NONDISCRIMINATION POLICY STATEMENT

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA (HEREINAFTER REFERRED TO AS "THE BOARD") SHALL NOT DISCRIMINATE AGAINST STUDENTS, PARENTS OR GUARDIANS OF STUDENTS, EMPLOYEES, APPLICANTS, CONTRACTORS, OR INDIVIDUALS PARTICIPATING IN SCHOOL BOARD SPONSORED ACTIVITIES. THE SCHOOL BOARD IS COMMITTED TO THE PROVISION OF EQUAL ACCESS IN ALL STUDENT, EMPLOYMENT, AND BUSINESS PROGRAMS, ACTIVITIES, SERVICES, AND OPERATIONS THAT ARE OPERATED OR PROVIDED DIRECTLY BY THE BOARD, AS WELL AS THOSE OPERATED OR PROVIDED BY ANOTHER ENTITY ON BEHALF OF THE BOARD UNDER CONTRACTUAL OR OTHER ARRANGEMENTS. THIS POLICY IS ESTABLISHED TO PROVIDE AN ENVIRONMENT FREE FROM DISCRIMINATION AND HARASSMENT BASED UPON AGE, COLOR, DISABILITY, GENDER IDENTITY, GENDER EXPRESSION, GENETIC INFORMATION, MARITAL STATUS, NATIONAL ORIGIN, RACE, RELIGION, SEX OR SEXUAL ORIENTATION.

IT IS THE INTENT OF THIS POLICY, AND RESPECTIVE PROCEDURES, TO SUPPORT AND IMPLEMENT PROTECTIONS AGAINST DISCRIMINATION AND HARASSMENT AS PROHIBITED BY THE CONSTITUTION, FEDERAL AND STATE STATUTES, COUNTY ORDINANCE, AND ALL OTHER APPLICABLE LAWS OR REGULATIONS.

AUTHORITY: F.S. 1001.41(1) (2) & The Federal Americans with Disabilities Act Amendments Act of 2008 (ADAAA)

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Rules:

1 **AMERICANS WITH DISABILITIES ACT AMENDMENTS ACT OF 2008 (ADAAA).**
Necessary measures shall be taken to comply with the provisions of the ADAAA. The ADAAA provides that no qualified individual with a disability shall by reason of such disability, be excluded from participation in or be denied the benefits of services, programs, or activities, or be subjected to discrimination, harassment, intimidation, retaliation or coercion.

SECTION 504 OF THE REHABILITATION ACT OF 1973, AS AMENDED.
Necessary measures shall be taken to comply with the provisions of Section 504 of the Rehabilitation Act of 1973. Section 504 of the Rehabilitation Act of 1973 prohibits public entities receiving federal funds from discriminating against or excluding qualified individuals with disabilities from programs, services, or activities on the basis of disability. Under Section 504, the school district has the responsibility to identify, evaluate, and if the student is determined eligible provide appropriate, specialized educational services.

a. Students with disabilities shall be provided equal access to programs, benefits, activities and services available to those students without disabilities, when they meet the essential eligibility requirements for receipt of those programs and services. Students shall be provided with a free appropriate public education (FAPE,), To facilitate equal access, reasonable accommodations shall be provided to remove or reduce barriers that prevent student access to or participation in programs, benefits, activities or services unless doing so would impose an undue hardship on the district.

b. Qualified individuals with disabilities who notify the district of their disability shall be provided equal access to all terms, conditions and privileges of employment whether conducted by The Board or another entity on behalf of The Board. Reasonable

accommodation is available to all employees and applicants unless it will impose an undue hardship on the district as determined by the Superintendent or his/her designee. All employment decisions are based on the merits of the situation consistent with defined criteria, not the disability of the individual. Decisions regarding reasonable accommodation shall be addressed after a documented request is made by the individual seeking the accommodation. Qualifications for an employment position held or desired shall be based on the individual's ability to perform the essential functions of the job. The Board is not required to hire or continue to employ an individual who poses a direct threat to the health or safety of the individual or others or who is unable to perform the essential functions of the job.

c. No individual with a disability shall be denied an equal opportunity to participate in programs, services, and activities because facilities are inaccessible to, or unusable by them. Programs in existing facilities shall operate so that, when viewed in their entirety, they are readily accessible to and usable by individuals with disabilities. A new or altered facility (or the part that is new or altered) shall be readily accessible to and usable by individuals with disabilities. Both structural and nonstructural methods of achieving program accessibility shall be acceptable.

d. For purposes of this policy, the following definitions shall be adopted.

1 The definition of *qualified individual with a disability* takes two forms depending on the type of activity involved. For purposes of determining participation in services and programs offered, a person is considered qualified when meeting the essential eligibility requirements for the receipt of services or participation in programs. For purposes of employment, an individual is considered qualified if the person is able to perform the essential functions of the job with or without reasonable accommodation. A qualified person with a disability is one who:

a has a physical or mental impairment that substantially limits one or more major life activities such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working, eating, sleeping, standing, lifting, bending, reading, concentrating, thinking and communication Other examples are functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, circulatory, respiratory, endocrine, hemic, lymphatic, musculoskeletal, special sense organs and skin, genitourinary, cardiovascular, and reproductive functions.

b. has a record or history of such an impairment; or

c. is perceived or regarded as having such an impairment.

2 A *reasonable accommodation* is an adaptation to a program, policy, facility or work place that allows an otherwise qualified individual with a disability to participate in a program, service, activity or perform a job unless the accommodation would impose an undue hardship on the school district. Accommodations may consist of changes in policies, practices, services and the use of auxiliary aids and services.

3 An *undue hardship* is an action which requires significant difficulty or expense. An accommodation that would impose an undue hardship would be an action that is unduly costly, extensive, substantial, disruptive, or one that would fundamentally alter the nature of the program.

4 The *essential functions* of the job are the fundamental job duties of the employment position the individual with a disability holds or desires. *Marginal functions* are the non-essential duties of the employment position.

5 A *direct threat* is defined as a significant risk of substantial harm to the health or safety of the individual with a disability or others that cannot be eliminated or reduced by reasonable accommodation.

2. **INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA).** Necessary measures shall be taken to comply with the provisions of the Individuals with Disabilities Education Act. The IDEA requires that the special educational needs of students with disabilities are met. The school district is responsible for ensuring that all children with disabilities have available to them a

free appropriate public education (FAPE).

a The school district shall implement a system of procedural safeguards to be afforded to parents and guardians with respect to any action regarding the identification, evaluation, and placement of children who, because of disability, need or are believed to need special education or related services. The due process procedures shall afford parents or guardians:

1 notice;

2 a right for parents and guardians to inspect relevant records;

3 an impartial hearing with an opportunity for participation by parents and with a right to bring counsel; and

4 an appeal procedure.

3. **SEXUAL HARASSMENT.**

All students, employees, volunteers and others shall be provided with an environment free of sexual harassment.

a Sexual harassment is defined as sexual advances and other forms of oral, written, or physical conduct of a sexual nature when:

1. submission to such conduct is made either explicitly or implicitly a term of or condition of an individual's employment;
2. submission to or rejection of such conduct by an individual is used as the basis of employment or academic decisions affecting the individual; or
3. such conduct has the purpose or effect of interfering unreasonably with an individual's performance, or creating an intimidating, hostile, or offensive environment.

b Examples of sexual harassment may include but are not limited to:

1. suggestive or obscene letters, notes, invitations, derogatory comments, slurs, jokes, epithets, unwanted physical contact of a sexual nature, sexual molestation or assault, impeding or blocking movement, gestures, display of sexually suggestive objects, posters or cartoons; as well as social media/network, including, but not limited to: emails, text messages, Facebook, Twitter, web sites, blogs and cyberbullying;
2. continuing to express sexual interest after being informed that the interest is unwelcome;
3. coercive sexual behavior used to affect the career of another employee, such as withholding support for an appointment or suggesting a poor performance report will be prepared;
4. offering favors such as reclassifications or favorable duties in exchange for sexual favors;
5. offering favors such as scholarship recommendations in exchange for sexual favors.

c Discriminatory harassment other than sexual, shall be defined as physical or verbal conduct based on race, color, national origin, religion, age, disability, marital status, gender identity, gender expression, sex or sexual orientation directed toward an individual when the conduct, as determined by a reasonable person:

1. has the purpose or effect of creating an intimidating, hostile or offensive academic or working environment;
2. has the purpose or effect of substantially or unreasonably interfering with an individual's academic or work performance;
3. has the purpose or effect of demeaning or otherwise disrespecting the dignity of an individual in the academic or work environment; or
4. adversely affects an individual's academic or employment opportunities.

d A substantiated allegation of harassment shall result in appropriate disciplinary action.

4. **EDUCATIONAL PROVISIONS.**

Necessary measures shall be taken to comply with:

a. The Florida Education Equity Act of 1984 (FEEA). The FEEA prohibits discrimination on the basis of race, national origin, gender, disability, or marital status against a student or employee in the state system of public education. Students may be separated by sex for any portion of a class which deals with human reproduction or during participation in bodily contact sports. The FEEA requires that educational institutions within the state system of public education develop and implement methods and strategies to increase student and staff participation in traditionally underrepresented areas of study and employment.

b. The Education Amendments of 1972 (Title IX). Title IX of the Education Amendments prohibits discrimination against students, employees, or applicants on the basis of sex in any educational programs or activities receiving Federal financial assistance, whether or not such program is offered or sponsored by an educational institution.

5. **GENERAL PROVISIONS.**

Necessary measures shall be taken to comply with:

a. The Florida Civil Rights Act of 1992. The Florida Civil Rights Act prohibits discrimination in employment against all individuals within the State based on race, color, sex, religion, national origin, age, disability, or marital status.

b. The Civil Rights Act of 1964, as amended (Title VI). Title VI prohibits discrimination on the basis of race, color, or national origin in the provision of benefits or services under programs receiving Federal financial assistance from the Department of Education.

c. The Civil Rights Act of 1964, as amended (Title VII). Title VII prohibits discrimination in all conditions of employment such as: selection, promotion, compensation, termination and fringe benefits on the basis of race, color, religion, sex or national origin.

d. The Age Discrimination in Employment Act of 1967, as amended. The Age Discrimination in Employment Act prohibits discrimination in employment based on age against those individuals at least 40 years of age, unless age is a bonafide occupational qualification. Additionally, no seniority system or employee benefit plan shall require or permit the involuntary retirement of any individual because of the age of such individual.

e. The Genetic Information Nondiscrimination Act of 2008 (GINA), (Title II), Prohibits discrimination against employees or applicants because of genetic information. Prohibits the use of genetic information in making employment decisions, restricts employers and other entities covered by Title II (employment agencies, labor organizations, and joint labor-management training and apprenticeship programs-referred to as “covered entities”) from requesting, requiring or purchasing genetic information, and strictly limits the disclosure of genetic information.

f. (BOY SCOUTS OF AMERICA EQUAL ACCESS ACT) (1) EQUAL ACCESS- Notwithstanding any other provision of law, no public elementary school, public secondary school, local educational agency, or State educational agency that has a designated open forum or a limited public forum and that receives funds made available through the Department of Education shall deny equal access or a fair opportunity to meet, or discriminate against, any group 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), that wishes to conduct a meeting within that designated open forum, or limited public forum, including denying such access, or opportunity, or discriminating for reasons based on the membership or leadership criteria or oath of allegiance to God and country of the Boy Scouts of America or of the youth group listed in title 36 of the United States Code (as a patriotic society). 2) DEFINITION AND RULE- (a) DEFINITION- In this section, the term youth group' means any group or organization

intended to serve young people under the age of 21. (b) RULE- For the purpose of this section, an elementary school or secondary school has a limited public forum whenever the school involved grants an offering to, or opportunity for, one or more outside youth or community groups to meet on school premises or in school facilities before or after the hours during which attendance at the school is compulsory.

6. **THE DEPARTMENT OF EQUAL EDUCATIONAL OPPORTUNITIES SERVICES.**

The Superintendent's designee shall be responsible for the development, implementation, oversight, dissemination, coordination, and enforcement of procedures related to this policy

a. Any student, employee, applicant, or individual participating in a School Board sponsored activity has the right to file a discrimination or harassment complaint/charge with the Department of Equal Educational Opportunities (EEO)/ADA Compliance. Fair, consistent, objective, expeditious and uniform procedures by which complaints/charges of discrimination or harassment are investigated, resulting in prompt and remedial action shall be implemented.

1. A complaint/charge shall undergo a comprehensive investigation. For student and/or employee complaints/charges the Department EEO/ADA Compliance will complete the investigation in approximately 60 calendar days.
2. The right to confidentiality of the complainant and the respondent shall be protected pursuant to applicable Federal and State regulations.
3. The parents or guardians of students involved in discrimination or harassment complaint/charge shall be notified.
4. The Director, EEO/ADA Compliance, shall serve as the District's Equity Coordinator/Title IX Coordinator and Superintendent's representative in discrimination and harassment investigations. The department shall assist in filing appropriate charges, investigating charges, and the resolution of charges made by students, employees, applicants, contractors or individuals participating in a School Board sponsored activity. These persons shall retain the right to file a complaint/charge with the appropriate agency other than the Department of Equal Educational Opportunities Department (EEO)/ADA Compliance. Individuals who wish to contact the District's Equity Coordinator/Title IX Coordinator may do so via mail at 600 S.E Third Avenue, 14th Floor, Fort Lauderdale, Florida 33301 or via telephone at 754-321-2150 or via Teletype Machine TTY at 754-321-2158.

b. Internal discrimination complaint/charge investigative process:

1. The Complainant completes a discrimination/intake form in person at the Department of EEO/ADA Compliance or via telephone.
2. An interview is held with the complainant, if necessary, to obtain additional information and to clarify the complaint within 10 working days.
3. The alleged parties to the discrimination (Respondents) are notified within 10 working days that a complaint/charge has been filed. The Respondent is required to respond in detail to each allegation raised by the Complainant. (10 working days)
4. The Complainant and the alleged harasser/perpetrator presents evidence, including relevant documents, witnesses and provide written and taped statements (if applicable).(10 working days)
5. The EEO Administrator/investigator carefully reviews the Respondent's response, transcribed taped statements (if applicable) from the Complainant, alleged harasser/perpetrator and witnesses, and/any other relevant documents. (25 working days)
6. For Student and/or employee discrimination complaints/charges, a summary of the investigation is prepared and a determination or finding (probable cause or no probable cause) is made by the Department of EEO/ADA Compliance based on the documentation presented. (The Department of EEO/ADA Compliance will complete the investigation in approximately 60 calendar days)
7. For sexual harassment complaints/charges, a summary of the investigation is

prepared based on the information presented and sent to the Professional Standards Committee (PSC) for its review and finding (probable cause or no probable cause). (The Department of EEO/ADA Compliance will complete the investigation in approximately 60 calendar days,)

8. Both the Complainant and the alleged harasser/perpetrator shall receive a copy of a determination letter.

** The timelines stipulated in this investigative process are subject to the complexity of the investigation, the severity and extent of the harassment, and the availability of the witnesses based on their school calendar.

** The complainant (employee) has the right to file a claim with the Equal Employment Opportunity Commission (EEOC) and (student/employee) has the right to file a claim with the Office for Civil Rights (OCR) or any other agency he/she deems appropriate, at any time. Filing a complaint with the District does not preserve the employee/student rights under Federal or State Law,

c. Assistance shall be made available to alleged victims and/or witnesses of discrimination, sexual harassment, and other forms of harassment.

1. Materials that inform employees of procedures to follow when filing a discrimination or harassment complaint/charge shall be made available at the beginning of each school year, in various formats.
2. Assistance to employees shall be made available through the Employee Assistance Program and the Coordinator of Health Education.
3. Assistance to students shall be made available by the appropriate responsible department, program or individual.

d Retaliatory, intimidating, or coercive acts against any individual because the individual has filed a complaint/charge of discrimination or harassment, testified, assisted, or participated in any manner in an investigation shall be prohibited and will be considered a violation of this policy and grounds for a separate complaint/charge.

e An education and information program shall be developed and implemented.

1. The Superintendent's designee shall design and implement a comprehensive educational program about discrimination, including sexual and other forms of discriminatory harassment and treatment prohibited by this policy.
2. Appropriate notification should be included in the Student Code of Conduct.
3. All School Board sponsored orientation workshops and materials shall contain information about discrimination, sexual and other forms of discriminatory harassment, and the Department of Equal Educational Opportunities services available.

7. Any student, employee, applicant, contractor or individual participating in a School Board sponsored activity shall retain the right to file a complaint/charge with the appropriate agency other than the Department of Equal Educational Opportunities. Filing a charge with the District's Department of Equal Educational Opportunities does not preserve or protect your rights under federal or state laws. The laws administered by these agencies have timelines wherein you must file a complaint/charge.

8. This policy shall apply to all official School Board sponsored activities and functions.

9. The District is committed to preventing recurrence of any harassment and correcting any discriminatory effects.

10. A violation of any part of this policy shall be grounds for discipline, up to and including termination of employment.

11. The Superintendent is authorized to develop and distribute procedures and transition plans to carry out the intent and provisions of this policy.