

A close-up, slightly angled photograph of a black laptop keyboard. The keys are black with white characters. Some keys have blue icons or text: the 'FN' key has 'FN' in white on a blue background; the 'SMS' key has a blue musical note icon and 'SMS' in blue; the 'IM' key has a blue envelope icon and 'IM' in blue. Other keys shown include '@', '-', 'W', 'E', 'R', 'CAPS', 'Q', 'A', 'S', 'D', 'F', 'C', 'X', 'Z', 'SHIFT', 'OK', and a key with a white grid icon. The text is overlaid on the keyboard.

Miami-Dade County Public Schools

*Empowering Students to Engage in
Positive Communication: A Guide to
Combat Student Sexting*

Procedures Manual

MIAMI-DADE COUNTY PUBLIC SCHOOLS

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Miami-Dade County Public Schools

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Introduction

Miami-Dade County Public Schools (M-DCPS) has launched an ambitious, unprecedented initiative to promote positive interactions and communications among students by unveiling an educational campaign aimed at combating sexting. Sexting involves the transmittal and receipt, through cellular telephones and internet technologies, photographs or images depicting sexual content. In a proactive effort to address growing concerns about the heightened popularity of sexting among adolescents and its associated risks, the School Board of Miami-Dade County approved a district-wide Plan to Combat Teenage Sexting during July, 2009. The Action Plan adopts a multi-faceted approach that incorporates five benchmarks: Policy Development, Statutory Enforcement & Revision, Curriculum Development, Professional Development & Parent Training, and a student focused Awareness Campaign.

It is M-DCPS' mission to ensure the social, physical and psychological well-being of all students while promoting their academic growth and achievement. To that end, school districts play a vital role in addressing the unique challenges presented by the sexting phenomenon. Although students may recognize that sexting is unlawful, its prevalence suggests that students fail to understand the implications that can result from transmitting or receiving sexts. In addition to bullying, suicide, and increased risk of infection from sexually transmitted diseases and/or unplanned pregnancies as a result of lowered sexual inhibitions, students that engage in sexting risk criminal prosecution under existing federal laws and state statutes that bar the possession or transmittal of child pornography. As evidenced by numerous cases documented nationwide, the seemingly incongruous prospect of requiring juveniles that send sexts to register as criminal sex offenders is very real, notwithstanding the fact that the same laws they are accused of violating are intended to protect minors. Students also fail to consider the lifelong impact and the potential damage to their reputations that will affect their ability to secure college admission, obtain future employment and/or establish interpersonal relationships.

In developing a cohesive procedure, M-DCPS has joined with the Family Violence Prevention Fund, state and local government and law enforcement agencies, community representatives, students, parents, and other stakeholders, including: the Public Defender's Office, local police departments, the Florida State Attorney General's CyberCrime Unit, Miami-Dade County State Attorney's Office, M-DCPS Student

Services Advisory Committee, M-DCPS Materials Review Committee, Student Government Association, Mother's Voice, Informed Families of South Florida, Amigos for Kids, Miami Coalition for A Safe and Drug-Free Community, University of Miami-Connect to Protect, Non-Violence Project USA, Youth Crime Watch, and The Melissa Institute for Violence Prevention. As a component of the procedure, the district-wide Action Plan outlines a comprehensive approach focusing on broadening awareness of the problem, ensuring student safety, emphasizing prevention, and providing supportive intervention. Additional tools and resources as set forth below have also been developed to support this initiative:

- ***Empowering Students to Engage in Positive Communication: A Guide to Combat Student Sexting Procedures Manual***
- ***Empowering Students to Engage in Positive Communication: K-12 Curriculum to Combat Student Sexting***
- **Professional Development for Administrators, Counselors, and Teachers**
- **Parent Resources**
- **Anti-Sexting Awareness Campaign/Student PSA Contest**

M-DCPS Guiding Principles

SAFE SCHOOLS: The district-wide effort to eradicate sexting among students in K-12 public educational institutions is one critical objective in alignment with the district's overarching goal to maintain safe learning environments in all schools. The ability to foster safe, secure schools hinges, in part, on the promotion of positive interactions among students. Sexting is incompatible with this goal in light of its propensity to foster bullying and harassment, render students susceptible to criminal prosecution, and subject students to other adverse consequences that undermine efforts to establish safe, close-knit school communities. By providing access to relevant resources and information regarding the perils inherent in sexting, M-DCPS is empowering students and employees to protect and maintain safe educational settings that are conducive to academic growth and achievement.

ESTABLISHING POSITIVE BEHAVIORS FOR STUDENT COMMUNICATIONS: The procedures outline student responsibilities and acceptable behaviors relating to communications carried out through electronic media, including cellular telephones and on the internet. In addition to teaching students to recognize that despite its popularity, sexting is not a harmless form of communication, the policy also affirmatively guides students in establishing positive behaviors that respect the rights of their peers and promote healthy interactions.

AWARENESS: To raise awareness among students, educators, families and community members about the district's efforts to combat sexting, M-DCPS has undertaken a comprehensive approach that addresses the problem on multiple fronts.

Student Marketing Campaign-A student-led, youth-focused social marketing campaign disseminated through Public Service Announcements will channel the anti-sexting message in students' own vernacular, allowing students to apply their creativity in effectively reaching out to their peers about the hazards associated with sexting. The ability to change destructive student behaviors is often hampered by a reflexive rejection of authority among minors when information is conveyed by adults. The marketing campaign will thus harness compelling peer influence to encourage students to avoid sexting.

Age-Appropriate Curriculum-As a corollary to the student marketing campaign, developmentally appropriate curriculum geared towards the promotion of positive communication and healthy relationships will be offered at the elementary, middle and high school levels. At each level, the curriculum will focus on developing good citizenship skills, building self-esteem and cultivating respect for others.

Professional Development & Parent Training-Specialized training to help educators and families understand the developmental and environmental factors that prompt sexting will also focus on its associated risks, preventative steps, and strategies to promote healthy relationships among students and their peers.

GUIDANCE FOR SCHOOL ADMINISTRATORS AND PERSONNEL: In navigating the legal and disciplinary complexities inherent in sexting cases, administrators must balance the need to prevent, intercede, and/or apply appropriate punitive measures against the understanding that student perpetrators are immature and often ill-informed about the range of consequences resulting from their actions. The ability to draw effective guidance from the nationwide plethora of sexting cases is elusive and the harsh punishments frequently meted out to adolescents set a cautionary tone, warning school administrators that sexting cannot be taken for granted and that the likelihood of publicity for these cases often shines an unwelcome, damaging spotlight on schools and communities. The adoption of a carefully crafted district-wide procedure is accordingly intended to assist M-DCPS administrators in assessing the severity of specific incidents and the causative factors that drive them in order to arrive at sound decisions that will insulate students and schools from harm.

EFFECTIVE COMMUNITY PARTNERSHIP: Recognizing that students who engage in sexting are often harshly penalized under existing laws that are intended to prevent child sexual abuse and exploitation, M-DCPS is committed to working with appropriate

state and local government and law enforcement agencies to protect students from prosecutorial action that unfairly impacts minors. By working together, M-DCPS seeks to promote legislation that addresses sexting in a more appropriate context and decriminalizes the impulsive behaviors of juveniles that unknowingly view sexting as a harmless, socially acceptable activity

Definitions

Sexting - the act of sending or forwarding through cellular telephones and other electronic media sexually explicit, nude or partially nude photographs/images.

Sexting may involve:

- Transmission to one or more students
- Partially nude or fully nude photographs/images
- Possession, without transmittal, of partially nude or fully nude photographs/images
- Substantial interference with the academic environment and student performance
- Interference with a person's personal and social demeanor

Behavior - how people act or react or the way they conduct themselves. Certain **behavior** is acceptable at school and certain **behavior** is unacceptable at school.

Bullying/Harassment - repeatedly using hostile, intimidating, domineering, or threatening behavior with the intent or purpose of physically or mentally hurting another individual. Bullying occurs within an interpersonal relationship characterized by an imbalance of power (physical, psychological, social or economic). It involves unwanted and repeated written, verbal, or physical behavior, including any threatening, insulting, or dehumanizing acts, by an adult or student, that are severe or pervasive enough to create an intimidating, hostile or offensive educational environment.

Child Pornography - any image that depicts a minor engaged in sexual conduct.

Child Sexual Abuse - a form of child abuse in which an adult or older adolescent abuses a child for sexual stimulation, including asking or pressuring a child to engage in sexual activities or indecent exposure.

Complainant - any district employee, consultant, contractor, agent, visitor, volunteer, student, or other person who makes a report, orally or in writing against a person regarding a specific action.

Cyberbullying - the willful and repeated harassment and intimidation of an individual through the use of electronic mail or electronic communication with the intent to coerce, intimidate, harass, or cause substantial emotional distress to a person.

Cyberstalking - to engage in a course of conduct to communicate, or to cause to be communicated, words, images, or language by or through the use of electronic mail or electronic communication, directed at a specific person, causing substantial emotional distress to that person and serving no legitimate purpose. [Florida Statutes section 784.048(1)(d)]

Distribution - giving out, sharing, dispensing to others.

Electronic devices - devices that are powered by electricity or a battery, and may or may not be required by the curriculum. Such items include, but are not limited to computers, laptops, compact disc players, MP3 players, headphones, cellular telephones, PDAs, and cameras. Unauthorized use of **electronic devices** can disrupt the learning process.

Electronic Transmittal - sending or forwarding messages or images between two or more people through cellular telephones, internet, or any other electronic devices.

Extortion - obtaining property of another through coercion, violence, threats, or force.

Felony - a serious crime, often punishable by imprisonment exceeding one year. Many of the infractions outlined in the Code of Student Conduct are also **felonies** under criminal law.

Harassment - conduct directed at a person that causes him/her to feel intimidated or verbally, mentally, or emotionally abused, or that causes him/her substantial emotional distress. What some people think is "just joking around" might constitute **harassment** if the person at whom it is directed is distressed by the behavior. Repeated harassment is **bullying**. [It should be noted that the definition of harassment differs within a civil rights context. In these cases, harassment is directed at someone because of his or her gender, race, color, religion, ethnicity, national origin, political beliefs, marital status, age, sexual orientation, social and family background, language, pregnancy, or disability. Telling someone that he is stupid because he is from a different country is **harassment** based on a characteristic concerning his **civil rights**.]

Lewd - vulgar, indecent, improper, or naughty and of a sexual nature.

Libel - a writing (including computer-typed), picture, sign, or any other form of print that is false and capable of injuring another person's reputation through publication and/or distribution. Passing around an untrue note about someone might constitute **libel**, and if so, is actionable in civil court. In a sexting context, a student who transmits a photo of

a naked classmate with a caption that the classmate has engaged in sexual behavior with the entire basketball team, may also be guilty of libel.

Misdemeanor - a “lesser” criminal act within the common law legal system that is generally much less severely punished than a felony offense

Obscene Material - such as a pornographic magazine, is indecent, lewd, and improper for school.

Pornography - the visual portrayal through any variety of media of explicit sexual subject matter for the purpose of sexual excitement and erotic satisfaction.

Possession - having control or ownership. In a sexting context, possession is extended to recipients who have failed to immediately delete or report received nude or partially nude photographs/images.

Provocative - disrespectful conduct or words that tend to cause anger, rage, or humiliation in the person at whom they are directed.

Registered Sexual Offender or Sexual Predator - person who has been convicted of sexual crimes, including violations of child pornography statutes, and is required to register his/her status as a convicted sex offender along with information about his/her place of residence with a registry maintained by a local law enforcement agency.

Sexual Harassment - displaying unwanted and repeated conduct of a sexual nature that substantially interferes with a student’s academic performance and/or creates an intimidating, hostile, or offensive school environment, or causes discomfort or humiliation for that student.

Sexual Offenses - involve lewd sexual contact that is illegal and could be subject to criminal prosecution. A variety of actions can be characterized as sexual offenses at school. Examples include, but are not limited to:

- Possessing and/or distributing obscene or lewd materials at school;
- Exposing or touching private body parts in a lewd manner;
- Touching someone else’s body in a lewd manner whether touching is consensual or not;
- Voyeurism (e.g., secretly looking at someone in the restroom or locker room without his/her knowledge);
- Consensual sexual activity on school grounds between students who are 16-years old or older;

- Any type of sexual contact with a student who is under 16 years of age.
**Under Florida law, students who are under 16 years of age cannot legally consent to sex.*

Social Networking - describes a new means of communicating and sharing information between two or more individuals in an online community via computer or cellular telephones.

Texting - colloquial term referring to the exchange of brief written messages between mobile telephones, over a cellular network that may include attachments of pictures or images.

Textual Harassment - harassment directed at one or more individuals through the transmittal of text messages that are intended to intimidate, annoy and/or threaten the recipient. The conduct frequently involves transmittal of a barrage of unsolicited, unwanted text messages that cause emotional and psychological distress as part of a pattern of abuse that characterizes the relationship between sender and recipient.¹

Prevention, Support Services, and Disciplinary Measures

In examining and attempting to eliminate sexting behaviors among adolescents, M-DCPS has adopted a holistic approach that emphasizes prevention, intervention and counseling to address students' academic and emotional needs. Although the district's anti-sexting policy also incorporates the identification and application of appropriate disciplinary measures as a significant component, the shift towards a more student-focused strategy reflects a recognition that sexting cases are inherently complex. Student motivations may range from naive ignorance to malicious intent and appropriate solutions are optimally determined through a balanced, comprehensive method that weighs all causative factors, underlying facts, foreseeable and unforeseeable outcomes and legal requirements.

Prevention

Preventative measures to address sexting focus on strategies aimed at helping students recognize that the prevalence of sexting shouldn't be perceived as evidence of its acceptability. Specialized curriculum and targeted marketing to raise awareness will endeavor to create an attitudinal shift that replaces student complacency prompted by a misguided belief that "everyone does it." By embracing a nuanced but persuasive anti-sexting message, M-DCPS' procedure offers a more sophisticated approach premised

1. See, "Text Messages Become a Growing Weapon in Dating Violence," The Washington Post, June 21, 2010.

on the understanding that students who sext frequently know their behavior is illegal and nevertheless feel emboldened to ignore the risks in light of peer pressure and a fallible sense of invincibility. To effectively tackle this issue, the marketing campaign charts an antithetical course that couches a positive anti-sexting message uniquely tailored by students, for students.

Developing a keen understanding among school-site professionals and parents of the mindset that leads students to engage in sexting is also crucial in creating professional development that will help educators and families prevent the behavior. To support specialized training for teachers, counselors, administrators and parents, professional development resources will target skills and strategies that stakeholders can utilize to promote positive communications and interactions aimed at discouraging sexting. Workshops and tip sheets (**Did You Know: Teens and Sexting**) for families will also offer practical parental guidance.

Student Support Services

School-based, age-appropriate counseling and intervention services will serve as a first response in assessing needs, providing support and working with students involved in sexting cases. By emphasizing access to counseling and support services as an important element of the district's procedure, non-punitive positive behavior modification is prioritized as a primary objective. To that end, school counselors, TRUST specialists, school social workers and other student services personnel will serve a critical role in discerning indicia of student bullying, harassment or gossip that may be associated with sexting and they will collaborate with teachers to help students develop situational coping skills. As in cases of inappropriate or unacceptable behavior the student services team addresses the presenting behavior, as well as the underlying causes and counsels the students either individually or in group.

Disciplinary Measures

As part of a broad spectrum of responses that may be implemented to properly address sexting cases, school administrators can consider various disciplinary measures. The determination of suitable sanctions will vary from case to case, depending upon the circumstances relating to each fact scenario.² Accordingly, to assist school administrators in applying sound judgment while navigating the legal pitfalls often accompanying sexting cases, M-DCPS has categorized several levels of sexting

2. A principal who confiscates a cell phone from a 14 year-old boy, who is using it during instructional time, discovers that it contains a nude photo of the boy's 13 year-old girlfriend. The principal must (a) call the boy's parents, (b) call the girl's parents, and (c) call school police.

offenses and applicable corrective strategies in accordance with the Code of Student Conduct. Illustrative examples culled from real world sexting cases have also been cited to provide helpful contextual background.

In reviewing these parameters, school administrators should note that the Code of Student Conduct provides overarching guidelines regarding the inappropriate use of computers, internet and wireless electronic communication devices (including cellular telephones, MP3 players, electronic games, beepers, pagers, portable computers, personal organizers, etc.) that are needed to commit sexting offenses. This framework has in turn been used to define sexting offense levels and corresponding remedial actions and, as such, administrators are urged to review applicable Code provisions as they examine this manual. In particular, the Code specifies that possession of a cellular telephone at school does not constitute a violation of the Code. However, use of a cellular telephone during school hours, to disrupt the educational process or to commit a crime can be considered violations. In addition, possession or use of a cellular telephone that jeopardizes student safety can also be deemed a violation of the Code. In light of the statutory criminalization of sexting behaviors, namely the distribution of lewd and lascivious material through any electronic medium, student use of a cellular telephone to transmit, distribute and/or store sexts will be viewed as a violation of the Code. Similarly, illicit use of the district's network or computer equipment to send or receive sexts will also constitute a violation of the Code subject to an array of sanctions as described below.

Sexting 1

A Sexting 1 offense involves a personal, 1-1, student-to-student exposure/transmission which is not coerced and not intended for redistribution. As an example, a student may voluntarily send a provocative sext that includes a nude photograph/image to his/her boyfriend or girlfriend.³ The Sexting 1 offense is to be considered a **Level III** violation as set forth in the Code of Student Conduct. The principal or designee is required to conduct a mandatory parent/guardian conference and must apply at least one of the following disciplinary strategies:

- Participation in counseling session(s) related to the infraction
- Suspension from school for one to ten days

3. An example of a Sexting 1 offense is illustrated by a story that was published in The Times of Northwest Indiana on January 28, 2010, involving a 13-year-old girl and a 12-year-old boy from Valparaiso, Indiana, who were referred to juvenile probation on charges of possession of child pornography and child exploitation after they were caught using their cell phones to exchange nude pictures of each other.

- Permanent removal from class (placement review committee decision required)
- Diversion Center
- Recommendation for placement in an alternative educational setting
- Recommendation for expulsion

Sexting 2

A Sexting 2 offense involves transmission or re-transmission of a sext to an expanded group of recipients. As an example, a student who has received a sext proceeds to re-transmit the message to a few other students.⁴ A second or multiple offense of a Sexting 1 act also constitutes a Sexting 2 offense. The Sexting 2 offense is to be considered a **Level IV** violation as set forth in the Code of Student Conduct. The principal or designee is required to conduct a mandatory parent/guardian conference and must use the following disciplinary strategies:

- Participation in counseling session(s) related to the infraction
- Suspension from school for one to ten days
- Recommendation for alternative educational setting
- Recommendation for expulsion

Sexting 3

A Sexting 3 offense involves broad exposure/distribution of a sext without consent and/or transmittal with the intent to victimize another individual. As an example, a student who has received a sexting message posts the photograph/image on a social networking website in order to subject the individual photographed to ridicule, derision, scorn, etc.⁵ A sexting 3 offense is also the repeated commission of sexting level 1, 2

4. An example of a Sexting 2 offense is illustrated by a story published by ABCnews.com on February 12, 2009, involving six 8th grade students from Massachusetts who were questioned by police after they were caught sending and receiving a photo of a semi-nude female classmate.

5. Various egregious cases illustrate severe instances of sexting that would warrant a Sexting 3 designation. In Wisconsin, a male high school senior passed himself off online as a flirtatious female student, and conned dozens of his male classmates into e-mailing him sexually explicit images of themselves. The senior then used the photographs to extort sexual favors from the victimized students. www.GQ.com, July, 2009. The highly publicized suicide of 18-year-old Jessica Logan in Ohio also illustrates a severe sexting offense. Following an onslaught of degrading sexual insults directed at Jessica after she sexted her nude photograph to her boyfriend who then broadly disseminated the photo to other students after the relationship ended, Jessica killed herself as a response to the severe emotional harassment she endured. www.Huffingtonpost.com, December 7, 2009.

and/or 3 offenses. The Sexting 3 offense is to be considered a **Level V** violation as set forth in the Code of Student Conduct that involves extreme behaviors that seriously endanger the health and well-being of others and/or damage property or character. The principal or designee is required to conduct a mandatory parent/guardian conference and must use the following disciplinary strategies:

- Participation in counseling session(s) related to the infraction
- Suspension from school for one to ten days
- Recommendation for an alternative educational setting
- Recommendation for expulsion

All sexting cases require a Student Services Referral (R7).

Vital Alerts for Administrators, Students and Parents/Guardians

Sexting and the Law

Under existing state and federal laws barring the creation, possession and/or transmittal of pornographic images of minors, individuals that have been convicted for sexting offenses may face various penalties, ranging from fines and up to and including incarceration, in addition to the requirement to register as a sexual predator or sex offender in a statewide database. It should be noted that these statutes indiscriminately penalize any offender, even if the offense has been committed by a minor. The designation as a sexual predator or sex offender is exceptionally punitive for minors that may engage in sexting without understanding the severe consequences that can follow. The sexual predator or sex offender label often invites inescapable, long-lasting public scorn and reprobation for offenders forced to comply with legal obligations to register their relocation to a community with local law enforcement agencies. The negative publicity that follows as this information is widely distributed to the public can seldom be avoided or mitigated.

The nationwide proliferation of cases involving minors prosecuted for sexting offenses provides troubling evidence of the dangers students unknowingly face. In Pennsylvania, three girls (ages 14 and 15) were charged with disseminating child pornography for sexting scantily clad pictures of themselves to their boyfriends. The boys were charged with possession of child pornography. A teenager in Indiana was charged with violating federal obscenity laws for sending a picture of his genitals to female classmates. A 15 year-old girl in Ohio and a 14 year-old girl in Michigan were also charged with felonies for sending nude images of themselves to classmates. An 18 year-old in Orlando, Florida, became upset following an argument with his 16 year-old girlfriend, and sent a naked photo of her to dozens of her friends and family. He was arrested and charged

with sending child pornography. Although he pled no contest, he was given probation and required to register as a sex offender. Similar charges have been filed in other cases in Alabama, Connecticut, Illinois, Iowa, New Jersey, New York, Texas and Wisconsin.

To assist educators, administrators, students and parents in discerning what conduct is proscribed and the inter-connections of various laws, the appendix to this manual includes a list identifying applicable federal laws, state statutes and school board rules.

What School Administrators Need to Know

A. Jurisdiction to Act

The administrator's ability to assert jurisdiction in addressing a sexting offense hinges on detection in lieu of location. By virtue of its clandestine and viral nature, the generation and subsequent transmittal of a sext can and frequently does take place in any setting outside the school. Accordingly, administrators must be attuned to behavioral indicators associated with sexting that are likely to occur on campus, at school functions or during extracurricular activities. Telltale indicia include bullying, harassment and the inappropriate use of electronic devices. Upon detecting actionable student misconduct that may involve sexting, administrators are authorized to assume jurisdiction in order to investigate facts, identify appropriate intervention services and apply corrective strategies as needed.

B. Reporting and Documenting Procedures

Reporting procedures outlined in various School Board Rules direct M-DCPS employees to document and disclose assorted information regarding student misconduct and disciplinary actions. Under School Board Rule 6Gx13-5D-1.09-Student Case Management System, administrators, teachers and student services personnel are required to record student disciplinary data. Similarly, School Board Rule 6Gx13-4A-1.21.-Responsibilities and Duties, directs employees to notify the Miami-Dade Schools Police Department in the event that certain infractions have been committed on district property.

As a preliminary step in adhering to reporting requirements relating to sexting incidents, M-DCPS employees are required to promptly notify school administrators in the event that they have developed a reasonable suspicion that a student or students have engaged in sexting. Notice of an incident of sexting may initially be given verbally. However, it must be followed up in writing through the submission of a standard Student Case Management Referral form that outlines the facts underlying

a specific complaint. Employees are also authorized to confiscate any student-owned electronic devices that may have been used to transmit or receive sexts. Confiscated equipment must be **immediately** turned over to the school principal or his/her designee. It should be noted that employees will not be subject to censure or disciplinary action in the event that the submission of a report and/or confiscation of student property has been made in good faith upon a reasonable belief that an offense has been committed.

Students, parents and school volunteers may also report information regarding sexting incidents by filing a Sexting Complaint Form that identifies any individuals that may have generated, transmitted, received or shared sexts. Anonymous reports may also be posted through the Be Safe/TIP System. All reports will be forwarded to the administrator for his/her review and prompt investigation.

Following receipt of a credible complaint, school administrators must verify that the incident has been properly documented on a Student Case Management Referral form. Information from the Student Case Management Referral form is input into the electronic Student Case Management System once the conference or investigation has determined the facts of the incident.

C. Administrative Investigatory Steps

The determination that sexting related allegations are authentic and thus warrant immediate intervention must be made by the administrator or his/her designee following a prompt, thorough and complete investigation of the underlying facts. In accordance with M-DCPS School Board Policy SB Rule 6Gx13- 5D-1.08, *Maintenance of Appropriate Student Behavior* and the document, *Procedures for Promoting and Maintaining a Safe Learning Environment*, Guideline 14-Primary Investigation by Administrators, governing the confiscation of physical evidence, administrators must ensure the following:

- The item confiscated should be handled by the least number of people to the extent possible.
- The item should be immediately labeled and placed in a safe and secure location.
- The item should be turned over to the investigating officer, which under most circumstances will be school police, as soon as possible.

In conducting an investigation, administrators must interview the individual that initiated a report (if the report was not submitted anonymously) to elicit additional information regarding the complaint. Administrators will also meet individually with each witness/participant identified in the original report in order to secure oral and written statements clarifying their knowledge of the alleged facts and their involvement in the incident that prompted the report. In the event that additional witnesses/participants not listed in the report are identified by any individual interviewed, the administrator will also interview and obtain oral and written statements from these individuals. Each witness/participant must be interviewed separately and all meetings must be conducted in a private setting.

Information obtained through witness/participant statements must be documented by the administrator through a Student Case Management form. The form should also include:

- A description of the incident including the nature of the behavior and the context in which the alleged incident occurred,
- The number of students involved,
- The relationship between and among identified parties,
- Identifying information for each student (i.e., grade level, age, etc.),
- The identity of the perpetrator/instigator, including whether the individual was in a position of power over or is intimately related to any witness/participant,
- Date and time parent/guardian was contacted, and
- Description of follow-up action

Completion of the investigation must occur as soon as possible and not later than 10 school days following initial filing of the report.

D. Notification of Schools Police

In light of the severe penalties imposed by laws applicable to sexting, all substantiated allegations regarding students that have engaged in sexting must be immediately reported to School Police. As soon as it is established that an act of sexting occurred, on any of the three levels, a SPAR is to be reported.

Information provided by the administrator should include a detailed account of the allegations set forth in the original report, identities of witnesses/participants named in the report and an update on the status of the administrative investigation. In addition, administrators must advise School Police officials whether they have confiscated any student-owned electronic devices that may have been involved in the commission of

the sexting offense and if so, they must arrange prompt delivery of the appropriated items to School Police.

It should be noted that the categorization of sexting offenses in the Code of Student Conduct does not alter the administrator's duty to report sexting incidents to the School Police Department, irrespective of the type of sexting offense (i.e. level 1, 2 or 3) that a student is alleged to have committed.⁶ From the information provided, School Police officials will determine whether the corresponding municipal law enforcement agency should be notified in order to address related allegations of criminal conduct. A principal may proceed with an investigation and disciplinary actions may be imposed pending further police investigation.

E. Reporting Cases to Appropriate Authorities

Administrator led investigations of sexting incidents will often uncover tangled or seemingly contradictory facts that warrant a level of fact finding expertise beyond the administrator's purview. Moreover, school officials are ill equipped to handle the myriad legal complexities associated with many of these cases. The ability to interpret how specific laws prohibiting child abuse will apply to a set of facts in a sexting case thus becomes treacherous for school administrators. Accordingly, in an effort to ensure that administrators take appropriate precautionary measures in compliance with reporting requirements relating to suspected child abuse, administrators are required to report sexting incidents to the Department of Children and Families by calling 1-800-96-ABUSE (1-800-962-2873).

F. Notification of parents/legal guardians

Following the administrator's receipt of a report that a student or students may have engaged in sexting and upon his/her initiation of a related investigation, the administrator is required to notify the parents/legal guardians of each student that is alleged to have been involved in the sexting incident. In compliance with the Code of Student Conduct, notice must be provided on the same date that an investigation is launched and it may be proffered by telephone, in person and/or in writing. In the event that initial notice to the parent/guardian is delivered verbally, either in person or by telephone, the administrator must also provide written notice to the parent/guardian confirming the information reported. Follow up written notification should be forwarded by mail within 24 hours after the initial verbal parental notification.

6. Please note, Level III, Level IV and Level V infractions of the Code of Student Conduct require School Police Automated Reporting (SPAR). Accordingly, Sexting 1, 2 and 3 offenses will prompt creation of a School Police Automated Reporting (SPAR) record.

G. Additional Information

Student Privacy Rights: The Fourth Amendment to the U.S. Constitution guarantees freedom from unreasonable search and seizure of personal property. Penumbra privacy rights codified by the Florida Constitution and related caselaw also limit meritless intrusions not warranted by competing governmental interests. Nevertheless, a student's individual rights must be balanced against an administrator's responsibility to protect the health, safety, and welfare of all students. Accordingly, the search and seizure of student-owned property is permissible in the event that an administrator has developed a well grounded suspicion that the student has committed a crime, violated a school rule and/or endangered the safety of other students or employees.

Immunity: Retaliation directed at any student who reports a sexting offense or becomes involved in the resulting investigation, is strictly prohibited and may result in disciplinary action against any student(s) charged with retaliatory conduct. Immunity from harm is applicable even if an initial complaint is ultimately deemed without merit. However, the intentional submission of a false sexting report that is deliberately intended to injure another student is impermissible and offenders will be subjected to disciplinary action.

Data Collection Process

Information regarding sexting incidents will be recorded through the ISIS Student Case Management System (SCMS) and the School Police Automated Report (SPAR) system. The SCMS is a recording and reporting of data that allows for a more efficient delivery of services that are provided to students and the disciplinary actions taken to improve student behavior. The SPAR system is used exclusively by School Police for the reporting of criminal acts. Administrators will be required to ensure accurate data entry verifying that reports for each case specify the facts, disciplinary measures applied, referrals issued and follow up undertaken.

Currently, sexting is not listed as a specific subsection in the Florida Department of Education School Environmental Safety Incident Reporting (SESIR) system. Each year, data collected through our Student Case Management System is transmitted to generate a Statewide Report on School Safety and Discipline Data. Accordingly, sexting related data in SESIR will be included under other categories of reported sexual offenses.

Publicizing the Procedure

To ensure accurate dissemination of information regarding the district's anti-sexting policy, administrators will direct faculty and staff members to review this manual and related references set forth in the Code of Student Conduct during the Opening of Schools Procedures held at the beginning of each school year. Educators and staff members should in turn be encouraged to foster student awareness through prevention curriculum and promotional messages heralded through student generated PSA's.

Referral for Intervention and Counseling

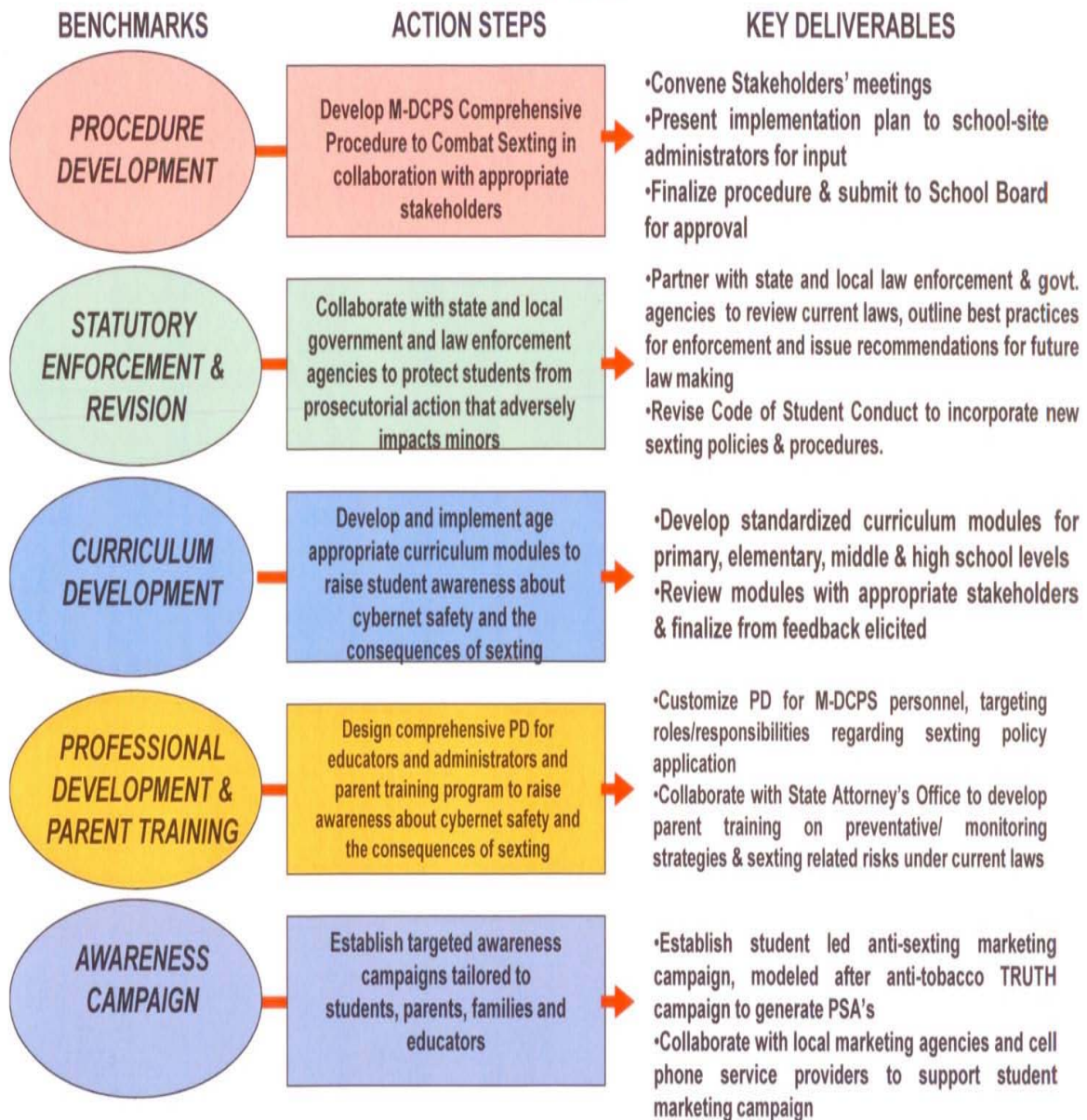
A district referral procedure will establish a protocol for intervening when sexting is suspected or when a sexting incident is reported. As in cases of inappropriate or unacceptable behavior the student services team addresses the presenting behavior, as well as the underlying causes and counsels the students either individually or in group. Regardless of the severity of the case. the principal or designee will refer participants of sexting to the school's Student Services Team for counseling support and/or interventions. Parent or legal guardian must be notified. The Student Services Team will:

- Ensure that counseling, differentiated support services, and interventions are provided to address the individualized needs of the participants (sender/receiver/re-transmitter) and parents. For example:
 - the girlfriend who naively sent her naked photo to her boyfriend may receive counseling focused on self esteem, sexual objectification of females;
 - the instigator who forwards the sext to the entire class as a joke may receive intervention aimed at raising awareness about law, sensitivity training, how to conduct positive communication that doesn't ridicule classmates
 - the gossip driven bystanders who spread jokes, innuendo about the sexted subject may receive a variation of bullying prevention strategies
- Use research-based counseling/interventions to address the behavior of students engaged in sexting and harassing others,
- Refer parents/guardians to at least three different community-based counseling agencies when additional family counseling services are recommended. For example:
 - to develop coping skills in dealing with the aftermath

- Consider also a partnership with the University of Miami to provide a legal clinic where their students cut their teeth on providing legal guidance to families that must extricate their kids from criminal prosecution
- Document the services provided on a Student Case Management Form,
- Provide a process through which the teacher, staff member, or parent/legal guardian may request information and additional services,
- Develop school-based interventions and assistance as determined appropriate by the school's Student Services team.

APPENDIX

M-DCPS Comprehensive Procedure to Combat Sexting Action Plan



DID YOU KNOW? TEENS AND SEXTING

What is "Sexting"?

- Sexting is the act of sending **sexually explicit photos/images** electronically, primarily between cell phones.

How common is it?

- These days just about everyone has a cell phone! Teenagers consider it a "necessity"! And according to a survey by the National Campaign to Prevent Teen and Unplanned Pregnancy, ***roughly 20% of teens 13-19** year old and 59% of young adults ages 20-26 years old admit to participating in Sexting

Why do teens "sex"?

-66% of teen girls and 60% of teen boys say they did so to be **"fun or flirtatious"**— their most common reason for sending sexy content.

Teens have always been known to follow their hormonal instincts and act provocatively so...

Why is it such a big deal?

- Many teens fail to realize that they are actually committing a **felony** every time they choose to engage in sexting. If caught, teens may face legal charges for **child pornography**, do time in **jail**, and even be required to register as a **sex offender** in their respective communities. Here in Miami-Dade County, law enforcement officials are serious about these type of offenses.

**For more information and statistics visit the website listed to the right.*



Health
UNIVERSITY OF MIAMI
SCHOOL OF MEDICINE

UNIVERSITY OF MIAMI
SCHOOL OF MEDICINE

This flyer is courtesy of Connect to Protect Miami and MDPCS Division of Student Services: studentservices.dadeschools.net

Why else is Sexting dangerous?

-One can not assume that anything sent is going to remain private. Web sites such as MySpace, Facebook, etc, make it very easy to upload mobile pictures. The person receiving a racy photo may decide to share it with a friend, and before you know it, everyone has seen it and it's **all over the web!** And remember, once something is on cyberspace it never really goes away and you don't know who can get a hold of YOUR pictures! There have been many cases where this has happened and it can **ruin reputations**. For example, Michael Phelps never thought that would happen when he had his picture taken while smoking marijuana. Neither did Vanessa Hudgens from High School Musical; her nude photos leaked all over the internet. And what if some pervert runs across your teen's picture and likes it so much they decide to look for him or her? Now you have a **dangerous stalker situation!** Ever thought of that? And if that's not scary enough, you never know when these things can come back to **haunt your teen in the future**. So, make sure your teen knows to think before pressing **SEND!**

TIPS FOR PARENTS

- Warn your children about the consequences of sexting.
- Remind children to think before they act.
- Tell children that sending or possessing child pornography is illegal.
- Warn them about sexual predators.
- Learn how to use and monitor their children's mobile phones.
- Check photo galleries on their children's Facebook and MySpace accounts.
- Give your children clear rules on what they can and can't do with the mobile phone.



Resources

To make a report if you receive any obscene pictures, solicitation, or messages contact
The Center for Missing and Exploited Children

1-800-THE LOST (1-800-843-5678)

Hot Lines

Websites

- www.Wiredsafety.org
- www.aftab.com
- www.safeflorida.net/safesurf
- www.myspace.com/florida_cpcu
- www.netsmartz.org/netteens.htm
- www.ciconline.org/pointsmartclicksafe
- www.oag.state.ny.us/bureaus/internet_bureau/internet_safety_awareness_html
- www.thenationalcampaign.org/sextech
- www.wearmap.org (Mothers Against Predators)
- www.fbi-sos.org
- www.CyberlawEnforcement.org

Video Clips

- "Sexting: Flirting with Felony" Fox News (March 25, 2009)
- "Teens emailing, texting nude photos" Today Show, msnbc.com, December 10, 2008)
- "Sexting leads teen to suicide" Today Show, msnbc.com (March 6, 2009)
- "Sex & Tech: Teen Voices The National Campaign to Prevent Teen and Unplanned Pregnancy

Articles

- Sex and Tech: The Stats, Cosmogirl.com
- Sexting May Place Teens at Legal Risk, NYTimes.com (March 26, 2009)
- 'Sexting' Hysteria Falsely Brands Educator as Child Pornographer, Wired.com (April 3, 2009)
- Sex + Texting = Sexting, The Washington Post (December 10, 2008)
- 'Sexting': Zooming Out to See the Bigger Picture, TechNewsWorld.com (April 3, 2009)

- Safe Sexting: No Such Thing, Schools.nse.edu.au/click
- Judge Blocks Charges in 'Sexting' Case, PCMAG.com (March 31, 2009)
- Sexting, Seduction, and Spring Breaks, Townhall.com (March 17, 2009)
- "Sexting" is Newest Challenge Facing Schools, Journalpilot.com (April 2, 2009)
- Study: Teens Have No Qualms about Uploading Naughty Pics, Pittsburgh Tribune (December 10, 2008)
- Teens' Nude Photos Get Unexpected Results, The Boston Globe (December 10, 2008)
- Photo Fallout May Be Severe, TheTimesTribune.com (November 13, 2008)
- Sheriff's Office Educating Teens On Perils of 'Sexting', TampaBayOnline.com (April 4, 2009)
- 'Sexting' a Growing Problem Among Teens, Citizen.com (April 5, 2009)
- Teen Online and Wireless Safety: Cyberbullying, Sexting, and Parental Consent, Cox Communications (May, 2009)
- Policy Statement About Sexting, The National Center for Missing and Exploited Children, (September 21, 2009)
- Schools to Preach the Dangers of 'Sexting', The Miami Herald (July 9, 2009)
- Sexting-related Bullying Cited in Hillsborough Teen's Suicide, St. Petersburg Times, (November 29, 2009)
- Sexting in America: The Medium, The Message, and The Truth About Teens, Newsweek (December 8, 2009)
- Rethinking Sex Offenders Laws for Youth Texting, The New York Times, (March 10, 2010)
- Sexting Teens Can Go Too Far, ABC News/Technology (March 13, 2010)
- Sexting Legislation 2010, National Conference of State Legislatures (March 15, 2010)
- Sexting Text Rage, Connect with Kids, (March 23, 2010)
- Interdisciplinary Response to Youth Sexting, (May 5, 2010)

Miami-Dade County Public Schools
Sexting Complaint Form

Use this form to report a case of sexting

Sexting is the transmission of sexually explicit photographs/images through electronic communication devices or computers. Sexting could lead to criminal charges of sexual abuse, sexual battery, and child pornography. Please complete this form to provide information on a potential or actual case of sexting. The report may be anonymous.

School Name/Work Location #: _____ **Date:** _____

Principal: _____

Participant/sender's Name: _____ ID# _____
(Last, First)

Sex: M or F **Grade:** _____ **Age:** _____

Participant/receiver's Name: _____ ID# _____
(Last, First)

Sex: M or F **Grade:** _____ **Age:** _____

Participant/re-transmitter's Name: _____ ID# _____
(Last, First)

Sex: M or F **Grade:** _____ **Age:** _____

Witness' Name: _____
(Last, First)

Sex: M or F **Grade:** _____ **Age:** _____

Which statement(s) best describes what happened? Check all that apply to the reported incident:

- Receipt of unwanted/unsolicited sexting
- Soliciting a request for sexting
- Transmitting sexually explicit text-private, one recipient
- Transmitting sexually explicit text-limited exposure
- Transmitting sexually explicit text-broad exposure
- Sexual intimidation/threat
- Cyberstalking/Cyberbullying of a sexual nature
- Public humiliation of a sexual nature

Date of Incident(s): ____ / ____ / ____ **Time of Incident(s):** _____ **Frequency:** _____

1. Where did the incident happen (check all that apply)?

- On school property
- At a school-sponsored activity/or event off school property

On a school bus

2. **What electronically transmitted device was used?**
a) Internet b) email c) cellular telephone d) other _____
3. **Describe what happened.**
4. **If witnesses are involved, describe their role in this incident.**

Thank you. This report will be investigated within 24 hours. If you fear that a student is in danger, please contact M-DCPS Schools Police at 305-995-COPS, immediately.

For Office Use Only

Date Received: _____ **Date of Investigation:** _____
Received By: _____
Outcome: _____

This form is to be confidentially maintained in accordance with the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g.

Reports concerning sexting may be made by parents and/or students to the administration and kept anonymous by the administration during the investigation of the incident. Anonymous online reports can be filled out and sent via email directly to the principal of the school where the alleged participants attend. Forms can be printed from the on-line site, completed, and the hardcopy returned to the principal.

Each school may establish a Comments Box in a discrete location for parents and students to submit written, anonymous reports.

Principal's Checklist to Combat Student Sexting

Prevention

- Principals shall review the District Sexting Policy and Procedures with faculty and staff during the Opening of Schools meetings
- Principals shall make provisions to convey the contents of the Code of Student Conduct to all students
- Principals shall post the Sexting Policy poster in a prominent location in the school's main office.
- Principals shall support participation in professional development for staff in the area of Sexting Prevention.
- Principal shall ensure that the **Empowering Students to Engage in Positive Communication: K-12 Curriculum to Combat Student Sexting** is implemented.
- Principals shall support parent participation in workshops addressing the topic of Sexting.
- Principals shall support student participation in the Anti-Sexting Awareness Campaign

Student Support Services

- Principals shall ensure that developmental counseling occurs assisting students in maintaining healthy relationships and taking responsibility for their behavior.
- Principals shall ensure that all cases of sexting receive a student services referral code (R7).
- Principals shall ensure that victimized students receive counseling services that provide support and development of coping skills..
- Principals shall ensure that parents/guardians receive at least three community-based counseling agency resources when additional family counseling services are recommended,

Disciplinary Measures

- Principals and/or principal's designee shall conduct a prompt, thorough and complete investigation of each alleged incident.
- Principal and/or designee shall follow the procedures related to the confiscation of physical evidence.
- Follow the corrective strategies and disciplinary actions applicable to each sexting offense level as specified in the Policy and Procedures Manual (p. 12-14).

Applicable Laws and School Board Rules

Federal Criminal Laws

- 18 U.S.C. 1466A Obscene visual representations of the sexual abuse of children
18 U.S.C. 2251 Sexual exploitation of the children
18 U.S.C. 2252 Material involving the sexual exploitation

Florida State Statutes

- 827.071 Sexual performance by a child
847.002 Child pornography prosecutions
847.011 Prohibition of certain acts in connection with obscene, lewd, etc. materials;
penalty
847.012 Harmful materials; sale or distribution to minors or using minors in
production
847.0135 Computer pornography
847.0137 Transmission of pornography by electronic device or equipment prohibited
847.0139 Immunity from civil liability for reporting child pornography, transmission of
child pornography, of any image, information, or data harmful to minors.

F.S. 943.0435- Notification to Department of Law Enforcement (DLE) of Information on Sex Offenders

F.S. 985.4815- Notification to DLE of Information on Juvenile Sex Offenders

F.S. 943.0515- Person 18 and older charged with felony will have records as a minor merged and retained

F.S. 775.21- Repeat sex offenders, sex offenders who use physical violence, and sex offenders who prey on children are labeled as sexual predators who must register and will be publicly noticed

Miami-Dade County School Board Rules

School Board Rule 6Gx13- 4A-1.21, *Responsibilities and Duties*.

School Board Rule 6Gx13- 5C-1.02, *Conduct-Standards of Behavior*

School Board Rule 6Gx13- 5D-1.101, *District Policy Against Bullying and Harassment*

School Board Rule 6Gx13- 5D-1.08, *Maintenance of Appropriate Student Behavior*

School Board Rule 6Gx13- 5D-1.081, *Standards for Student Conduct*

School Board Rule 6Gx13- 5D-1.09, *Student Case Management System*

School Board Rule 6Gx13- 6A-1.112, *Acceptable Use Policy for the Network*

The School Board of Miami-Dade County, Florida, adheres to a policy of nondiscrimination in employment and educational programs/activities and programs/activities receiving Federal financial assistance from the Department of Education, and strives affirmatively to provide equal opportunity for all as required by:

Title VI of the Civil Rights Act of 1964 - prohibits discrimination on the basis of race, color, religion, or national origin.

Title VII of the Civil Rights Act of 1964, as amended - prohibits discrimination in employment on the basis of race, color, religion, gender, or national origin.

Title IX of the Education Amendments of 1972 - prohibits discrimination on the basis of gender.

Age Discrimination in Employment Act of 1967 (ADEA), as amended - prohibits discrimination on the basis of age with respect to individuals who are at least 40.

The Equal Pay Act of 1963, as amended - prohibits sex discrimination in payment of wages to women and men performing substantially equal work in the same establishment.

Section 504 of the Rehabilitation Act of 1973 - prohibits discrimination against the disabled.

Americans with Disabilities Act of 1990 (ADA) - prohibits discrimination against individuals with disabilities in employment, public service, public accommodations and telecommunications.

The Family and Medical Leave Act of 1993 (FMLA) - requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to "eligible" employees for certain family and medical reasons.

The Pregnancy Discrimination Act of 1978 - prohibits discrimination in employment on the basis of pregnancy, childbirth, or related medical conditions.

Florida Educational Equity Act (FEEA) - prohibits discrimination on the basis of race, gender, national origin, marital status, or handicap against a student or employee.

Florida Civil Rights Act of 1992 - secures for all individuals within the state freedom from discrimination because of race, color, religion, sex, national origin, age, handicap, or marital status.

School Board Rules 6Gx13- 4A-1.01, 6Gx13- 4A-1.32, and 6Gx13- 5D-1.10 - prohibit harassment and/or discrimination against a student or employee on the basis of gender, race, color, religion, ethnic or national origin, political beliefs, marital status, age, sexual orientation, social and family background, linguistic preference, pregnancy, or disability.

Veterans are provided re-employment rights in accordance with P.L. 93-508 (Federal Law) and Section 295.07 (Florida Statutes), which stipulate categorical preferences for employment.

Revised 5/9/03