>
▢ NEOLA 6233, 6610, 8141, 8420, 8462, 8500, 8805, 8810	Backup Material

## **NEOLA Policies Volume 19, Number 1**

Policy 6233	AUTHORITY BUDGET
Policy 6610	INTERNAL ACCOUNTS
Policy 8141	MANDATORY REPORTING OF MISCONDUCT BY CERTIFIED EMPLOYEES
Policy 8420	EMERGENCY MANAGEMENT, EMERGENCY PREPAREDNESS, AND EMERGENCY RESPONSE AGENCIES
Policy 8462	STUDENT ABUSE, ABANDONMENT, AND NEGLECT
Policy 8500	FOOD SERVICE PROGRAM
Policy 8805	RELIGIOUS EXPRESSION IN PUBLIC SCHOOLS
Policy 8810	THE AMERICAN FLAG



Book	Policy Manual
Section	Vol 19 No 1 REVISED
Title	AUTHORITY BUDGET
Code	po6233 10/1/18 fsj 8/16/19 lójc
Status	
Adopted	April 12, 2016

## 6233 - AUTHORITY BUDGET

### A. Preparation

The budget shall be prepared and administered in accordance with Florida statutes.

### B. Implementation of Budget

Implementation of the official Authority budget shall give appropriations and reserves therein the force and effect of fixed appropriations and reserves, and the same shall not be altered, amended, or exceeded except as authorized.

Expenditures may exceed the amount budgeted by function or object provided the Governing Board approves the expenditures and amends the budget no later than the annual due date established by the State Department of Education for submitting the Authority's annual financial report.

- 1.
- 2.
3. Pursuant to State law, if the Board finds and declares in a resolution adopted at a regular meeting of the Board that the funds received for any of the following categorical appropriations are urgently needed to maintain Board-specified academic classroom instruction or improve school safety, the Board may consider and approve an amendment to the School District operating budget transferring the identified amount of the categorical funds to the appropriate account for expenditure:

1. funds for student transportation;
2. funds for research-based reading instruction;
3. funds for instructional materials;

Such a transfer can only be recommended by the Superintendent and approved by the Board if all instructional materials necessary to provide updated materials aligned to Next Generation Sunshine State Standards and benchmarks and that meet statutory requirements of content and learning have been purchased for that fiscal year, and such a transfer is recommended by the Superintendent and approved by the Board no sooner than March 1st of the fiscal year. Pursuant to State law, funds for instructional materials available after March 1st may be used to purchase hardware for student instruction.

The Board shall monitor the budget on a quarterly basis.

### C. General Fund Ending Fund Balance

The Constitution of the State of Florida requires that the Authority operate under a balanced budget. The Board understands that there may be unforeseen circumstances that can result in increases or decreases in revenue and/or expenditures. These circumstances would thereby impact the financial stability of the Authority.

As required by Florida statute, the Board shall maintain a General Fund ending fund balance sufficient to address normal contingencies.

Legal

F.A.C. 6A-1.002, 6A-1.006

F.S. 1001.42, 1001.43, 1011.01, 1011.051, 1011.62

Last Modified by Jacquelin Collins on September 12, 2019



Book Policy Manual

Section Vol 19 No 1 REVISED

Title INTERNAL ACCOUNTS

Code po6610 10/1/18 fsj 8/16/19 lojc

Status

Adopted April 12, 2016

## 6610 -SCHOOL INTERNAL FUNDS ACCOUNTS

The Board Authority is responsible for the administration and control of internal funds of the School District System.  
~~"School Internal funds" are those held by specific schools used by a school/department which are not part of the Board's regularly adopted budget, under the direct supervision of the Authority through regular school-budget sources. School internal funds shall be used to benefit activities authorized by the Board and they are administered by each individual school/department in accordance with policies of the Governing Board, the Constitution of the State of Florida, Florida statutes, rules of the State Board of Education, and the Financial and Program Cost Accounting and Reporting for Florida Schools, as revised, Administrative Rules, Florida statutes, in accordance with procedures included in the School Internal Funds Standard Operative Guide.~~

All funds handled by employees during normal working hours shall be included in, and become part of, the internal funds of the school unless accounted for in the District-level accounting system. All employees responsible for handling and recording internal funds financial transactions shall be bonded through the District.

All organizations of the school or organizations operating in the name of the school, that obtain money from the public shall be accountable to the Board for receipt and expenditure of those funds.

### Annual Audit

All school internal funds will be audited annually.

#### **A. Uniform Records and Accounts**

~~Department heads and the principal of each school shall be responsible for the safe and proper handling of all monies collected and disbursed within the school and shall keep all accounts in accordance with State Board of Education and the Financial and Program Cost Accounting and Reporting for Florida Schools Manual of Internal Accounting. A complete and accurate record of each and every transaction and a suitable classification (chart of accounts) of all receipts and expenditures shall be kept on approved forms.~~

#### **B. Receipts of Monies Collected**

All funds collected within the school or department for any purpose shall be deposited into the school internal funds checking account, together with such substantiating records as may be required.

#### **C. Safekeeping of Monies, Certificates, and Bonds**

All monies received shall be promptly deposited in a qualified public depository and provisions shall be made for the adequate safekeeping of all monies and other financial assets that may come into the possession of the school.

1. Funds shall be promptly deposited in the qualified public depository. Schools or departments shall make deposits at least twice weekly.
2. All funds received shall be recorded, banked, and reconciled to the proper receipts and accounts.

#### **D. Expenditures**



All expenditures from school funds shall be made by check or by internal funds credit card. Invoices or other approved substantiating evidence shall be required for all payments from school funds. All checks shall have the facsimile signatures of the Superintendent and the Board Chair.

### 1. Overspending Limitations

School ~~or department~~ expenditures from internal funds shall not exceed the cash balance of resources of that fund during any fiscal year without written approval of the Superintendent or Board.

### 2. Regulations Concerning Expenditures

- a. Where expenditures require prior approval, the school should anticipate needs in time to permit processing and proper clearance of written authorization requests. Expenditures shall not be made until approved in writing by the principal.
- b. No school internal fund shall be obligated for any student or teacher expenditure not previously approved in writing by the principal. A principal shall be responsible for any expenditures made or approved by him/her which are not permissible under the laws and regulations of the State or policies of the Board.
- c. Competitive bidding is encouraged whenever practical. However, no purchase may be made by a school amounting to over \$2,500.00, including series or group purchases, except through obtaining three (3) or more competitive bids based upon definite specifications in the same manner as used by the purchasing department, except that when advanced individual orders are taken from students, staff, or patrons, competitive bids shall not be required. Items purchased "on consignment" need not be bid.

### 3. Expenditures Prohibited from Internal Funds

The following is a list of expenditures which cannot be made from internal funds.

- a. Professional books and magazines, except school professional libraries and personal memberships in professional organizations when purchased through trust funds to which employees contribute.
- b. Articles or services for personal use of Board employees or other persons.
- c. Equipment, supplies, and services for rooms and areas not used primarily for student body benefit, unless raised specifically through employees or other persons or authorized by a student organization.
- d. Wages or supplements to any persons engaged in regular part-time or temporary employment except as provided by the Board.
- e. Loans, credits, or accommodations to Board employees or other persons, including students except as provided in Policy 6550 - Travel and Per Diem.

### 4. Cooperative Activities Permitted

The general provisions for cooperative activities for which internal funds are permissible are as follows:

- a. Outside groups. There shall be a definite written agreement between both parties.
- b.

The principal must approve cooperative activities.

C. Cooperative activities must be beneficial to students.

- Collections for the Board or the Cape Coral Municipal Charter School Foundation.
- 
- Trust funds, drives, professional dues, etc.
- Foundation funds (donations by outside organizations or persons for a definite educational purpose).
- Flower and gift funds.



## • Promotion and Public Relations Funding

The Superintendent or designee and principals are authorized to expend funds from a designated internal account for the purpose of promoting the school/department and for public relations.

Funds derived from auxiliary enterprises and undesignated gifts shall be disbursed in accordance with rules of the Board for such purposes as are deemed to be for the benefit of the Authority. Funds from auxiliary enterprises are defined as profits from enterprise type activities of the Authority, excluding food service activities, which may include, but are not limited to, vending machines, school stores, and other internal account fund profits not specifically designated for student or school level purposes and from funds received from other agencies making purchases from warehouse inventories in excess of the actual costs to the Authority.

## • Fund Raising

School principals and Superintendent are to be made aware of, approve and oversee all fundraising activities and actions conducted on a school campus and approve all fund-raising activities in the name of the school. Any fund-raising activity conducted must comply with the following guidelines: All fund-raising projects and activities promoted by the school or any group within or connected with or in the name of the school, are to contribute to the educational experience of the students and shall not be in conflict with Board policies or the overall instructional program. Each fund-raising project using students to solicit must have the approval of the principal. Student body business functions should be conducted in such a way to offer the minimum competition to commercial firms. Accountability of fund-raising projects shall be in accordance with provisions of the School Internal Funds Standard Operating Guide.

1.

1. Each fund-raising activity shall be planned to finance a specified objective.
2. Each fund-raising activity shall have the approval of the organization sponsor and the principal.
3. The Superintendent acts as the custodian of all school property and may delegate responsibilities to the school principal. The principal shall control the fund-raising activities conducted in the name of the school and ensure that the purposes are worthwhile.

1. Raffles and other activities of chance shall not be conducted by the school or on school property, including raffles conducted by charitable, nonprofit organizations leasing school property. Encouraging or permitting minors to participate in games of chance by playing or betting money or other valuable things is prohibited. Only a charitable, nonprofit organization exempt from Federal income taxation pursuant to the Internal Revenue Code may conduct raffles or drawings by chance in the name of the school if the organization complies with all applicable provisions of F.S. Chapter 496, and F.S. 849.0935, and the raffle is not conducted on school property.

2. Fund-raising activities for which students are charged an admission shall not be presented during school hours.

4. When any school organization or group is involved in a fund-raising activity or any function exposing the Board to extraordinary liability, approval must be obtained in advance from the Superintendent.
5. Collections for all school-sponsored fund-raising activities must be deposited in the internal fund, and all transactions in connection with the activity must be conducted in accordance with Board policy.

### **Solicitation by Students**

~~House to house solicitation is prohibited. Solicitation by students will be governed by administrative procedures.~~

## 2. Fund Benefits

Funds collected for the benefit of a specific student organization shall be expended for the benefit of said organization unless otherwise designated in minutes of the organization. General fund monies collected from the student body as a whole shall be expended to benefit students directly.



### 3. Commissions or Profits

Funds from commissions such as school pictures, etc., may be credited to a specific fund or some designated account.

### 4. ~~Contracts for Operation of Vending Machines on School Property~~

~~Principals and supervisors shall have authority to enter into contracts with commercial vending machine companies with deposits and expenditures made in internal funds. No such contract shall be in conflict with any Authority contract for vending services.~~

### 5. ~~Profits from the Sale of Food and Beverages in Employee Work Areas~~

~~As a benefit to employees, principals, and county-level department heads are authorized to approve the sale of food and beverages in areas accessible primarily to employees. Monies collected from these sales shall be deposited in the internal funds of schools. Profits from these sales may be expended for the benefit of employees or students according to procedures established in the School Internal Funds Standard Operating Guide.~~

### 6. ~~Class or Club Accounts~~

- ~~a. Authorization for all expenditures shall bear the approval of the principal.~~
- ~~b. No account may be overdrawn at the end of the fiscal school year.~~
- ~~c. Funds of off-campus clubs may not be processed through the school internal funds.~~
- ~~d. If the original purpose of the project becomes inoperative, the balance shall be transferred to the another school internal fund at the discretion of the Principal.~~

## • Student Travel

### 1. Advance Arrangements

When travel by students is necessary in the pursuance of an approved student activity, advance travel arrangements shall be made when possible. Advance arrangements shall include transportation, meals, registration or entrance fees, and lodging. Checks may be prepared in advance for the exact amount and payable to the corporation or proprietor providing the service. The faculty sponsor accompanying the students shall be the temporary custodian of the checks and responsible for obtaining an invoice for the exact amount of the check from the corporation or proprietor upon presentation of the check.

### 2. Advance to Sponsor

When advance arrangements for meals or lodging are impractical because service to be rendered is en route, or the student group is of such number to make prior knowledge of the exact number impossible, a school internal funds credit card shall be used to make the purchase.

### 1. Student Activity Funds

For purposes of this policy, a "student activity fund" may include, but not be limited to, co-curricular and approved extra-curricular activities. The balance ~~active~~ balance in the account of a class that has graduated shall be transferred to the Principal's Discretionary Account or other appropriate account at the discretion of the principal.

2. Any remaining balance in the account of an inactive student organization shall be considered as belonging to the general miscellaneous account Principal's Discretionary Account or other appropriate account at the discretion of the principal and shall be closed at the end of the following fiscal year.

Departments may be structured similarly to classes and shall conduct financial activities subject to the principles already outlined.

The principal shall ensure that all student activity funds are managed, recorded, and deposited in accordance with law and sound fiscal practice.



## Legal

Financial and Program Cost Accounting and Reporting for Florida Schools, as revised  
F.A.C. 6A-1.001, 6A-1.014  
F.S. 1001.43, F.S. 1010.02, F.S. 1010.20, F.S. 1011.07  
F.S. 1011.18

Last Modified by Jacquelin Collins on September 12, 2019

Book	Policy Manual
Section	Vol 19 No 1 REVISED
Title	MANDATORY REPORTING OF MISCONDUCT BY CERTIFICATED EMPLOYEES
Code	po8141 10/1/2018 fsj 8/16/19 lojc
Status	
Adopted	April 12, 2016
Last Revised	August 14, 2018

#### 8141 - MANDATORY REPORTING OF MISCONDUCT BY CERTIFICATED EMPLOYEES

The Governing Board recognizes its responsibilities to effectively address employee misconduct and, where determined appropriate, to provide a measured disciplinary response consistent with due process. ~~In addition, with respect to certificated and/or certificated-professional-staff members, matters of misconduct, including conviction of certain crimes enumerated by law and/or conduct which is unbecoming to the teaching profession, will be reported by the Superintendent to the Florida Department of Education.~~

For purposes of this policy, the term "employee(s)" ☐ includes instructional personnel, administrative personnel, and school officers as those terms are defined in F.S. 1012.01 [END OF OPTION] ☒ all employees of the System District and school officers as defined in F.S. 1012.01 [END OF OPTION].

#### Reporting Professional Misconduct

All Authority ~~employees~~ staff are required to report to the Superintendent alleged misconduct by Authority employees which affects the health, safety, or welfare of a student, including misconduct that involves engaging in or soliciting sexual, romantic, or lewd conduct with a student.

If the alleged misconduct to be reported is regarding the Superintendent, the Authority employee shall report the alleged misconduct to the Board attorney. Failure to report such alleged misconduct shall result in appropriate disciplinary action (F.S. 1012.796(d)). The report shall be made in accordance with Policy 9130 - Public Complaints.

The Superintendent shall investigate any allegation of misconduct by Authority employees which affects the health, safety, or welfare of a student, including misconduct that involves engaging in or soliciting sexual, romantic, or lewd conduct with a student, and shall report the alleged misconduct to the Department of Education as required in F.S. 1012.796, 1001.51(12)(b), 1001.42(7)(b).

The Superintendent shall report to law enforcement agencies with jurisdiction any misconduct that would result in disqualification from educator certification or employment as set forth in F.S. 1012.315.

Staff alleged to have committed such misconduct shall be reassigned or put on administrative leave pending the outcome of a misconduct investigation.

#### Parental Notification of Alleged Misconduct

Within thirty (30) days of the date on which the District learns of misconduct by instructional personnel and school administrators which affects the health, safety, or welfare of a student, including misconduct that involves engaging in or soliciting sexual, romantic, lewd conduct with a student, or any conduct that would result in disqualification from educator certification or employment as provided in F.S. 1012.315, the parent of a student who was subjected to or affected by such misconduct shall receive written notification informing the parent of the following:

1. the alleged misconduct, including which allegations have been substantiated, if any;



2. whether the District reported the misconduct to the FLDOE, if required by F.S. 1012.796;
3. the sanctions imposed by the District against the employee, if any; and
4. support the District will make available to the student subjected to or affected by the misconduct.

Parental notification shall be provided consistent with the provisions set forth in Policy 1590, Policy 3590, and Policy 4590, including the statutory requirement that school administrators and instructional staff members be provided ten (10) days notice before the disclosure of derogatory material.

### **Filing a Complaint with the Department of Education**

If it is alleged that an instructional staff member or administrator has committed a violation as provided in F.S. 1012.795, and defined by rule of the State Board of Education, the Superintendent shall file with the Department of Education a legally sufficient complaint within thirty (30) days after the date on which the subject matter of the complaint came to the attention of the Superintendent, regardless of whether the subject of the complaint is still an employee of the District. A complaint is legally sufficient if it contains ultimate facts that show a violation has occurred as provided in F.S. 1012.795 and defined by rule of the State Board of Education. The Superintendent shall include all known information relating to the complaint with the filing of the complaint. This paragraph does not limit or restrict the power and duty of the Department of Education to investigate complaints, regardless of the Authority's untimely filing, or failure to file, complaints and follow-up reports (F.S. 1012.796(e)).

### **Report of Resignation or Termination**

If the Superintendent determines that a legally sufficient complaint of misconduct by an instructional staff member or an administrator who holds a certificate issued by the Florida Department of Education affects the health, safety, or welfare of a student and the misconduct warrants termination, the staff member may resign or be terminated and the Superintendent must immediately report the misconduct to the Department of Education in the format prescribed by the Department even if the instructional staff member or administrator resigns or is terminated before the conclusion of the District's investigation. The Department shall maintain each report of misconduct as a public record in the instructional personnel's certification files (F.S. 1012.796(d)).

### **Transmittal of False or Incorrect Report**

The Superintendent shall not knowingly sign and transmit to any State official a report that the Superintendent knows to be false or incorrect.

Pursuant to F.S. 1001.42(7), a Board member may not knowingly sign and transmit to any State official a report of alleged misconduct by instructional personnel or school administrators which affects the health, safety, or welfare of a student which the Board member knows to be false or incorrect.

### **Requirement of Disclosure of Employee Misconduct**

The Board, Superintendent, or any other Authority employee, may not enter into a confidentiality agreement regarding terminated or dismissed instructional personnel or school administrators, or personnel or administrators who resign in lieu of termination, based in whole or in part on misconduct that affects the health, safety, or welfare of a student, and may not provide instructional personnel with employment references or discuss the personnel's performance with prospective employers in another educational setting, without disclosing the personnel's or administrators' misconduct. Any part of an agreement or contract that has the purpose or effect of concealing misconduct by instructional personnel which affects the health, safety, or welfare of a student is void, is contrary to public policy, and may not be enforced (F.S. 1001.42(6)).

### **Posting Requirements**

Pursuant to F.S. 1006.061(2), this policy shall be posted in a prominent place at each school site and on each school's internet website, so that the policy and procedures for reporting alleged misconduct by instructional personnel or school administrators which affects the health, safety, or welfare of a student; the contact person to whom the report is made; and the penalties imposed on instructional personnel or school administrators who fail to report suspected or actual child abuse or alleged misconduct by other instructional personnel or school administrators is effectively communicated to all.

### **Liability**

Employees who report misconduct which affects the health, safety, or welfare of a student may be entitled to certain statutory liability protections as set forth in F.S. 39.203 and 768.095.

Revised 8/14/18

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Legal	F.S. 1001.42(6)
	F.S. 1001.42(7)(b)
	F.S. 1001.51(12)(b)
	F.S. 1006.061(2)
	F.S. 1012.795
	F.S. 1012.796
	F.S. 1012.796(d)
	F.S. 1012.796(e)

Last Modified by Jacquelin Collins on September 12, 2019



Book	Policy Manual
Section	Vol 19 No 1 REVISED
Title	EMERGENCY MANAGEMENT, EMERGENCY PREPAREDNESS, AND EMERGENCY RESPONSE AGENCIES
Code	po8420 10/1/18 fsj 8/16/19 lojc
Status	
Adopted	April 12, 2016

## **8420 - EMERGENCY MANAGEMENT, EMERGENCY PREPAREDNESS, AND EMERGENCY RESPONSE AGENCIES**

### **Emergency Management and Emergency Preparedness**

The Governing Board recognizes that its responsibility for the safety of students and staff requires emergency management and emergency preparedness procedures for all public schools in the Authority, including emergency notification procedures for life-threatening emergencies, including, but not limited, fires; natural disasters; bomb threats; weapon-use and hostage situations; hazardous materials or toxic chemical spills; weather emergencies, including hurricanes, tornadoes, and severe storms; and exposure as a result of a manmade emergency and that such emergencies are best met by preparedness and planning.

Pursuant to Policy 8405 - School Safety and Security, the Superintendent shall develop, and revise as necessary, a School Safety Plan to provide for the safety and welfare of the students and staff, as well as a system of emergency preparedness and accompanying procedures.

All threats to the safety of Authority facilities, students, and staff shall be identified by appropriate personnel and responded to promptly in accordance with the plan for emergency preparedness. Any aspect of the emergency preparedness plan and/or procedures that are included in the School Safety Plan shall remain confidential and exempt from public records disclosure in accordance with State law.

The Superintendent, as part of the development of the emergency preparedness plan and procedures, shall further review and implement Board Policy 7440.01.

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Legal F.S. 1001.43, 1006.07, 1013.13

Last Modified by Jacquelin Collins on September 12, 2019

Book	Policy Manual
Section	Vol 19 No 1 REVISED
Title	STUDENT ABUSE, ABANDONMENT, AND NEGLECT
Code	po8462 10/1/18 fsj 8/16/19 lojc
Status	
Adopted	April 12, 2016
Last Revised	August 14, 2018

#### 8462 - STUDENT ABUSE, ABANDONMENT, AND NEGLECT

The Governing Board is concerned with the physical and mental well-being of the students of the Authority and requires that school employees comply with the mandated identification and reporting of known or suspected cases of child abuse, abandonment, or neglect in accordance with law.

##### Reporting Known or Suspected Cases

- A. Any person, including teachers, administrators, support personnel, and other Authority and school personnel who knows, or has reasonable cause to suspect that a child or a student has been abused, abandoned, or neglected by a parent, legal custodian, caregiver, adult, or other person responsible for the child's welfare or that a child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care shall report such knowledge or suspicion to the Department of Children and Families in a manner prescribed by law.

Further any person, including teachers, administrators, support personnel, and other Authority and school personnel, who knows, or has reasonable cause to suspect, that a child or a student is the victim of childhood sexual abuse or the victim of a known or suspected juvenile sexual offender, shall report such knowledge or suspicion to the Department of Children and Families in a manner prescribed by law.

A person who is required to report known or suspected child abuse, abandonment, or neglect and who knowingly and willfully fails to do so, or who knowingly and willfully prevents another person from doing so commits a felony of the third degree.

- B. The proper procedure for reporting known or suspected cases of child abuse, abandonment, and neglect is:

1. Make a report immediately to the Department of Children and Families central abuse hotline, using the single Statewide toll-free telephone number: 1-800-96-ABUSE (1-800-962-2873), or via fax, web-based chat, or web-based report. School employees reporting such cases are required to provide their names to the hotline staff. The names of reporters shall be entered into the record of the report, but shall be held confidential and exempt as provided by law.
2. As soon as practicable after making the report, the school staff member shall inform the principal or supervisor of his/her knowledge or suspicions, and advise that individual that the report has been made.

- C. School employees are to be advised that reporting their knowledge or suspicions of suspected abuse to a principal, or supervisor, or other school or Authority personnel does not comply with the mandatory reporting requirements of the law. The principal, supervisor, and other school or Authority personnel who are informed of suspected abuse, abandonment, and neglect likewise have an obligation to report to the central abuse hotline as required by law.

- D. No employee of the Authority shall be subject to reprisal or discharge because of his/her actions in reporting abuse or neglect pursuant to the requirements of F.S. 39.203.

- E. No Board employee may agree, as a condition of receiving information about child abuse, neglect, or abandonment from a victim, a perpetrator, witness, or other person, that the Board employee will not report this information as required by law and this Board policy.



## False Reports

A person who knowingly and willfully makes a false report of child abuse, abandonment, or neglect, or who advises another to make a false report, is guilty of a felony of the third degree and may be subject to other penalties in accordance with Florida law.

## Posting of Notices

Each school in the Authority shall:

- A. post in a prominent place in each school a notice that, pursuant to F.S. Chapter 39, all employees and agents of the Board have an affirmative duty to report all actual or suspected cases of child abuse, abandonment, or neglect; have immunity from liability if they report such cases in good faith; and have a duty to comply with child protective investigations and all other provisions of law relating to child abuse, abandonment, and neglect;

The notice shall also include the Statewide toll-free telephone number of the central abuse hotline.

- B. post in a prominent place at each school site and on each school's Internet website, if available, the policies and procedures for reporting alleged misconduct by instructional personnel or school administrators which affects the health, safety, or welfare of a student; the contact person to whom the report is made; and the penalties imposed on instructional personnel or school administrators who fail to report suspected or actual child abuse or alleged misconduct by other instructional personnel or school administrators;
- C. post in a prominent place, in a clearly visible location and public area of the school, readily accessible to and widely used by students, a sign in English and Spanish that contains:

1. the Statewide toll-free telephone number of the central abuse hotline as provided in F.S. Chapter 39;
2. instructions to call 911 for emergencies; and
3. directions for accessing the Department of Children and Families Internet website for more information on reporting abuse, neglect, and exploitation.

The notice must be ~~on-at-least-one (1)~~ posted in each school, on a sheet that measures at least 11 inches by 17 inches, produced in large print, and placed at student eye level for each viewing.

## Training

All teachers and instructional staff members in grades K-12 are required to participate in the continuing education training provided by the Department of Children and Family Services on identifying and reporting child abuse and neglect.

## Liaison

The Superintendent will act as a liaison to the Department of Children and Families and the child protection team, when a case of suspected child abuse, abandonment, or neglect or an unlawful sexual offense involving a child is referred to such a team.

The Superintendent shall also serve, or nominate a designee to represent the Authority, on the Local Child Abuse Death Review Committee as required by State law. The Superintendent shall also require Authority staff, who, in a professional capacity, dealt with a child whose death is verified as caused by abuse or neglect, or with the family of the child, to attend any meetings of the local committee at which the child's case is reviewed.

## Liability

Employees who report abuse, abandonment, and/or neglect of a student may be entitled to certain statutory liability protections as set forth in F.S. 39.203.

Re-adopted 11/8/16  
Revised 8/14/18

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## Legal

F.S. 39.01(47)

F.S. 39.201

F.S. 39.202

F.S. 39.203

F.S. 39.204

F.S. 39.205

F.S. 39.206

F.S. 39.303

F.S. 383.402

F.S. 1001.41, 1001.42

F.S. 1006.061

F.S. 1012.98

Last Modified by Jacquelin Collins on September 12, 2019



Book	Policy Manual
Section	Vol 19 No 1 REVISED
Title	FOOD SERVICE PROGRAM
Code	po8500 10/1/18 fsj 8/16/19 lojc
Status	
Adopted	April 12, 2016
Last Revised	August 14, 2018

#### 8500 - FOOD SERVICE PROGRAM

The Authority shall provide cafeteria facilities in all school facilities where space and facilities permit and will provide food service for the purchase and consumption of lunch for all students. The Authority shall annually encumber the funds needed to operate the program.

It is the intent of the Authority to participate in the National School Lunch and School Breakfast Program and to offer paid, free, or reduced-price meals in accordance with the Child Nutrition Program, the National School Lunch Act, and Florida law. The operation of the food service program shall also be in compliance with the regulations set forth in State law and the Florida Administrative Code.

The Board does not discriminate on the basis of race, color, national origin, sex (including transgender status, sexual orientation, or gender identity), disability (including HIV, AIDS, or sickle cell trait), pregnancy, age (except as authorized by law), religion, military status, ancestry, or genetic information (collectively, "protected classes") in its educational programs or activities. Students and all other members of the Authority's community and third parties are encouraged to promptly report incidents of unlawful discrimination and/or retaliation to a teacher, administrator, supervisor, or other District Authority official so that the Board may address the conduct. See Policy 2260 - Nondiscrimination and Access to Equal Educational Opportunity.

Students who are eligible for free or reduced-price meals shall be approved and properly accounted for by the Principal in accordance with criteria established by the Child Nutrition Program and National School Lunch Act. The Governing Board requires that the identity of students receiving free or reduced-price meals be safeguarded and kept confidential.

Each elementary, middle, and high school shall make a breakfast meal available if a student arrives at school on the bus less than fifteen (15) minutes before the first bell rings and shall allow the student at least fifteen (15) minutes to eat the breakfast.

The operation and supervision of the food service program shall be the responsibility of the Director of Food Services. The Authority will adhere to the professional standards for school nutrition personnel who manage and operate the food service program, including the requirements related to hiring and training that are set forth in USDA regulations and AP 8500A.

Further, as required by USDA regulations and upon recommendation of the Superintendent, the Board will annually certify:

- A. the Director of Food Services meets the hiring standards and training requirements set forth in USDA regulations; and
- B. each employee in the food service program has completed the applicable training requirements set forth in USDA regulations.

Breakfast meals shall be available to all students in each elementary, middle, and high school. The Authority will do so by participating in the National School Breakfast Program and offering paid, free, and reduced-priced breakfast meals in accordance with USDA Guidelines.

The Authority shall approve and implement nutrition standards governing the types of food and beverages that may be sold on the premises of its schools and shall specify the time and place each type of food or beverage may be sold.

In adopting such standards, the Authority shall:

- A. consider the nutritional value of each food or beverage;



- B. consult with a dietitian licensed under F.S. 468.509, a dietetic technician registered by the commission on dietetic registration, or a school nutrition specialist certified or credentialed by the school nutrition association;
- C. consult and incorporate to the maximum extent possible the dietary guidelines for Americans jointly developed by the United States Department of Agriculture (USDA) and the United States Department of Health and Human Services; and
- D. consult and incorporate the USDA Smart Snacks in School nutrition guidelines.

No food or beverage may be sold on any school premises except in accordance with the standards approved by the Authority.

The Board recognizes that circumstances may result in a student needing to charge for meals if his/her account has an insufficient balance to cover the charge. However, no account will be allowed to exceed a significant negative balance except as established below.

The Superintendent shall develop procedures regarding meal charges, which shall be implemented by the Director of Food Service. This procedure will provide direction so that students Authority wide who are eligible for reduced price or who pay the established price for meals, but do not have funds in their account or in hand to cover the cost of their meal at the time of service are treated consistently, that parents of students who charge meals are notified when a student charges a meal, and that efforts are made to collect the charges made so that the unpaid charges are not classified as "bad debt" at the end of the school year.

A student whose account has a significant negative balance may not charge or purchase "a la carte" items, including extra main course entrees.

If a student has a significant negative lunch account balance, s/he shall be provided an alternate meal, the cost of which shall continue to accrue to his/her significant negative balance, and his/her parent(s) shall be contacted to collect the outstanding charges. The alternate meal will be a low-cost alternative to the regular reimbursable meal and shall meet USDA nutritional standards or the Smart Snacks in Schools regulations so that it qualifies for reimbursement under the National School Lunch/Breakfast Program.

If a student withdraws or graduates and has a positive balance of less than \$5.00, the balance may be receipted into the school lunch fund where the school lunch program funds are maintained unless the parent requests a refund. If a student withdraws or graduates with a positive balance greater than \$5.00, the parents shall be notified by mail and given the option of receiving a refund within thirty (30) days. If no response is received within ninety (90) days, the account will be closed and the funds will no longer be available. Unclaimed balances will be transferred to the school lunch fund where the school lunch program funds are maintained.

The Board's policy and Superintendent's procedure related to meal charges shall be distributed in writing to all households at the start of each school year and to households transferring to the school or Authority during the school year.

If determined appropriate by a student's Section 504 team, substitutions to the standard meal requirements shall be made, at no additional charge, for students for whom a health care provider who has prescriptive authority in the State of Florida has provided medical certification that the student has a disability that restricts his/her diet, in accordance with the criteria set forth in 7 C.F.R. Part 15b. To qualify for such substitutions the medical certification must identify:

- A. the student's disability and the major life activity affected by the disability;
- B. an explanation of why the disability affects the student's diet; and
- C. the food(s) to be omitted from the student's diet and the food or choice of foods that must be substituted (e.g., caloric modifications or use of liquid nutritive formula).

If determined appropriate by a team of qualified individuals including, but not limited to, the principal, school nurse, parent, Director of Food Services, etc.) On a case-by-case basis, substitutions to the standard meal requirements may be made, at no additional charge, for a students who are not a "disabled persons", but have a signed statement from a qualified medical authority that the student cannot consume certain food items due to medical or other special dietary needs. To qualify for such consideration and substitutions the medical statement must identify:

- A. the medical or dietary need that restricts the student's diet; and
- B. the food(s) to be omitted from the student's diet and the food(s) or choice of foods that may be substituted.

For non-disabled students who need a nutritionally equivalent milk substitute, only a signed request by a parent or guardian is required.



During all times while the food service program is operating and students are being served food, at least one (1) employee shall be present in the area in which the food is being consumed who has received instruction in methods to prevent choking and demonstrated an ability to perform the Heimlich maneuver.

In addition, as required by law, a food safety program that is based on the principles of the Hazard Analysis and Critical Control Point (HACCP) system shall be implemented with the intent of preventing food-borne illnesses. For added safety and security, access to the facility and the food stored and prepared therein shall be limited to food service program staff and other authorized persons.

In accordance with Federal law, the Director of Food Services shall take such actions as are necessary to obtain a minimum of two (2) food safety inspections per school year, which are conducted by the State or local governmental agency responsible for food safety inspections. The report of the most recent inspection will be posted in a publicly visible location, and a copy of the report will be available upon request.

A periodic review of the food-service accounts shall also be made by the Director of Food Services. Any surplus funds from the National School Lunch Program shall be used to reduce the cost of the service to students or to purchase cafeteria equipment. Surplus funds from a-la-carte foods may accrue to the food-service program.

Bad debt incurred through the inability to collect lunch payment from students is not an allowable cost chargeable to any Federal program. Any related collection cost, including legal cost, arising from such bad debt after they have been determined to be uncollectable are also unallowable.

Meal charges that are not collected in the year when the debt was incurred shall be classified as bad debt. Bad debt incurred through the inability to collect lunch payment from students is not an allowable cost chargeable to any Federal program. Once classified as bad debt, non-Federal funding sources shall reimburse the school lunch program account for the total amount of the bad debt. If funds to reimburse the Authority for this bad debt are not available from another source, such as school or community organizations (like the PTA) or any other non-Federal source, the funds to reimburse the school lunch program shall be transferred from the District's general fund or other State or local funding to make that reimbursement.

Once the uncollectable/delinquent debt charges are converted to bad debt, records relating to those charges must be maintained in accordance with the record retention requirements in 7 C.F.R. 210.9(b)(17) and 7 C.F.R. 210.15(b).

With regard to the operation of the school food service program, the Superintendent shall require:

- A. the maintenance of sanitary, neat premises free from fire and health hazards;
- B. the preparation of food that complies with Federal food safety regulations;
- C. the purchase of food and supplies in accordance with State and Federal law, USDA regulations, and Board policy; (see Policy 1129, Policy 1214, Policy 3129, Policy 3214, Policy 4129, Policy 4214, and Policy 6460)
- D. the accounting and disposition of food-service funds pursuant to Federal and State law and USDA regulations;
- E. the safekeeping and storage of food and food equipment pursuant to USDA regulations;
- F. the regular maintenance and replacement of equipment.

The Superintendent will require that the food service program serve foods in the schools of the Authority that reinforce the nutrition concepts taught in the classrooms.

No foods or beverages, other than those associated with the Authority's food-service program, are to be sold during food-service hours. The Authority shall serve only nutritious food in accordance with the nutritional standards adopted by the Authority in compliance with the current USDA Dietary Guidelines for Americans and the USDA Smart Snacks in School nutrition guidelines. Foods and beverages in competition with the District's food-service program must comply with the current USDA Dietary Guidelines for Americans and the USDA Smart Snacks in School nutrition guidelines, and may only be sold in accordance with Policy 8550.

The Director of Food Services is responsible for implementing the food service program in accordance with the adopted nutrition standards and shall provide a report regarding the Authority's compliance with the standards at one of its regular meetings annually.

Re-adopted 11/8/16

Revised 8/14/18

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Legal	F.S. 595.405
	F.S. 1001.41
	F.S. 1001.42
	F.S. 1001.51
	F.S. 1013.12
	F.A.C. 5P-1.002
	F.A.C. 5P-1.003
	F.A.C. 5P-1.004
	F.A.C. 5P-1.005
	42 U.S.C. 1758
	Health, Hunger-Free Kids Act of 2010 and Richard B. Russell National School Lunch Act, 42 U.S.C. 1751 et seq.
	Child Nutrition Act of 1966, 42 U.S.C. 1771 et seq.
	7 C.F.R. Part 15b
	7 C.F.R. Part 210
	7 C.F.R. Part 215
	7 C.F.R. Part 220
	7 C.F.R. Part 225
	7 C.F.R. Part 226
	7 C.F.R. Part 227
	7 C.F.R. Part 235
	7 C.F.R. Part 240
	7 C.F.R. Part 245
	7 C.F.R. Part 3015
	80 F.R. 11077
	OMB Circular No. A-87 USDA Smart Snacks in School Food Guidelines (effective July 1, 2014)
	SP 32-2015 Statements Supporting Accommodations for Children with Disabilities in the Child Nutrition Programs

Last Modified by Jacquelin Collins on September 12, 2019



Book	Policy Manual
Section	Vol 19 No 1 REVISED
Title	NEW POLICY - VOL. 19, NO. 1 - MODEL POLICY ON RELIGIOUS EXPRESSION IN PUBLIC SCHOOLS
Code	po8805 10/1/18 8/16/19 lojc
Status	

### **NEW POLICY - VOL. 19, NO. 1**

#### **8805 - MODEL POLICY ON RELIGIOUS EXPRESSION IN PUBLIC SCHOOLS**

It is the policy of the School District that the District will not discriminate against a student, parent, or school personnel on the basis of a religious viewpoint or religious expression.

##### **Student Expression of Religious Viewpoints**

- A. The School District will treat a student's voluntary expression of a religious viewpoint on an otherwise permissible subject in the same manner that a School District treats a student's voluntary expression of a secular viewpoint.
- B. A student may express his/her religious beliefs in coursework, artwork, and other written and oral assignments free from discrimination. A student's homework and classroom assignments shall be evaluated, regardless of their religious content, based on expected academic standards relating to the course curriculum and requirements.
- C. A student may not be penalized or rewarded based on the religious content of his/her work if the coursework, artwork, or other written or oral assignments require a student's viewpoint to be expressed.

##### **Religious Clothing, Jewelry, and Accessories**

A student may wear clothing, accessories, and jewelry that display a religious message or symbol in the same manner and to the same extent that secular types of clothing, accessories, and jewelry that display messages or symbols are permitted to be worn.

##### **Students Engaging in Religious Activities and Expression at School**

- A. A student may pray or engage in religious activities or religious expression before, during, and after the school day in the same manner and to the same extent that a student may engage in secular activities or expression.
- B. A student may organize prayer groups, religion clubs, and other religious gatherings before, during, and after the school day in the same manner and to the same extent that a student is permitted to organize secular activities and groups.

##### **Employees Engaging in Religious Activities and Expression at School**

- A. The School District may not prevent school personnel from participating in religious activities on school grounds that are initiated by students at reasonable times before or after the school day if such activities are voluntary and do not conflict with the responsibilities or assignments of such personnel.
- B. The School District must comply with the Federal requirements in Title VII of the Civil Rights Act of 1964, which prohibits an employer from discriminating against an employee on the basis of religion.

##### **Equal Access to School Facilities**

- A. The School District shall give religious groups access to the same school facilities for assembling as given to secular groups without discrimination based on the religious content of the group's expression.
- B. A group that meets for prayer or other religious speech may advertise or announce its meetings in the same manner and to the same extent that a secular group may advertise or announce its meetings.

##### **Limited Public Forum Required for Student Speakers**

The School District is required to establish a limited public forum for student speakers at any school event where a student is to speak publicly. Where student speakers are permitted, the District must:

- A. provide the forum in a manner that does not discriminate against a student's voluntary expression of a religious viewpoint on an otherwise permissible subject;
- B. provide a method based on neutral criteria for the selection of student speakers at school events, activities, and graduation ceremonies;
- C. ensure that a student speaker does not engage in obscene, vulgar, offensively lewd, or indecent speech; and
- D. state in oral or written form that the student's speech does not reflect the endorsement, sponsorship, position, or expression of the School District. The School District must deliver this required disclaimer at all graduation events and at any other event where a student speaks publicly.

Student expression of a religious viewpoint on an otherwise permissible subject may not be excluded from the limited public forum.

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Legal F.S. 1002.206

Last Modified by Jacquelin Collins on September 12, 2019



Book	Policy Manual
Section	Vol 19 No 1 REVISED
Title	THE AMERICAN FLAG
Code	p08810 10/1/18 fsj 8/20/19 jc
Status	
Adopted	April 12, 2016

**8810 - THE AMERICAN FLAG  
AND OFFICIAL MOTTO OF THE STATE OF FLORIDA**

**Salute to the Flag**

The Pledge of Allegiance to the American Flag shall be rendered daily according to the provisions of F.S. 1003.44.

**Display of the Flag**

**A. Out-of-Doors**

The flag of the United States shall be displayed daily upon the grounds of each school on a suitable flag staff when the weather permits.

**B. In the Classroom**

Each classroom shall display the flag of the United States on an appropriate staff.

**Flying the Flag at Half-Staff**

Etiquette regarding the U.S. Flag says, "The flag is to be flown at half-staff in mourning for designated, principal government leaders and upon presidential or gubernatorial order."

**Display of the Official Motto of the State of Florida**

The official motto of the State of Florida, "In God We Trust", shall be displayed in a conspicuous place in all schools in the District and in each building used by the School Board.

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Legal	F.S. 15.0301
	F.S. 1000.06, 1001.41, 1003.44
	U.S. Public Law No. 623, as amended by U.S. Public Law No. 829

Last Modified by Jacquelin Collins on August 19, 2019

Item Number:	9.A.
Meeting Date:	10/8/2019
Item Type:	SUPERINTENDENT REPORT:

**AGENDA REQUEST FORM**  
City Of Cape Coral Charter School  
Authority

**TITLE:**

Student Recognition

**SUMMARY:**

**ADDITIONAL INFORMATION:**

**RECOMMENDED ACTION:**



Item Number:	9.B.
Meeting Date:	10/8/2019
Item Type:	SUPERINTENDENT REPORT:

**AGENDA REQUEST FORM**  
City Of Cape Coral Charter School  
Authority

**TITLE:**

Superintendent's Report - Jacquelin Collins

**SUMMARY:**

**ADDITIONAL INFORMATION:**

**RECOMMENDED ACTION:**

<b>Item Number: 10.A.</b> <b>Meeting Date: 10/8/2019</b> <b>Item Type: CHAIRMAN REPORT:</b>
---

**AGENDA REQUEST FORM**  
City Of Cape Coral Charter School Authority

**TITLE:**

Chairman Michael Campbell

**SUMMARY:**

**ADDITIONAL INFORMATION:**

**RECOMMENDED ACTION:**



**Item Number: 11.A.**

**Meeting Date: 10/8/2019**

**Item Type: FOUNDATION REPORT:**

## **AGENDA REQUEST FORM**

City Of Cape Coral Charter School Authority

**TITLE:**

Gary Cerny, President

**SUMMARY:**

**ADDITIONAL INFORMATION:**

**RECOMMENDED ACTION:**

<b>Item Number:</b> 12.A. <b>Meeting Date:</b> 10/8/2019 <b>Item Type:</b> STAFF COMMENT:
---

**AGENDA REQUEST FORM**  
City Of Cape Coral Charter School Authority

**TITLE:**

Charter School Electives Teachers - Classroom and Club Presentations

**SUMMARY:**

**ADDITIONAL INFORMATION:**

**RECOMMENDED ACTION:**



**Item Number: 13.A.**

**Meeting Date: 10/8/2019**

**Item Type: UNFINISHED BUSINESS:**

## **AGENDA REQUEST FORM**

City Of Cape Coral Charter School Authority

**TITLE:**

No Activity

**SUMMARY:**

**ADDITIONAL INFORMATION:**

**RECOMMENDED ACTION:**

<b>Item Number:</b>	<b>14.A.</b>
<b>Meeting Date:</b>	<b>10/8/2019</b>
<b>Item Type:</b>	<b>NEW BUSINESS:</b>

**AGENDA REQUEST FORM**  
City Of Cape Coral Charter School Authority

**TITLE:**

Request for Approval of Florida Safe Schools Assessment Tool (FSSAT) Recommendations -  
Superintendent Collins

**SUMMARY:**

**ADDITIONAL INFORMATION:**

**RECOMMENDED ACTION:**

**ATTACHMENTS:**

<b>Description</b>	<b>Type</b>
▢ FSSAT Recommendations 9/2019	Backup Material



## MEMO

TO: City of Cape Coral Charter School Authority  
FROM: Jacquelin Collins  
Superintendent  
DATE: 9/25/2019  
SUBJECT: **FSSAT Recommendations**

The Florida department of Education developed the Florida Safe Schools Assessment Tool (FSSAT) to provide a secure, online risk assessment portal for conducting school security risk assessments. The FSSAT was developed, as directed, under section (s.) 1006.1493, Florida Statutes, to be the primary physical site security assessment tool for use by school officials at each district and charter school.

The FSSAT requires each school principal to complete the assessment with assistance of a School Safety Specialist, interdepartmental personnel, and other public safety agencies (i.e. Fire Department, City of Cape Coral Police Department, City of Cape Coral Risk Management Department) by October 1<sup>st</sup>, 2019.

The FSSAT also requires that findings in the form of recommendations are presented to the Governing Board at a publicly noticed meeting for discussion and possible action.

The administrative team cited two recommendations for presentation to the board. The first recommendation is the addition of a front office door bell camera system that integrates with an access control system to allow a school employee to provide remote access to the building. We can piggy back on the Lee County School District contract and our Building Supervisor has been in contact with the vendor to work on installation costs. Principals have set an implementation time of 6 months to one year based on Board approval.

The second recommendation is a request for the Cape Coral Police Department Security Team to formally tour the campus annually to determine potential security risks and additional security needs.

# QUOTE CONFIRMATION



DEAR DANIELLE JENSEN,

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QUOTE #	QUOTE DATE	QUOTE REFERENCE	CUSTOMER #	GRAND TOTAL
KXK768	10/1/2019	AXIS A8105 DOOR STATION	10369666	\$2,895.00

QUOTE DETAILS				
ITEM	QTY	CDW#	UNIT PRICE	EXT. PRICE
AXIS A8105-E Network Video Door Station - network surveillance camera Mfg. Part#: 0871-001 UNSPSC: 46171610 Contract: School District of Lee County -Computer Hardware, (N177281RC)	3	4221053	\$815.00	\$2,445.00
AXIS flush mount kit Mfg. Part#: 5801-481 UNSPSC: 45121518 Contract: School District of Lee County -Computer Hardware, (N177281RC)	3	4294009	\$70.00	\$210.00
AXIS Extended warranty - extended service agreement - 3 years Mfg. Part#: 0671-600 UNSPSC: 81111811 Electronic distribution - NO MEDIA Contract: School District of Lee County -Computer Hardware, (N177281RC)	3	5138702	\$50.00	\$150.00

PURCHASER BILLING INFO		SUBTOTAL	\$2,445.00
<b>Billing Address:</b> CAPE CORAL CHARTER SCHOOL AUTHORITY ACCTS PAYABLE 3519 OASIS BLVD CAPE CORAL, FL 33914-4914 Phone: (239) 283-4511 Payment Terms: NET 30 Days-Govt/Ed		SHIPPING	\$0.00
		SALES TAX	\$0.00
		GRAND TOTAL	\$2,895.00
<b>DELIVER TO</b> <b>Shipping Address:</b> OASIS MIDDLE SCHOOL DANIELLE JENSEN 3507 OASIS BLVD CAPE CORAL, FL 33914-4914 <b>Shipping Method:</b> DROP SHIP-GROUND		Please remit payments to: CDW Government 75 Remittance Drive Suite 1515 Chicago, IL 60675-1515	

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<b>Item Number:</b> 14.B.
<b>Meeting Date:</b> 10/8/2019
<b>Item Type:</b> NEW BUSINESS:

**AGENDA REQUEST FORM**  
City Of Cape Coral Charter School Authority

**TITLE:**

Request for Approval for an Additional School Bus Driver for the Cape Coral Charter Schools -  
Superintendent Collins

**SUMMARY:**

**ADDITIONAL INFORMATION:**

**RECOMMENDED ACTION:**



<b>Item Number:</b>	<b>14.C.</b>
<b>Meeting Date:</b>	<b>10/8/2019</b>
<b>Item Type:</b>	<b>NEW BUSINESS:</b>

**AGENDA REQUEST FORM**  
City Of Cape Coral Charter School Authority

**TITLE:**

Request for Acceptance of Notice of Intent to Designate the Cape Coral Charter School Authority School Superintendent position to the Local Agency Senior Management Service Class (SMSC) of the Florida Retirement System Division of Retirement - Leisa Orcutt, Human Resources Manager

**SUMMARY:**

**ADDITIONAL INFORMATION:**

**RECOMMENDED ACTION:**

**ATTACHMENTS:**

<b>Description</b>	<b>Type</b>
▣ FRS CLASS DESIGNATION 2019	Backup Material

[City of Cape Coral Charter School Authority Seal]

## NOTICE TO THE PUBLIC

In accordance with Section 121.055, Florida Statutes, The City of Cape Coral Charter School Authority intends to designate the position of Cape Coral Charter School Authority Superintendent for inclusion in the Senior Management Service Class of the Florida Retirement System.

### Breeze Newspapers

First Run Dates: Oct 23 and 25, 2019

Second Run Dates: Oct 30 and Nov 1, 2019

Governing Board Date: Nov 12, 2019



Section 121.055, Florida Statutes, establishes the Senior Management Service Class and sets forth the criteria for participation. Although the Class was first established February 1, 1987, through subsequent legislation the criteria and requirements have been amended. Outlined below are the SMSC requirements for State and local agencies. Questions concerning the SMSC may be directed, in writing, to the Division of Retirement, P.O. Box 9000, Tallahassee, FL 32315-9000, or by calling (850) 488-8837 or Toll Free 1-877-377-3675

#### **State Agency Senior Management Service Class (SMSC) requirements:**

A position included in the SMSC requires the employee filling the position be a compulsory member in the SMSC, unless the incumbent elects in writing within 90 days of employment to participate in the State's Senior Management Optional Annuity Program. The following State positions are included in the SMSC:

**Effective 02-01-87:** All Senior Management Service positions with a State Agency.

**Effective 01-01-90:** Executive Director of the Ethics Commission, Auditor General and up to nine managerial or policy making positions within his office, all staff directors of Joint Committees of the Legislature, and up to 75 nonelective positions at the level of Committee Staff Director or higher, or equivalent managerial or policymaking positions within the House of Representatives and Senate as selected by the Speaker of the House of Representatives and President of the Senate, respectively.

**Effective 01-01-91:** Positions within the Executive Service of the State University System, University Presidents, and State Board of Administration senior managers who have policymaking authority and are so determined by the Governor, Treasurer, and Comptroller.

**Effective 01-01-94:** State Courts Administrator, Deputy State Courts Administrator, Clerk of the Supreme Court, Marshal of the Supreme Court, Justice Data Center Director, Executive Director of the Justice Administration Commission, Capital Collateral Representative, Clerks of the District Courts of Appeals, Marshals of the District Courts of Appeals, and Trial Court Administrator in each judicial circuit are compulsory positions in the SMSC.

**Effective 01-01-94 Additional Designated Positions:** The State Attorney and Public Defender in each judicial circuit may designate positions in their offices to the SMSC provided:

- a notice of intent to designate position(s) to the Class is published once a week for two consecutive weeks in a newspaper of general circulation published in the county or counties affected;
- and the full-time positions are nonelective, managerial or policymaking filled by employees who serve at pleasure of the employer without civil service protection, head organizational units or have responsibility to effect or recommend personnel, budget, expenditure, or policy decisions in their area of responsibility.

One nonelective full-time position may be designated for each State Attorney and Public Defender reporting to the Division of Retirement. Offices with 200 or more filled regularly established positions may designate additional elective positions provided they do not exceed 0.5 percent of the filled regularly established positions within the agency. A position designated to the SMSC shall not be removed from the Class unless the duties and responsibilities of the position change substantially and the position no longer meets the statutory requirements for SMSC participation or the position is abolished.

#### **Local Agency Senior Management Service Class (SMSC) requirements:**

A position included in the SMSC requires an employee filling the position to be a compulsory member of the SMSC, unless the incumbent elects to participate in a local annuity program. An employee of a local agency may make this election at any time while holding a position included in the SMSC. The following positions in local agencies are included in the SMSC:

**Effective 01-01-90:** Community College Presidents, appointed School Superintendents, County Managers/Administrators, and City Managers/Administrators are compulsory positions in the SMSC.

**Effective 01-01-94:** Local agency employers may designate positions to the SMSC provided:

- a notice of intent to designate positions to the Class is published once a week for two consecutive weeks in a newspaper of general circulation published in the county or counties affected;
- and the full-time positions are nonelective, managerial or policymaking filled by employees that are not subject to a continuing contract who serve at the pleasure of the employer without civil service protection, and who head an organizational unit or have responsibility to effect or recommend personnel, budget, expenditure, or policy decisions in their areas of responsibility.

Ten (10) nonelective full-time position may be designated for each local agency. Effective 06-17-98, local agencies with 100 or more filled regularly established positions may designate additional nonelective positions provided they do not exceed 1 percent of the filled regularly established positions within the agency. A position designated to the SMSC shall not be removed from the Class unless the duties and responsibilities change substantially and the position no longer meets the statutory requirements for SMSC participation or the position is abolished.



(a) Any member holding a position eligible for membership in the Senior Management Service Class who is a member of an existing retirement system may elect to remain in such system in lieu of participation in the Senior Management Service Class as follows:

1. Such election shall be made in writing with the personnel office of the employer and the Division within 90 days after employment begins in a Senior Management Service Class position.

2. Any such employee who fails to elect to remain in such system within such 90-day period shall be a compulsory member of the Senior Management Service Class as provided in subsection 60S-1.0057(1), F.A.C.

(b) Any member holding a position eligible for membership in the Senior Management Service Class position as provided in paragraphs 60S-1.0057(1)(a), (b), (c), (d), (e), (f), (g) and (h), F.A.C., who is a member of the Special Risk Class or the Special Risk Administrative Support Class of the Florida Retirement System, may elect to remain in such class in lieu of participation in the Senior Management Service Class as follows:

1. Such election shall be made in writing and filed with the personnel office of the employer and the Division within 90 days after employment begins in a Senior Management Service Class position.

2. Any such employee who fails to elect to remain in such class within such 90-day period, shall be a compulsory member of the Senior Management Service Class as provided in subsection 60S-1.0057(1), F.A.C.

3. If a Special Risk Class or a Special Risk Administrative Support Class member wishes to make such an election, the Senior Management Service Class position to which he or she is assigned must be an eligible Special Risk Class or Special Risk Administrative Support Class position.

(c) Any member of the Florida Retirement System Pension Plan or an existing system who is eligible for membership in the Senior Management Service Class as provided in paragraph 60S-1.0057(1)(c), subparagraphs (2)(a)2. and (7)(f)2., F.A.C., may elect to withdraw from the Florida Retirement System altogether, in lieu of membership in the Senior Management Service Class as follows:

1. Such election shall be made in writing to the Plan Choice Administrator as defined in subsection 60S-6.001(50), F.A.C., in accordance with rule 19-11.006, F.A.C. Such election may be filed using the State Board of Administration form designed for ease of use; Form SMS-3, Local Senior Management Service Employees Retirement Plan Enrollment Form, adopted by reference in subsection 60S-1.004(1), F.A.C., or alternatively the employee may choose to submit a separate document in lieu of Form SMS-3, to file their election with the Plan Choice Administrator which at minimum shall provide the employee's name, social security number and his or her plan election. The election to withdraw altogether shall be irrevocable for as long as the employee holds a position eligible for membership in the Senior Management Service Class. The effective date of such election shall be the first day of the month following the month in which the Plan Choice Administrator receives the written election.

2. Such members are not eligible to participate in the Senior Management Service Optional Annuity Program administered by the Division of Retirement.

(d) Any member of the Florida Retirement System Pension Plan or an existing system who is eligible for membership in the Senior Management Service Class as provided in paragraph 60S-1.0057(1)(d), F.A.C., shall by default be enrolled into the State University System Optional Retirement Program (SUSORP) prospectively upon such eligible employment and; except for those filling a mandatory SUSORP position, may choose between membership in the Florida Retirement System or participation in the SUSORP within 90 days of employment as follows:

1. Employees enrolled by default into the SUSORP, except for those filling a mandatory SUSORP position as provided in section 121.051, F.S., may choose between membership in the Florida Retirement System or participation in the SUSORP within 90 days of employment by filing such election in writing with the Plan Choice Administrator as defined in subsection 60S-6.001(50), F.A.C., not later than 4:00 p.m. Eastern Time on the 90th day from the employee's date of hire into the SUSORP eligible position in accordance with sections 121.35 and 121.4501, F.S., and rule 19-11.006, F.A.C. The eligible employee may use the State Board of Administration's designed form for ease of use; ORP-16, State University System Optional Retirement Program (SUSORP) Retirement Plan Enrollment Form, adopted by reference in subsection 60S-1.005(1), F.A.C., to file such election or alternatively the employee may choose to submit a separate document in lieu of Form ORP-16, to file their election with the Plan Choice Administrator which at minimum shall provide the employee's name, social security number and his or her plan election.

2. Employees who file an election to participate in the SUSORP, other than mandatory SUSORP participants who must elect this option, must also execute a contract with a SUSORP provider company no later than the 90th day from the employee's date of hire into the SUSORP eligible position in accordance with sections 121.35 and 121.4501, F.S., and rule 19-11.006, F.A.C., or shall



As a % of Salary

Genetic factors include HLA correlation, i.e., any individual on a register, if he is autologized by blood at birth (2, 12, 16) (p. 52, p. 54).

DC = Defined Contribution Plan for Member Account.

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**MINUTES OF THE**  
**REGULAR MEETING OF THE CITY OF CAPE CORAL**  
**CHARTER SCHOOL AUTHORITY GOVERNING BOARD**  
**Tuesday, May 14, 2013**  
**Council Chambers**  
**9:00am**

Chair Jackson called the meeting to order at 9:00 am

**CALL TO ORDER-** Chair Jackson

**INVOCATION-** Prepared by Chair Jackson and read by Jacque Collins, Principal CME

**PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA:**

**ROLL CALL:** Anderson, Boyer, Donaldson, Jackson, McGrail, Pawloski Stout, Tebhun  
Member Kalbhenn unexcused.

**ALSO PRESENT:** Bill Buztrey, Assistant City Attorney  
Dr. Lec Bush, Administrator, City of Cape Coral Charter Schools  
Jacque Collins, Principal, CME  
Kevin Beckman, Principal, OMS  
Steve Hook, Principal, OES  
Kim Lurger, Principal, OHS  
David Fiorillo, Business Manager, City of Cape Coral Charter Schools  
Dr. Angela Pruitt, future Administrator/Superintendent, City of Cape Charter Schools  
John Lawrence, Cape Coral Charter Schools Bookkeeper  
Kelly Jackson, parent, CME, OMS, OHS  
Chelese Malone, parent, CME  
Marni Sawicki, parent, OES  
Jean Ricciardella, parent, OES, OES PTO President



### PUBLIC COMMENT

Marni Sawicki shared with the board the importance of the ESE program to our school system. Ms. Sawicki stated that she has one student that is part of the STEM program and will be attending OHS come the new school year and she has another student that is challenged with ADHD and a reading disability. Ms. Sawicki stated that her daughter attended OMS for 2 years but then had to be transferred to Ida Baker for her 9<sup>th</sup> grade year because our system did not have the resources available that she needed. Ms. Sawicki stated that she wanted to stress the importance of the ESE program and the need for additional funding. Ms. Sawicki stated that she loved the school system and she would love for her daughter to be able to attend but it wasn't feasible at this time.

Chair Jackson asked what we would need to do to better serve ESE students. Dr. Bush explained the funding criteria for the services and stated there is a full range of Exceptional Student Education programs and that no school can service them all. Dr. Bush stated that we do offer services starting at the elementary thru high school level, but usually they are for students that would require mild services.

Discussion ensued.

### UNFINISHED BUSINESS

None

### NEW BUSINESS

#### Approval of Neola Policy Updates

Dr. Bush gave a brief update of the reason behind the request for the approval of the policy updates that the board received to review. Dr. Bush also explained what Neola is for the new board members.

Motion was made by member McGrail to approve the Neola policy updates and was seconded by member Donaldson.

Board vote: Anderson, Boyer, Donaldson, Jackson, McGrail, Teblum, Stout

All "Ayes", motion carries.

#### Discussion & Approval – Title change of Administrator to Superintendent

Dr. Bush explained the reasoning behind the request for the change. Dr. Bush also explained the term Superintendent and explained that it holds a certain status and is a more professional title for a system of our size. Dr. Bush has asked that Mr. Buztrey explain what we may have to do to make the change.

Mr. Buztrey stated that we would need to first change the City Ordinance Chapter 26 which would be relatively easy. Mr. Buztrey then stated that we would need to check the Charter to see if the term "Administrator" is mentioned in the Charter which would then mean we would need to have a Charter Amendment.

Discussion ensued.

Motion was made by member Stout and seconded by member Donaldson to approve the title change of Administrator to Superintendent.

**Board vote: Anderson, Boyer, Donaldson, Jackson, McGrail, Teblum, Stout**

**All "Ayes", motion carries.**

**Approval of David Fiorillo as Interim Administrator – May 19 – May 31, 2013**

Member Teblum asked why Mr. Fiorillo was being made interim administrator instead of one of the principals. Dr. Bush explained that most of the items that would probably occur during this time frame would be mainly signing of documents. Dr. Bush stated that if there were any items that would involve the principals he was sure Mr. Fiorillo would contact them for their input.

Motion was made by member Stout and seconded by member Donaldson to approve David Fiorillo as interim Administrator from May 19<sup>th</sup> – May 31<sup>st</sup> 2013.

**Board vote: Anderson, Boyer, Donaldson, Jackson, McGrail, Teblum, Stout**

**All "Ayes", motion carries.**

**Approval of the salary range of the Speech Language Pathologist position from (from (\$15.38-\$24.18) per hour to (\$25.00 to \$40.00) per hour**

Dr. Bush explained that the range would need to increase so that we are more competitive in our search for a Speech Language Pathologist.

Motion was made by member Stout and seconded by member Donaldson to approve the salary range of the Speech Language Pathologist position from (from (\$15.38-\$24.18) per hour to (\$25.00 to \$40.00) per hour.

**Board vote: Anderson, Boyer, Donaldson, Jackson, McGrail, Teblum, Stout**

**All "Ayes", motion carries.**



Item Number:	16.A.
Meeting Date:	10/8/2019
Item Type:	TIME AND DATE OF NEXT MEETING

**AGENDA REQUEST FORM**  
City Of Cape Coral Charter School  
Authority

**TITLE:**

The Next Regular Governing Board Meeting will be held on Tuesday, November 12, 2019 at 5:30p.m. in Cape Coral City Council Chambers, 1015 Cultural Park Blvd., Cape Coral, FL 33990

**SUMMARY:**

**ADDITIONAL INFORMATION:**

**RECOMMENDED ACTION:**