

Final Report and Recommendations

Hillsborough County Public Schools (HCPS) Human Capital Division Investigative Assignment



Report Date: December 8, 2021

PREPARED BY MORRISON & ASSOCIATES, INC.

Bob Morrison, President & CEO

TO: **Addison G. Davis**
Superintendent of Schools, Hillsborough County Public Schools

SUBJECT:

- **Morrison & Associates, Inc. Human Capital Division Investigative Assignment**
- **02/2021 Letter of Complaint - HCPS Employees Brown, Carr, Davis and Enis**
- **Executive Analysis, Conclusions and Proposed Corrective Action Report**

Dear Superintendent Davis:

On behalf of the Morrison & Associates Investigative Team, you will find attached the Executive Analysis, Conclusions and Proposed Corrective Action Report associated with the February 2021 Letter of Complaint received by the Human Capital Division from HCPS Employees Tia Brown, Colleen Carr, Dionne Davis and Jacqueline Enis.

After conducting nine (9) in-person interviews of the relevant parties regarding the above-referenced Letter of Complaint, we are submitting this Executive Analysis, Conclusions and Corrective Action Report for your review, based upon an Executive Summary of Witness Statements and Recommendation Considerations – reflective of District Policy.

EXECUTIVE CONCLUSIONS:

Based upon Hillsborough County Public Schools (HCPS) Policy Manual Sections 1140 (Anti-Harassment) and 3210 (Standards of Ethical Conduct), the Morrison & Associates Investigative Team has reached the following Executive Conclusions - by party - as illustrations of District Policy violations:

Party - Marcos Murillo:

- The creation of the Offline Supervisors Desk File and its contents undercut the ability of the District to protect its interests and that of its employees.
- The subsequent disciplinary actions taken by the District against Dr. Binder were compromised in the absence of the investigation conclusion memorandum involving Dr. Binder and Ms. Enis which was prepared on April 12, 2019, not being available in Dr. Binder's file for consideration.
- The failure to address the communication breakdown between Dr. Binder and Deputy Turner was inconsistent with the admonition contained in the April 2019 memorandum to Dr. Binder prepared by Mr. Murillo.
- The failure to communicate with Ms. Enis regarding the outcome of the investigation of her March 2019 Letter was inconsistent with the notes to the file prepared by Mr. Murillo, thus contributing to the continuation of exposure to a hostile workplace environment experienced by Ms. Enis.

- The failure to take corrective action when violations of Section Policy 1140 and 3210 are reported either as described by Ms. Enis or as overheard in the company of Ms. Johnson.
- Questionable use of supervisory influence in connection with staff promotional opportunities.

Party - Dr. Louis "Tim" Binder

- The Letter of March 12, 2019, and the associated contemporaneous timeline of events from July 2018 to March of 2019, from Ms. Enis to Mr. Murillo, reflects a violation by Dr. Binder of Sections 1140 and Section 3210 of the HCPS Policy Manual and creating a hostile workplace environment by:
 - In the introductory meeting with Assistant Principal Enis, Dr. Binder discussing extramarital affairs involving other male employees he's supervised and using language described by Ms. Enis as vulgar – words like "fuck", "fucking", as part of describing the affairs.
 - Dr. Binder asking his new Assistant Principal whether such language was offensive and after being told that it was indicating that he would limit the use of the language as best he could - yet said to the M&A investigators that he did not consider the words vulgar.
 - Dr. Binder repeatedly suggesting a relationship between Ms. Enis and the School Resource Officer's Supervisor after being told that it was untrue but continuing to make such comments knowing it made Ms. Enis uncomfortable and that she felt it was unprofessional.
 - The perceived intentional unnecessary repeated reference by Dr. Binder and his other Assistant Principal to the word "pussy" in connection with an incident involving male students who used the word during the incident in question.
- Upon being asked to name any other teacher male or female he frequently text messaged or called as often as one staff member whose husband had complained in writing to the Board about the frequency of the communication - not another teacher could be named.
- The frequency complained of by the teacher's husband was described as normal by Dr. Binder, while acknowledging the contacts were primarily personal, not professional.
- The credible statement of HCSO Deputy Kenneth Turner - SRO who outlined what he believed was sex taking place on campus in Dr. Binder's office when the only other vehicles on the campus was Dr. Binder's and the vehicle of the teacher who was the subject of the complaint submitted to the District by the teacher's husband.
- In connection with the above referenced occasion, the contemporaneous communication asking for supervisory guidance by HCSO Deputy Turner - SRO reporting that he heard a male and a female voice in Dr. Binder's office and the sound of sex occurring.

RECOMMENDED CORRECTIVE ACTION:

- Mr. Murillo:** Disciplinary action consistent with past District practice - up to and/or including written reprimand or suspension.
- Dr. Binder:** Written reprimand and removal from current leadership position.

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Hillsborough County Public Schools (HCPS) Human Capital Division Investigative Assignment



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A) SCOPE OF WORK

Morrison & Associates, Inc. (M&A) has been engaged to review the allegations of inappropriate behavior against HCPS employee Marcus Murillo contained in the February 2021 Letter from four (4) HCPS employees to the HCPS Superintendent. M&A was provided documentation from the Complainants, relevant personnel file content, interviews conducted by Professional Services coupled with the taking of direct statements by the Complainants and/or supporting witnesses.

The scope of this investigation assumed two phases, both approved by the client. The initial scope was designed to provide to the Morrison & Associates investigators an opportunity to cross reference the investigation performed by Professional Services of the alleged behavior of Mr. Murillo - along with new written statements submitted subsequent to the District's investigation – coupled with relevant HCPS policy and whether the suggested behavior was actionable as eligible for recommendation as reflective of disciplinary violation of said policies.

Phase two of the scope of work was an expansion deemed critical by the M&A investigators, based upon the discovery of the unknown existence of a supervisory desk file maintained by Mr. Murillo. The desk file material reflected an expansion of interview (s), memo (s) to file and witness statements that had been previously omitted from the Professional Services file of Dr. Louis "Tim" Binder and the March 2019 complaint Letter to Mr. Murillo from Jacqueline Enis . The implications associated with this previously undiscovered documentation and the omission of Dr. Binder in the initial witness pool at a minimum required an expansion of the referenced scope of work to include an interview of Dr. Binder, along with a cross reference of the previous interviews conducted by Professional Standards, M&A and HCPS policy.

B) ASSIGNED INVESTIGATORS**Bob Morrison**

President & CEO

Morrison & Associates, Inc.

Robert L. Clayton, Esq.

Partner, Goldstein & McClintock, LLLP

Morrison & Associates Sub-Consultant

C) INVESTIGATION IN-PERSON STATEMENTS

Tia Brown

Colleen Carr

Jacqueline Enis

Lillie Johnson

Dionne Davis

Colleen Lima

Kenneth Turner

Marcos Murillo

Dr. Louis "Tim" Binder

D) MORRISON & ASSOCIATES INVESTIGATORY ANALYSIS INDEX

As part of its overall analysis of the issues before this investigation, the Morrison & Associates investigative team believed the client benefits from the creation of an investigative index – that isolates the issues and the policy considerations associated with each witness.

This index recognizes two conditions that are fundamental in this type of investigative review. First, the M&A interview team's preparation were the beneficiaries of the previous Professional Standards inquiry. Second, coupling factual assertions to prospective policy considerations sets the table for the necessary analysis to follow.

<u>NAME OF WITNESS</u>	<u>TOPIC</u>	<u>POLICY</u>	<u>PARTY</u>
Brown	Workplace Threat	Workplace Retaliation	Murillo
Carr	Supervisory Bias	Standard of Ethical Conduct	Murillo
Enis	Hostile Workplace	Anti-Harassment / Ethical Conduct	Binder
Enis	Retaliation	Standard of Ethical Conduct	Murillo
Johnson	Workplace Language	Standard of Ethical Conduct	Murillo
Johnson	Retaliation	Anti-Harassment / Ethical Conduct	Murillo
Davis	Hostile Workplace	Anti-Harassment / Ethical Conduct	Murillo
Davis	Master Schedule	Anti-Harassment / Ethical Conduct	Murillo
Lima	Unit Reduction	Standard of Ethical Conduct / Retaliation	Binder
Turner	Inappropriate Conduct	Standard of Ethical Conduct	Binder
Turner	False Accusations	Standard of Ethical Conduct	Murillo
Murillo	Feb 2021 Letter	Anti-Harassment / Ethical Conduct	
Murillo	Mar 2019 Letter	Anti-Harassment / Ethical Conduct	Binder
Murillo	Turner Complaints	Standard of Ethical Conduct	
Murillo	Desk File	Anti-Harassment / Ethical Conduct	
Binder	Mar 2019 Letter	Anti-Harassment / Ethical Conduct	
Binder	Feb 2021 Letter	Anti-Harassment / Ethical Conduct	
Binder	Lima – Unit Transfer	Standard of Ethical Conduct	
Binder	Turner Complaints	Anti-Harassment / Ethical Conduct	

E) LEGAL & POLICY CONSIDERATIONS

In the preparation of our analysis of the interviews conducted by the Morrison & Associates team, this standard report section is designed to highlight client policies that are isolated as relevant to the investigation. The underlying value of this practice is to provide the proper framework for the subsequent finding of facts, analysis and recommendations that will be offered in the conclusion of this report. By providing the client's prescriptive lens as a prelude to the investigatory analysis, a foundation based upon the employer and employee's behavior – related expectations is established and reinforced for later reference.

The Hillsborough County Public Schools Policy Manual provides the following sections for our collective guidance:

- | | |
|---|--------------------|
| • 1140 – Suspension, Termination or Dismissal of Administrators | Appendix A1 |
| • 1211, 3211 and 4211 – Whistleblower Protection | Appendix A2 |
| • 1362 – Anti-Harassment | Appendix A3 |
| • 1380 – Threatening Behavior Toward Staff Members | Appendix A4 |
| • 3140 – Suspension, Termination or Dismissal of Instructional Staff | Appendix A5 |
| • 3210 – Standards of Ethical Conduct | Appendix A6 |
| • 5517 – Anti-Harassment (Student) | Appendix A7 |

Morrison & Associates, Inc.**EXECUTIVE SUMMARY****Investigation Assignment – Murillo / Binder****Hillsborough County Public Schools Human Capital Division**

In February of 2021, HCPS Employees Tia Brown, Colleen Carr, Jacqueline Enis and Dionne Davis prepared a complaint Letter to Superintendent Addison Davis which concluded that they had experienced behavior that was in violation of the HCPS Policy Manual sections defining anti-harassment and hostile workplace environment behavioral related standards. After a series of interviews by HCPS Professional Standards, the initial conclusion was that Asst. Superintendent Marcos Murillo had performed his duties in alignment with District and Policy Manual expectations.

After the initial investigation's conclusion, HCPS Human Capital Division received new and expanded information, which extended the factual allegations outlined in the February Letter to the Superintendent. Reflecting not only a desire for full transparency but also to avoid any suggestion of investigatory bias because of Professional Standard's initial conclusion, the District engaged the Morrison & Associates team to assess the new complaint information and to hold interviews with former or new relevant witnesses.

M&A interviewed nine (9) parties as part of its investigatory analysis – Brown, Carr, Enis, Johnson, Davis, Lima, Turner, Murillo and Binder. After its analysis of the initial Professional Standard interviews, Professional Standard's review conclusions triggered M&A to establish its interview structure around the following inquiry patterns:

- Did Ms. Brown's alleged experience of workplace retaliation and/or inconsistency in supervisory behavior by Mr. Murillo violate HCPS policy?
- Did the alleged leadership challenges encountered by Ms. Carr impacted by the alleged inconsistency in supervisory behavior exhibited by Mr. Murillo serve to undermine Ms. Carr's leadership in violation of HCPS policy?
- Did the Enis March 2019 Letter, followed by her January 2021 Letter and the detail contained in Mr. Murillo's desk file outline behavior by Dr. Binder associated with his supervision of Ms. Enis in conflict with the HCPS Policy Manual?
- If Professional Standards authorized Mr. Murillo to investigate the allegations contained in the Enis March 2019 Letter, did his failure to report his investigation details and findings impact the District's ability to protect its own interests as well as that of Ms. Enis?
- Do the allegations outlined in the Johnson June 2021 Letter regarding Mr. Murillo failing to address uncomfortable language with sexual connotation in front of both parties rise to the conclusion of being actionable as a violation of HCPS policy?
- Were the assertions of Mr. Murillo's retaliatory behavior in connection with Ms. Johnson's transfer or promotional opportunities sufficient to conclude that there had a been a violation of HCPS policy?
- Did the assertion contained in the Johnson Letter outlining comments by Dr. Binder to her regarding a former Assistant Principal's personal relationship arise to a violation of the HCPS Policy Manual?

- Did any of the concerns and associated behavior of Mr. Murillo alleged by Ms. Davis in connection with her master schedule preparation responsibilities, her assertions of racial inequities connected to decisions of her former principal or retaliation connected to promotional assignments rise to an actionable level in violation of HCPS policy?
- Did Ms. Lima's Letters of October 18th and June 22nd contain sufficient facts to sustain her assertion that Dr. Louis "Tim" Binder acted in violation of District unit allocation reduction protocol?
- Did the detailed issues raised in the interview with Deputy Turner of Dr. Binder's alleged interaction with a member of his teaching staff suggest that the prior disciplinary action taken by the District regarding Dr. Binder and his interaction with the referenced staff member may not have fully captured the range of HCPS policy violation?
- Should Mr. Murillo have evaluated the level of communication breakdown earlier between Dr. Binder and Deputy Turner to determine whether Dr. Binder had violated HCPS policy?

Summary of Interview Highlights

For purposes of this Executive Summary, the M&A team has outlined below summary highlights of the information provided in response to the M&A inquiries:

A. **Brown:** Workplace Retaliation / Workplace Tenure Threat

Interview Summary: Brown shared what she believed is a pattern of behavior by Mr. Murillo in which:

1. Promotional opportunities occurred despite reports of lack of support from Mr. Murillo.
2. Instances about which she was advised of dissatisfaction in performance communicated to her Principal by Mr. Murillo but denied when she spoke directly to Mr. Murillo.
3. Holding closed door meetings with APs, then inconsistency in follow-up with Principal, critically and substantially undermining school site team building.
4. Mr. Murillo denied or indicated that the described behavior misinterpreted his intent.

B. **Carr:** Hostile Workplace Environment / Workplace Supervisory Bias

Interview Summary: Carr outlined occurrences which she believed were in violation of the applicable HCPS Workplace Harassment/Hostile Workplace Policies:

1. Description of efforts to build an administrative team – particularly with APs – that were impacted by Mr. Murillo holding closed door meetings with APs, then inconsistency in follow-up with Principal, critically and substantially undermining school site team building.
2. The Spring 2020 HCPS ASQi Survey Comparison demonstrated a significant series of improvement metrics over the 2019 Survey - contrary to the description of lack of leadership by members of staff and faculty in the Fall of 2020.
3. Attendance report logs were requested by Mr. Murillo's office pursuant to the suggestion that faculty members and the school leadership team were not adhering to attendance requirements, but the documents produced reflected the absence of an issue.

4. Several documents were produced from staff expressing dissatisfaction with Ms. Carr's performance.
5. Mr. Murillo was unable to explain how the school could reflect such a range of positive improvements on the HCPS ASQi survey from the 2019 school year vs. the 2020 school year and then such a dramatic negative shift at the beginning of the 2021 school year.

C. **Enis:** Hostile Workplace Environment / Sexual Harassment (Binder); Hostile Workplace Environment / Workplace Retaliation (Murillo)

Interview Summary:

1. Mr. Murillo indicated that his gathering of statements and written documentation in connection with Ms. Enis' March 2019 Letter was at the direction of Professional Standards to "... handle it...".
2. Ms. Enis described several workplace interactions with Dr. Binder on non-work-related topics he initiated that left her feeling "uncomfortable".
3. Ms. Enis describes her initial meeting as a new Assistant Principal in July of 2018 with her new Principal Dr. Louis "Tim" Binder as "uncomfortable" based on the description by Dr. Binder volunteering an unfounded allegation of an affair involving a former deceased Principal and alleged affairs involving two prior Assistant Principals, one of whom subsequently married the staff member with whom the affair occurred.
4. Ms. Enis indicated that she called the area office, led by Mr. Murillo, and advised of her discomfort. It was Ms. Enis' understanding that Principal Coach Nelson spoke to Dr. Binder after her call to the area office and Dr. Binder subsequently gave an apology to Ms. Enis for her feelings of discomfort over the discussion and the language used by Dr. Binder.
5. Ms. Enis submitted at the same time as her March 2019 Letter to Mr. Murillo a timeline of events dating from July 2018 to March of 2019 that Ms. Enis felt were a series of unprofessional and disrespectful actions by Dr. Binder. Included in the timeline were alleged incidents involving being asked to "dress down a bit", in one incident repeatedly using the word "pussy" that was used in a school incident between school male students in an unprofessional manner with the other Assistant Principal, repeatedly referring to the School Resource Officer Supervisor as her "little boyfriend" in front of staff, students and parents, although he knew it was untrue and that Dr. Binder wished he had known a former Assistant Principal who was getting married "was into white guys".
6. Ms. Enis described communicating with Principal Coach Nelson a second time in early March of 2019 regarding her concerns regarding Dr. Binder's behavior and language. According to Ms. Enis, Dr. Binder apologized again for his behavior.
7. Ms. Enis described an "end of the year" evaluation session with Dr. Binder in which Principal Coach Nelson attended. Ms. Enis interpreted both attending as a form of intimidation after the other AP said "they're ready for you" as he left his evaluation.
8. Upon inquiry by the M&A interviewers, Mr. Murillo indicated that Mr. Nelson's presence in fact was to ensure that the evaluation was managed in a "professional manner". When asked that had he ever communicated this strategy to Ms. Enis, Mr. Murillo indicated that he had not.
9. Ms. Enis communicated to the M&A interviewers that their inquiry concerning the March 2019 Letter was the first time anyone had asked her details surrounding her March 2019 communication.
10. In the Ms. Enis January 2021 Letter to Superintendent Davis, Ms. Enis described incidents dating back to 2008 involving Mr. Murillo as an Assistant Principal for Curriculum, then as Principal at Webb Middle School when she served as a reading coach.

11. In her interview statement, Enis cited her January 2021 Letter in which she detailed two incidents that she felt documented her feelings that Mr. Murillo had intentionally blocked her from promotional opportunities.
12. Enis detailed in her January 2021 Letter her former Farnell Principal John Cobb offering background on why he had not previously hired Enis as an Assistant Principal in 2011 - because of comments by then Webb Principal Murillo which "would not help her quest to be promoted" and that he had hired her in 2013 despite Principal Murillo's continued position advising that she not be hired, yet finding her able to "hit the ground running, which was unusual to see".
13. Enis detailed applying for the AP position at Webb four times, with after the first three times training the selected person and when it did not work out those three times doing the job of the AP without the title or pay.
14. In the January 2021 Letter and the investigation interview, Enis detailed a series of conversations with Asst. Superintendent Murillo which she believed documented a pattern in the District to elevate black Assistant Principals to struggling schools to "clean them up" behind "another race of people" or the pattern of white Assistant Principals being assigned to schools in which the existing Principals had verbally given their retirement date and then being promoted to the Principal's role.
15. In the January 2021 Letter and in the investigation interview, Enis described her feeling that no one cared about the difficult position she perceived she was in at Farnell, with no response or resolution to her March 2019 Letter to Mr. Murillo and her subsequent feeling of feeling degraded and disrespected by Dr. Binder and that Mr. Murillo knew – and did nothing.

D. Johnson: Hostile Workplace Environment / Abusive Workplace Language / Workplace Retaliation

Interview Summary:

1. Johnson's Letter was submitted in June of 2021, after the completion of the original investigation by Professional Standards.
2. A former AP of Mr. Murillo, Johnson alleged several instances in which she perceived she was addressed in an aggressive manner beyond the ordinary expectation of a supervisor's communication.
3. Johnson outlined several instances in which conversations with sexual connotations and innuendo were interpreted to be expressed toward Mr. Murillo in Johnson's presence. Johnson stated that at no time did Mr. Murillo reprimand and/or counsel the ESE Specialist who was the source of the comments.
4. Johnson advised that she felt so uncomfortable that she ultimately initiated counseling the ESE Specialist on the inappropriateness of the language with sexual connotation or referencing sexual organs at the workplace.
5. When questioned about Johnson's assertions, Mr. Murillo acknowledged that there were conversations in his presence involving the ESE Specialist in which "girls talk" occurred. Mr. Murillo confirmed that he had no recollection of counseling or speaking to the staff about the inappropriateness of the "girls talk" content and that he intentionally left the area when such conversations began. During the course of the investigation interview, M&A clearly felt that Mr. Murillo was uncomfortable in elaborating on the graphic content of the "girls talk".
6. Johnson additionally outlined several incidents that she described as bullying or retaliatory behavior by Mr. Murillo. Two incidents occurred after transfers to new schools.

7. At Greco, she alleged that she was greeted on her first day by her new Principal Dr. Binder by strangely being told "... I am a good friend of Marcos..." which had no relevance to her new assignment. The greeting was received suspiciously because Mr. Murillo's secretary had recently confided to her that she was directed by Mr. Murillo not to process her benefit forms before leaving her prior school.
8. At Progress Village, after Mr. Murillo assumed the Area Superintendent role for another Area Superintendent, the Principal allegedly shared with Johnson that he was told by Mr. Murillo to "... run the school without you...", which she felt explained her feeling of being excluded from a wide range of day-to-day operational matters.
9. Johnson also outlined an offensive joke in which a sanitary napkin was taped to one AP's door and a medical mask taped to her door by Mr. Murillo that she interpreted as demeaning and cruel to both her and the other AP.
10. Mr. Murillo categorically denied any knowledge regarding the above referenced sexually offensive joke or prohibiting the completion of any forms or calling/interfering with the transfer of the complaining party to any new site. In fact, he said he was the approving Area Superintendent on the referenced new site assignments.

E. Davis: Hostile Workplace Environment / Workplace Retaliation

Interview Summary:

1. Delays until late October in the creation of the Master Schedule led to Mr. Murillo confronting Davis and her Principal and, according to Davis, told them that he would replace them both in 3 days if the Master Schedule was not completed.
2. The atmosphere was so intense it was alleged that Davis asked, "what does replace mean?" so she would be very clear about Mr. Murillo's intent.
3. Davis recalled taking the weekend to complete the Master Schedule because of fear of job loss.
4. Mr. Murillo's recollection was just the opposite of Davis. Mr. Murillo recalls advising her to take her time and that it was not necessary to work over the weekend. Mr. Murillo absolutely had no recollection of threat of job loss to Davis.
5. Davis felt that she faced racist and inequitable barriers in her site assignment. She described feeling demeaned by the Principal in a parent meeting involving favoritism to agriculture students regarding a dress code violation. She was further troubled in the removal of a married female teacher's classroom from next to a Black male teacher because of a complaint lodged by the teacher's husband with no apparent basis, according to Davis, except for the race of the male teacher.
6. Davis submitted a set of facts which she felt was an attempt to exercise workplace retaliation by Mr. Murillo. In this instance, a call was allegedly placed by Mr. Murillo to Davis' new supervisor. The supervisor, with whom Davis had worked previously, told her that a call had been received from Mr. Murillo, but the supervisor and Davis were going to "... let bygones be bygones...". Davis felt that the new supervisor was offering to her that she should not be concerned about past conflicts in her new assignment.
7. Mr. Murillo when asked about the alleged call had no recall of such a call and could not identify a reason for a conversation that would have led the new supervisor to respond to Davis with the statement "..... let bygones be bygones...".

F. Lima: Workplace Retaliation

Interview Summary:

1. Lima submitted Letters dated October 18th and June 22nd.
2. The factual basis of the Letters arose from the unit allocation reduction by two at Farnell.
3. Lima disagreed with the plan the Principal instituted that led to her placement in the pool as one of the two Farnell unit cuts.
4. Lima felt that Dr. Binder's decision was not based upon District protocol, but on favoritism.
5. Union intervention was sought to determine whether District Policy had been violated under these circumstances.
6. On the same day that a CTA Union response was transmitted to the Lima's personal email, Lima had a confrontation with Dr. Binder in which she called him an adulterer and having played favorites in deciding what units would be retained.
7. Upon the CTA Union Representative being advised of the confrontation, Lima was advised that the confrontation was a mistake and that now there was nothing more that the CTA Union could do to assist.
8. Lima reached out to Mr. Murillo for assistance, and he did respond to her inquiry. She indicated however that no follow-up occurred.

G. Turner: (Witness – School Site Workplace Retaliation / Workplace Sexual Harassment / Hostile Workplace Environment / Workplace Tenure Threat)

Interview Summary:

1. The witness has over 20 years in law enforcement – including street crimes and narcotics.
2. Has served as School Resource Officer at Farnell since 2014
3. Felt uncomfortable with some of the conversations led by Dr. Binder. Described as “locker room” language, environment and context. During the course of the investigation interview, M&A clearly felt that HCSO Deputy Turner - SRO was uncomfortable in elaborating on the graphic content of the “locker room” language.
4. Deputy Turner stated he met behind closed doors with Mr. Murillo and indicated he described Dr. Binder's conversations to Mr. Murillo. Mr. Murillo reportedly stated, “..... I'm going to handle this myself....”
5. Deputy Turner described some instances of Dr. Binder's appearance of impairment and other behavior that caused some concern drawn from his days on the street.
6. Described in detail an afternoon when the only vehicles on the school grounds were those of the Principal – whose truck he recognized – and a female teacher who he identified by running her license tag.
7. As part of his description of the afternoon, Deputy Turner brought his laptop to the interview and utilized his Google Map software to facilitate a review of his investigative steps that afternoon, that led to what he described as a male and a female laughter and what he believed without a doubt was sex taking place in Dr. Binder's office in which the lights were off, and the blinds were drawn closed in a manner inconsistent with the school norm.

8. Described receiving a call as he immediately returned to his vehicle from Dr. Binder's office, who was breathing heavily, asking whether there was anything he was seeking on campus.
9. Described a second incident with Dr. Binder and the same female faculty member in the cafeteria in which he alleged to have observed Dr. Binder pinching the buttocks of the referenced female faculty member while standing on stage in the cafeteria.
10. Described to M&A a series of complaints he began to receive from Dr. Binder which was inconsistent with his positive work evaluation prior to the questioning by Mr. Murillo, the subsequent removal of Dr. Binder from the campus and then Dr. Binder's return.
11. Two specific incidents involved remarks from Dr. Binder that were over the campus walkie-talkie which was overheard by his HCSO Major and his understanding of a phone call from Mr. Murillo to his chain of command alleging inappropriate conduct with a female student.
12. Discussed his transfer and his chain of command advising him of the unexpected negative reaction he received from the leadership of one potential high school transfer that he suspected was retaliatory in nature.
13. Mr. Murillo was aware of the walkie-talkie exchange with the HCSO Major, Deputy Turner and Dr. Binder and did acknowledge his closed-door discussion with Deputy Turner regarding Dr. Binder's behavior. Mr. Murillo categorically denied placing any call to Deputy Turner's chain of command regarding inappropriate conduct with a female student or any involvement in any other retaliatory type of activity involving Deputy Turner.

H. Dr. Binder: March 13, 2019 Memo to Mr. Murillo; Ms. Enis March 2019 / January 2021 Letter and support documentation – HCPS Policy Manual Anti-Harassment / Standard of Ethical Conduct

March 13, 2019 Memo to Mr. Murillo from Dr. Binder

1. Dr. Binder confirmed that the unsigned March 13, 2019 memo to Mr. Murillo was personally prepared by him.
2. Dr. Binder provided in his review of his March 2019 memo that he spoke in defense of his former deceased principal in Ms. Enis' presence on an occasion when a group of 5 or 6 people were standing around and one group member asked when seeing the School Resource Officer Supervisor whether his father was the deceased principal who was with his mistress when he died. In all instances, Dr. Binder indicated that he always characterized any such comment as unfounded and baseless.
3. The March 2019 memo of Dr. Binder, he referenced that he had reservations about any statements from Deputy Turner and had concerns about his version of the truth.
4. When asked to clarify what he meant, Dr. Binder indicated that Deputy Turner was a "liar.....and that he did not know where he comes from, to a point that he does not now trust police officers".
5. Upon further inquiry, Dr. Binder offered examples which formed his opinion of Deputy Turner, such as:
 - i. Deputy Turner telling a group that the screws in his ankle were protruding, that was inconsistent with Dr. Binder's experience with screws in his neck
 - ii. That a student who reported seeing a man on campus with a gun and later recanted her story. The student was handcuffed and led off campus. Dr. Binder questioned why the need for handcuffs and wondered whether Deputy Turner and the detective who interviewed the student had used proper procedure to get the student to change her story.

- iii. Law Enforcement traced a crank call to a store owner in Ohio threatening gun violence to a student - possessed cell phone and the Sheriff's Office arrested the student on campus. According to Dr. Binder, Deputy Turner agreed to the arrest but did not provide to him as Principal notice that the arrest was going to occur. He questioned the necessity of the arrest occurring on campus, as opposed to the home address of the student and the disrespect by the failure to give advance notice.
6. Dr. Binder emphatically confirmed the accuracy of his March 2019 memo regarding his feeling that he neither owed nor would offer an apology to Ms. Enis for the actions outlined in her March 2019 memo to Mr. Murillo.

April 12, 2019 Investigation Closing Letter from Mr. Murillo to Dr. Binder

7. The Murillo Offline Supervisor's Desk File contained an investigation closing memo dated April 12, 2019 addressed to Dr. Binder from Mr. Murillo. Upon inquiry, Dr. Binder confirmed his receipt and signature of the memorandum.
8. The Murillo closing April 2019 memo indicated that Dr. Binder had acknowledged only one of the referenced incidents. Upon inquiry, Dr. Binder indicated that it was the first bullet - "using sexual language when discussing incidents you have experienced in the past as an administrator at other school sites that involved employees having relationships with other employees of the school District".
9. Dr. Binder in his M&A interview offered that the issue in the above referenced bullet arose by Ms. Enis briefing him on an issue before his arrival at Farnell involving a guidance counselor who found out at the beginning of her cancer treatment that her husband had an alleged affair with another member of the school staff.
10. During this briefing, Dr. Binder suggested that he concurrently shared with Ms. Enis incidents involving affairs by two past Assistant Principals before his Farnell assignment. In each instance, these affairs with staff members resulted in marriage to the referenced staff member.
11. Dr. Binder concluded in the Farnell matter which Ms. Enis raised that since neither staff member chose to transfer, there was no further action required - in that he did not care "who was banging who" on his campus.
12. Dr. Binder in response to the M&A inquiry regarding bullet two of the Murillo closing April 2019 memo indicated that in connection with text messages, he typically would send a "great job" message after a tough week to congratulate the recipient or in response to employees' text messages. He stated that he it was not like him to send any message after 9 pm.
13. In response to the bullet two additional assertion in the Murillo closing memo of April 2019 regarding Ms. Enis feeling isolated in the workplace, Dr. Binder concluded that any such feeling was because Ms. Enis would lock herself in her office, as opposed to leaving the door open.
14. Dr. Binder had no recollection of any facts or context for bullets three and four contained in the Murillo closing April 2019 memo that sought to capture complaints taken from Ms. Enis' March 2019 Letter.

March 2019 Letter from Ms. Enis to Mr. Murillo

15. The M&A interviewers provided Dr. Binder an opportunity to read the Enis March 2019 Letter to Mr. Murillo, since he indicated that Mr. Murillo only read excerpts to Dr. Binder at the time of the Letter's submittal. Furthermore, Dr. Binder's memo to Mr. Murillo the next day was prepared without seeing the March 2019 Enis Letter either partially or in its entirety.
16. Dr. Binder indicated that he had no recollection of a July 2018 introductory conversation with Ms. Enis, did not recall Area 2 approaching him regarding Ms. Enis or any discussion about sex on campus. He did recall that he may have had past discussions about his back procedures.
17. When asked about the use of vulgar language cited by Ms. Enis, Dr. Binder told the M&A investigators that he did not consider fuck, fucking and shit as examples of vulgar language and his response to Ms. Enis indicating that this language made her uncomfortable was that he would try his best to use those terms "as little as possible".
18. When asked did he ever engage in "creating defamatory gossip" regarding Ms. Enis being in a relationship with the HCSO School Resource Officer Supervisor, Dr. Binder denied ever creating such comments.
19. In an unsolicited response, however, Dr. Binder suggested such gossip was not surprising based on nothing more than Ms. Enis closing her door when the HCSO School Resource Officer Supervisor visited the campus on no more than a routine once a month basis.
20. On the topic of the undesired late text messages to Ms. Enis and the 44 messages to staff member Ms. Laymen, upon responding to an inquiry from the M&A investigators that these "late night and frequent text messages were normal with his staff because of the pandemic, Dr. Binder was asked to name the members of his Farnell staff who received similar normal "late night" or frequent text messages. Other than Farnell Assistant Principal Streeter, he was unable to provide any other teachers or staff member names.

Lima Unit Transfer Dispute

21. Dr. Binder strongly denied any favoritism in connection with his decision not to retain Ms. Lima's unit when required by the District to reduce his unit allocation by two.
22. Dr. Binder indicated that although he had anticipated loss of staff, he felt that he could not impact the critical curriculum units required by the State and District.
23. As a result, Dr. Binder chose to explore the potential reduction of reading units based upon flexibility and student need requirements, but he indicated strictly following District Policy.
24. After Ms. Lima's notification of Dr. Binder's decision to transfer her to the pool, he became aware of Ms. Lima's seeking union counsel to overturn the recommendation. He offered, however, that he was comfortable with discussions between the District and the union, since he believed that his transfer decision was consistent with District Policy and the CTA collective bargaining agreement.
25. By Ms. Lima suddenly and unexpectedly confronting Dr. Binder with an accusation of adultery, coupled with Ms. Lima's tone, convinced Dr. Binder that Ms. Lima's transfer to the pool was a correct decision because now it was clear that working together would be problematic for both parties.

Relationship with Mr. Murillo

26. In statements provided by Ms. Johnson and Ms. Enis, they both outlined situations in which they described a friendship between Mr. Murillo and Dr. Binder that was a factor in the negative work atmosphere they experienced.
27. The M&A investigators asked Dr. Binder why he would tell Ms. Johnson that he was a friend of Mr. Murillo upon their initial meeting. Dr. Binder insisted that other than an early working relationship with Mr. Murillo, there was no personal friendship and no social activities with Mr. Murillo outside of District related activities.

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- I. **Murillo:** Enis Sexual Harassment investigation of Binder Delegation / Admitted Maintenance of HR Offline Supervisor Desk File on Employees / Inappropriate Interference with District Personnel Promotional Opportunities / Enforcement of District Anti-Harassment and Ethical Conduct Policy
-

Interview Summary:

1. Mr. Murillo admittance of creating a HR Offline *Supervisor Desk File*.
2. HR Offline *Supervisor Desk File* contained documents hosting workplace conduct documentation, investigatory verbal and written statements and investigatory memoranda.
3. HR Offline HR Letters of Reprimand were not entered into the Professional Standards Employee Files.
4. Ms. Enis indicated to the M&A investigators that their investigation interview was the first time anyone connected to the District had spoken to her in any detail regarding her March 2019 Letter to Mr. Murillo.
5. The Memo to the File prepared by Mr. Murillo in connection with his investigation at the alleged direction of Professional Standards indicated that “a meeting with AP Enis will be held to share outcome and also expectations will be shared”. Both Mr. Murillo and Ms. Enis confirmed that the referenced meeting never occurred.

Inappropriate Interference with District Personnel Promotional Opportunities

6. Ms. Enis indicated that on two occasions a District Principal received advice from Mr. Murillo not to hire Ms. Enis to an Assistant Principal vacancy. The first time, according to Ms. Enis, the principal said he followed Mr. Murillo’s advice. The second time he did not and felt the need to share with Ms. Enis the actions of Mr. Murillo and that it would have been a mistake if he had followed Mr. Murillo’s advice a second time.
7. Mr. Murillo denied ever speaking against Ms. Enis’ promotional opportunities.
8. Ms. Davis, as referenced earlier in this Report, outlined to the investigators that after a transfer to a new assignment, her new supervisor shared with her that he had received a phone call about her from Mr. Murillo. The supervisor concluded the call conversation with a determination of “letting bygones be bygones”.
9. Mr. Murillo had no recollection of such a call and had no thought as to why Ms. Davis stated such a call was made by him.

10. Ms. Johnson provided two circumstances that she concluded reflected Mr. Murillo's attempts to interfere with successful transitions to new positions. In the first transition, after her transfer to Greco as a move from a troubled period with Mr. Murillo at Webb, she felt intimidated when the introduction by Dr. Binder included "I'm a friend of Marcos.....," which she received as an intentional effort to signal Mr. Murillo's continued influence on her career.
11. Ms. Johnson's second alleged occurrence of intimidation was describing her appointment at Progress Village and the Principal telling her after Mr. Murillo's appointment to another District area that he was told to "run the school without her" by Mr. Murillo. Ms. Johnson felt this was a continuation of unknown Mr. Murillo related efforts to impede her professional growth.
12. Mr. Murillo had no recollection of either Johnson allegation. Further, Mr. Murillo offered that he had been a referral source, so that action was inconsistent with Ms. Johnson's allegations.

Enforcement of District Anti-Harassment and Ethical Conduct Policies

13. Ms. Johnson outlined a series of instances which involved language with specific sexual connotations in the presence of Mr. Murillo.
14. Ms. Johnson relayed that the comments referred to sexual references and innuendo directed to Mr. Murillo, with no step to warn or caution against the use of such language.
15. Ms. Johnson stated that the language so bothered her that she took the initiative to counsel the teacher about the inappropriateness of such language, even though she had no supervisory responsibility at the school.
16. When asked about the Johnson allegations, Mr. Murillo did advise that Ms. Johnson and the teacher did have conversations that he characterized as "girls talk" but appeared embarrassed to provide examples of the language he felt qualified as "girls talk".
17. Further, when asked whether he had ever offered any caution or warning about the use of such language, Mr. Murillo indicated that he would leave the area when hearing the suggested language and that he did not interject any guidance about the use of inappropriate language in the workplace.
18. In his April 2019 timeline of events associated with Ms. Enis' March 2019 complaint Letter, Mr. Murillo outlined a discussion with School Resource Officer Deputy Turner in which he responded to Mr. Murillo's inquiry that ".....he sometimes is too casual and used locker room talk and he experienced Binder making a comment about a female teacher with a PE coach".
19. M&A investigators received similar statements directly from Deputy Turner regarding the use of "locker room" language by Dr. Binder.
20. Further, Dr. Binder, as above referenced in the Report, acknowledged using words like "f..k, f...kin' and sh..t" and that he did not consider them to be vulgar, as characterized by Ms. Enis.
21. Mr. Murillo in his memo to Dr. Binder on April 12, 2019 admonished Dr. Binder "to be professional at all times in the workplace..." but it did not specify the context for the warning language, nor did Dr. Binder's Professional Standards file contain a signed copy of the memo.
22. Mr. Murillo acknowledged knowledge of a post investigation exchange in 2020 between the SRO Deputy Turner's Major and Dr. Binder on a school walkie-talkie that a meeting would be a waste of time "... because they are liars...." Mr. Murillo did not initiate any disciplinary action against Dr. Binder, even considering the previously referenced 2019 memo.

23. Both Deputy Turner and Ms. Enis stated their smell of alcohol periodically from Dr. Binder. Mr. Murillo stated in his memo this was investigated by his Area 2 Leadership Coach on the day the allegation came to his attention, but the Leadership Coach reported that on that day no evidence of impairment or alcohol order was evident.

Morrison & Associates Inc.**INVESTIGATION ANALYSIS AND FINAL RECOMMENDATIONS**

As outlined in the introductory section of this Report, the M & A team did not replicate the work of HCPS Professional Standards and its initial investigation. The range of information provided after the Professional Standards Investigation, and the unusual mix of parties and sites dictated a different approach to this second phase.

In this outline of its analysis and recommendations, the M & A team will conclude as we started – by using the initial inquiry pattern questions as the basis for our analysis and conclusions.

Final Analysis and Recommendations: Brown

- Did Ms. Brown’s alleged experience of workplace retaliation and / or inconsistency in supervisory behavior by Mr. Murillo violate HCPS policy?

Analysis:

An examination of the witness statements presents a series of actions by Mr. Murillo – whether the inconsistency in communication regarding Ms. Brown’s performance or his having closed door meetings with Ms. Brown’s Assistant Principals which she believed undermined site team building – which raise the question as to whether these actions illustrate violations, in and of themselves, of HCPS policy?

Recommendation Considerations:

The described behavior standing alone does not reflect actionable facts in violation of the HCPS policies regarding Anti-Harassment or Ethical Conduct.

Final Analysis and Recommendations: Carr

- Did the alleged leadership challenges encountered by Ms. Carr impacted by the alleged inconsistency in supervisory behavior exhibited by Mr. Murillo serve to undermine Ms. Carr’s leadership in violation of HCPS policy?

Analysis:

There is an alleged pattern involving APs and these two Principals (Brown/Carr) and Mr. Murillo’s management style. In this instance, Mr. Murillo could not answer why the wide disparity between the range of positive improvements on the HCPS ASQi survey from the 2019 school year vs. the 2020 school year and then such a dramatic negative shift in the perception of Ms. Carr’s leadership at the beginning of the FY 2021 school year. Simultaneously, the issues of AP performance, subjective management conflicts involving the Area Superintendent vs. the Principal vs. the Assistant Principals seems inconsistent with school management best practices, if credible.

Recommendation Considerations:

While not rising to the level of actionable workplace sexual harassment or hostile workplace environment standards, the issues of school site management do reflect an overwhelmingly subjective evaluation model when the ASQi is not the beginning basis for management -related personnel solutions. The solution of a leadership – styled District’s Professional Learning Community (PLC) model might begin to provide an objective platform to measure progress, and human capital/resource evaluation can reflect performance standards that offers professional growth and team stability.

Final Analysis and Recommendations: Enis

- Did the Enis March 2019 Letter, followed by her January 2021 Letter and the detail contained in Mr. Murillo's desk file outline behavior by Dr. Binder associated with his supervision of Ms. Enis in conflict with the HCPS Policy Manual?

Analysis:

First, the discovery of the Murillo Supervisor Desk File suggests that the original conclusion of the Murillo investigation by Professional Standards was unknowingly premature.

Second, the precision of the contemporaneous timeline Ms. Enis developed from July 2018 thru March 2019 outlines a level of detail that aligns with potential violations of the District's Policy Manual Standard of Ethical Conduct.

Recommendation Considerations:

Overall, Ms. Enis presents a series of specific credible allegations which reflect a potential range of HCPS Sexual Harassment, Hostile Workplace Environment and Standard of Ethical Conduct policy violations.

Specifically, there appears to be no dispute regarding the July 2018 introductory meeting between Dr. Binder and the subject matter discussed. There also seems to be no dispute regarding the use of language that reflects a violation of the HCPS Policy Manual Standard of Ethical Conduct.

- If Professional Standards authorized Mr. Murillo to investigate the allegations contained in the Enis March 2019 Letter, did his failure to report his investigation details and findings impact the District's ability to protect its own interests as well as that of Ms. Enis?

Analysis:

Any HCPS employee behavior evaluation is compromised by the existence of HR Offline Supervisor Desk Files. Further, any disciplinary action that was imposed that did not have the benefit or consideration of the investigatory conclusions captured within the HR Offline Supervisor Desk File undermines any HCPS Professional Standards related policies and procedures and their application.

Recommendation Considerations:

At a minimum, any Professional Standards disciplinary employee actions or lack thereof in Dr. Binder's HR file must be revisited and reevaluated considering the disclosure of the Murillo HR Offline Supervisor Desk File. Moreover, the detail associated with the March 2019 Enis Timeline suggests the District was unable to address a workplace that indeed reflected characteristics that were hostile and uncomfortable. Why? Because the Offline Supervisors Desk File was the sole repository of any documentation and/or additional considerations that would have allowed the District to protect its interests and that of all Farnell employees.

Final Analysis and Recommendations: Johnson

- Do the allegations outlined in the Johnson June 2021 Letter regarding Mr. Murillo failing to address uncomfortable language with sexual connotation in front of both parties rise to the conclusion of being actionable as a violation of HCPS policy?

Analysis:

The submittal of this statement after the conclusion of the initial investigation led to our conclusion that the initial investigation and inferences by Professional Standards should be set aside to analyze the facts connected with the Complainant's statement. Mr. Murillo's statement reflected his knowledge of what he described as "girls talk" but also by acknowledging leaving the area without providing guidance to the employee suggests that the Standards of Ethical Conduct Policy has not been protected as the District intended.

The two allegations of retaliation – involving the greeting at Greco by Dr. Binder and the Principal's statement that he was told by Mr. Murillo to "run the school without you" – along with the practical joke involving the sanitary napkin and medical mask being taped to a door are activities which were denied by Mr. Murillo.

Recommendation Considerations:

The role of any supervisor is to ensure that District policies are being enforced, specifically in the arena of Anti – Harassment and Standards of Ethical Conduct. The fact that a third party felt uncomfortable enough to counsel the staff employee – and not the principal who was a party to the conversation – does not reflect the level of enforcement that the District has a reason to expect from its senior supervisors.

The limited nature of the M & A scope of work did not allow for a more engaged assessment of the retaliation and practical joke allegations, but may speak – at a minimum – to an expanded need for a supervisory training component required to avoid the potential appearance of impropriety.

Final Analysis and Recommendations: Davis

- Did any of the concerns and associated behavior of Mr. Murillo alleged by Ms. Davis in connection with her master schedule preparation responsibilities, her assertions of racial inequities connected to decisions of her former principal or retaliation connected to promotional assignments rise to an actionable level in violation of HCPS policy?

Analysis:

Without an available inquiry to the successor supervisor of Ms. Davis, there is not currently sufficient information to conclude that the alleged phone call in which Mr. Murillo's comments led Ms. Davis' new supervisor to tell her that "let's bygones be bygones" was actionable as a violation of District Anti-Harassment or Standards of Ethical Conduct policies. Concurrently, the M & A investigators did not find Mr. Murillo credible in his position that the failure to complete a Master Schedule was not an urgent matter, particularly when it was a couple of months late. The M& A Investigators did find Ms. Davis credible in her description that she was in fear of her job if she failed to complete the Master Schedule and that the Schedule needed to be completed within 3 days or jobs would be lost.

Recommendation Considerations:

The balance of the facts however elevates several concerns. Clearly there was something said by Ms. Davis' new supervisor that led to the comments of "let bygones be bygones". Conversely, Mr. Murillo would have

been acting as a reasonable supervisor if he had been upset over the delay in the completion of the Master Schedule – although he denied being concerned or upset at all. Additionally, Ms. Davis appeared credible in her concerns with certain supervisory actions / decisions made by her principal at that time.

These concerns do not rise, however, to the level of actionable facts either as a hostile workplace environment, discrimination or workplace sexual harassment. They do, however, sustain and answer the need to explore when there is an issue between an AP and Principal, what HCPS supervisory dispute resolution mechanism or process should be available and employed to assist leadership co-workers to address legitimate concerns over day-to-day operational decisions

Final Analysis and Recommendations: Lima

- Did Ms. Lima’s Letters of October 18th and June 22nd contain sufficient facts to sustain her assertion that Dr Louis “Tim” Binder acted in violation of District unit allocation reduction protocol?

Analysis:

The Morrison & Associates investigators were presented a series of circumstances by Ms. Lima that alleged favoritism in the determination of which units would be assigned to the pool. The key question for the M&A assessment was the decision for assignment consistent with District Policy.

The facts as presented did not support the conclusion that there were actionable violations of the HCPS sexual harassment or hostile workplace environment policies. Additionally, it appeared that the Ms. Lima properly sought the CTA Union’s assistance to mediate the principal’s unit allocation decision. The CTA Union’s final advisory response appears to have foreclosed any additional CBA action which could be afforded to the Complainant.

Recommendation Considerations:

As a member of the collective bargaining unit, Ms. Lima correctly sought union assistance to determine whether Dr. Binder acted in a manner that was consistent with District unit allocation protocol. The M & A investigators were not presented any District policies that would suggest that Dr. Binder was acting outside of his authority. Ms. Lima did acknowledge that the union did tell her that after the exchange with Dr. Binder that there was nothing more the union could do and that the exchange was a mistake.

Further, the M & A Investigators were not presented any evidence of favoritism that was sufficient to suggest that the curriculum considerations presented by Dr. Binder were not credible.

Final Analysis and Recommendations: Turner

- Did the detailed issues raised in the interview with Deputy Turner of Dr. Binder’s alleged interaction with a member of his teaching staff suggest that the prior disciplinary action taken by the District regarding Dr. Binder and his interaction with the referenced staff member may not have fully captured the range of HCPS policy violation?

Analysis:

In any analysis of Deputy Turner’s interview, there are two factors which should be noted. First, as a School Resource Officer, Deputy Turner is a non-HCPS employee. Second, any employment related impact incurred by Deputy Turner is not enforceable or within HCPS’s jurisdiction.

As a result, Deputy Turner's statement should be categorized as supporting information as a collaboration witness. His statement has centered on three incidents – whether Dr. Binder was in violation of HCPS Anti-Harassment Policy, creating a Hostile Workplace or in violation of the District's Standards of Ethical Conduct in connection with a non- professional relationship with an employee on District property on two occasions. Furthermore, whether there was the creation of a hostile workplace because of his use of language that created an uncomfortable environment as communicated to Mr. Murillo in connection with HCPS employees or in Dr. Binder's interaction with Hillsborough County Sheriff Office (HCSO) Supervisory Personnel in conflict with the HCPS Standards of Ethical Conduct.

Dr. Binder has categorically denied that any improper behavior or violation of HCPS policy has occurred in connection with his interaction with a member of his teaching staff while acknowledging that he may have used language that others have categorized as vulgar or "locker room" in nature.

Recommendation Considerations:

The key for HCPS is whether Deputy Turner is a credible source of information in its review of HCPS policies. Morrison & Associates investigators would recommend to HCPS that Deputy Turner be considered a credible witness as the District determines whether there has been a violation of HCPS Anti-Harassment and Standards of Ethical Conduct.

Final Analysis and Recommendations: Murillo

- Should Mr. Murillo have evaluated the level of communication breakdown earlier between Dr. Binder and Deputy Turner to determine whether Dr. Binder had violated whether HCPS policy?

Analysis:

During Mr. Murillo's interview, he indicated that he was aware of the walkie – talkie incident with the Hillsborough County Sheriff's Office Major to whom Dr. Binder called a liar. Mr. Murillo was not present however when the exchange occurred. The April 2019 Memo to Dr. Binder from Mr. Murillo that was uncovered in the Offline Supervisors Desk File stated that *'... you are to be professional at all times in the workplace and to meet the expectations of the principal at Farnell Middle School. If any other complaints are received by my office, immediate action will be taken on the situation that will impact your assignment.'*

The absence of the Memo in Dr. Binder's Professional Standard's file means that incidents like the walkie-talkie exchange avoids addressing by Professional Standards and is not reflective of human resources best practices or the professionalism intended by the HCPS Standards of Ethical Conduct.

Recommendation Considerations:

The communication breakdown between Dr. Binder and Deputy Turner are the very type of incidents that the April 2019 Memo sought to anticipate. The absence of the memo in Dr. Binder's Professional Standards file meant that incidents like this would not be addressed as the HCPS Policy Manual intended.

Appendix

HILLSBOROUGH COUNTY PUBLIC SCHOOLS Policy Manual

Appendix A1	1140 – Suspension, Termination or Dismissal of Administrators
Appendix A2	1211, 3211 and 4211 – Whistleblower Protection
Appendix A3	1362 – Anti-Harassment
Appendix A4	1380 – Threatening Behavior Toward Staff Members
Appendix A5	3140 – Suspension, Termination or Dismissal of Instructional Staff
Appendix A6	3210 – Standards of Ethical Conduct
Appendix A7	5517 – Anti-Harassment (Student)

Appendix A1

HILLSBOROUGH COUNTY PUBLIC SCHOOLS Policy Manual

1140 – Suspension, Termination or Dismissal of Administrators

Hillsborough County Public Schools Policy Manual

Printed on 11/23/2021

1140 - Suspension, Termination, or Dismissal of Administrators

It is the desire of the Superintendent to maintain a staff of well-trained, competent administrators in order to offer comprehensive services to the students of this District.

An administrative employee who holds tenure in accordance with the Hillsborough County Teacher Tenure Act may be demoted or dismissed at any time for cause as provided in that act.

Upon the recommendation of the Superintendent, the Board may suspend, demote, or dismiss an administrator who is employed under an annual contract at any time during the contract year pursuant to provisions set forth in Florida statutes, the Rules of the Educational Practices Commission, and/or for cause.

Administrators serving as deputy superintendents or chief executive officers of a division/operation may be dismissed at the will of the Superintendent. At the discretion of the Superintendent, recommendation for demotion will be made to the Board.

Administrators may be required to take such recognized examinations as the Superintendent or designee deems necessary to evaluate their health, competence, and/or performance. Refusal to take required examination(s) shall be grounds for immediate dismissal. The Board shall pay for the cost of the examination(s).

The Superintendent shall determine the effective date of suspension, termination, or dismissal.

F.S. 1012.22, 1012.27, 1012.33, 1012.34

Appendix A2

HILLSBOROUGH COUNTY PUBLIC SCHOOLS Policy Manual

1211, 3211 and 4211 – Whistleblower Protection

Hillsborough County Public Schools Policy Manual

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1211 - Whistleblower Protection

The School Board expects all its employees to be honest and ethical in their conduct, and to comply with applicable State and Federal law, Board policies and administrative procedures. Administrative staff members shall report any violation or suspected violation of any Federal, State, or local law, policy, or regulation committed by any employee, or agent of an agency or independent contractor that is doing business with the Board to the Superintendent.

After such a report is made, the Superintendent will ask that the employee's report be put in writing. Any employee making such a report shall be protected from discipline, retaliation, or reprisal for making such report as long as the employee made a reasonable and good faith effort to determine the accuracy of any information reported. Employees are subject to disciplinary action, up to and including termination, for purposely, knowingly, or recklessly making a false report under this policy. Conversely, employees are subject to disciplinary action, up to and including termination, if they are aware of a violation of Federal, State, or local law that the Board has the authority to correct and they do not make a report confirmed in writing to their immediate supervisor.

Upon receipt of a written report made by an administrative staff member pursuant to this policy, the Superintendent shall conduct an investigation.

F.S. 112.3187, 112.3189

Revised 4/1/14

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Hillsborough County Public Schools Policy Manual

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3211 - Whistleblower Protection

The School Board expects all its employees to be honest and ethical in their conduct, and to comply with applicable State and Federal law, Board policies and administrative procedures. Instructional staff members shall report any violation or suspected violation of any Federal, State or local law, policy, or regulation committed by any employee, or agent of an agency or independent contractor that is doing business with the Board to the Superintendent.

After such a report is made, the Superintendent will ask that the employee's report be put in writing. Any employee making such a report shall be protected from discipline, retaliation, or reprisal for making such report as long as the employee made a reasonable and good faith effort to determine the accuracy of any information reported. Employees are subject to disciplinary action, up to and including termination, for purposely, knowingly, or recklessly making a false report under this policy. Conversely, employees are subject to disciplinary action, up to and including termination, if they are aware of a violation of Federal, State, or local law that the Board has the authority to correct and they do not make a report confirmed in writing to their immediate supervisor.

Upon receipt of a written report made by an instructional staff member pursuant to this policy, the Superintendent shall conduct an investigation.

F.S. 112.3187

Revised 4/1/14

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Hillsborough County Public Schools

Policy Manual

Printed on 11/23/2021

4211 - Whistleblower Protection

The School Board expects all its employees to be honest and ethical in their conduct, and to comply with applicable State and Federal law, Board policies and administrative procedures. Pursuant to State law, the Board expects support staff members to report any violation or suspected violation of any Federal, State or local law, policy, or regulation committed by any employee, or agent of an agency or independent contractor which is doing business with the Board, which creates and presents a substantial or specific danger to the public's health, safety, or welfare to the Superintendent.

After such a report is made, the Superintendent will ask that the employee's report be put in writing. Any employee making such a report shall be protected from discipline, retaliation, or reprisal for making such report as long as the employee made a reasonable and good faith effort to determine the accuracy of any information reported. Employees are subject to disciplinary action, up to and including termination, for purposely, knowingly, or recklessly making a false report under this policy. Conversely, employees are subject to disciplinary action, up to and including termination, if they are aware of a violation of Federal, State, or local law that the Board has the authority to correct and they do not make a report confirmed in writing to their immediate supervisor.

Upon receipt of a report made by a support staff member pursuant to this policy, the Superintendent shall conduct an investigation.

F.S. 112.3187

Revised 4/1/14

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Appendix A3

HILLSBOROUGH COUNTY PUBLIC SCHOOLS Policy Manual

1362 – Anti-Harassment

Hillsborough County Public Schools Policy Manual

Printed on 11/23/2021

1362 - Anti-Harassment

General Policy Statement

It is the policy of the School Board to maintain an education and work environment which is free from all forms of unlawful harassment, including sexual harassment. This commitment applies to all District 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 harassment based on sex, race, color, ethnicity, national origin, religion, disability, marital status, genetic information, sexual orientation, gender identity (LGBTQ status) or any other legally prohibited basis, and encourages those within the District community as well as third parties, who feel aggrieved to seek assistance to rectify the problems. The Board will investigate all allegations of unlawful harassment and, in those cases where legally prohibited harassment is substantiated, the Board will take immediate steps to end the harassment. Individuals who are found to have engaged in unlawful harassment will be subject to appropriate disciplinary action. The Board has zero tolerance for harassment.

For purposes of this policy, "District community" means students, administrators, teachers, staff, and all other school personnel, including 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 District 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 District community at school-related events/activities whether held on or off District property.

Furthermore, the Board is committed to providing an educational setting that is safe, secure, and free from harassment and bullying for all of its students and school employees. Policy 5517.01 - Anti-Bullying Policy addresses those instances of bullying and harassment which do not rise to the level of legally protected harassment under Federal law, but are, nonetheless, behaviors that may occur on school grounds, at school-sponsored events, and through school computer networks that will not be tolerated and must be appropriately identified, reported, investigated, and, when substantiated, be the subject of appropriate disciplinary action.

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:

- 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 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

Sexual Harassment

Pursuant to Title VII of the Civil Rights Act of 1964 and Title IX of the Educational Amendments of 1972 or the Florida Educational Equity Act, "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 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.
- 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.

Not all behavior with sexual connotations constitutes unlawful sexual harassment. Conduct must be sufficiently severe, pervasive, and persistent such that it adversely affects an individual's employment or education, or such that it creates a hostile or abusive employment or educational environment.

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 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 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 District community and third parties are encouraged to promptly report incidents of unlawful harassing conduct to an administrator, supervisor or other District official so that the Board may address the conduct before it becomes severe, pervasive, or persistent.

Members of the District community or third parties who believe they have been unlawfully harassed by another member of the District community or a third party are entitled to utilize the Board's complaint process that is set forth in Policy [1362.02](#)- Anti-Harassment Complaint Procedure. 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.

The titles of the Anti-Harassment Compliance Officers with whom complaints of sexual and other forms of unlawful harassment should be filed are set forth in Policy [1362.02](#)- Anti-Harassment Complaint Procedure. The titles of these individuals will be published annually on the District's web site and shall also appear in District publications such as announcements, bulletins, brochures, student applications and admission forms, catalogs, and other recruitment materials that are made available to students, parents, staff, and the general public.

The formal and informal processes for making a charge of harassment, 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 in Policy [1362.02](#)- Anti-Harassment Complaint Procedure. This policy and Policy [1362.02](#) - Anti-Harassment Complaint Procedure will be readily available to all members of the District community and posted in appropriate places throughout the District.

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. Thereafter, the Anti-Harassment Compliance Officer must contact the student, if over age 18 or the student's parents if under the age 18, to advise her/him/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.

Confidentiality

The District will make reasonable efforts to maintain the confidentiality of the parties involved in an investigation of unlawful harassment. Confidentiality, however, cannot be guaranteed.

Informal Process for Addressing Complaints of Harassment

An informal complaint process to provide members of the District community or third parties who believe they are being unlawfully harassed with a range of options designed to bring about a resolution of their concerns is set forth in Policy 1362.02 - Anti-Harassment Complaint Procedure. Members of the District 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. Those members of the District 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 unlawful harassment involving a District employee or any other adult member of the School District community against a student will be formally investigated.

Formal Process for Addressing Complaints of Harassment

1362.02 - Anti-Harassment Complaint Procedure also includes a formal complaint process. While the formal complaint process may serve as the first step to resolution of a charge of unlawful harassment, it is also available in those circumstances when the informal complaint process fails to satisfactorily resolve a concern. Because of the need for flexibility, no specific time lines are established for initiating the formal complaint process; however, once the formal complaint process is begun, the investigation will be completed in a timely manner (ordinarily, within 31 calendar days of the complaint being received).

Members of the District community or third parties who feel they have been unlawfully harassed should file a formal written complaint with the principal of their school building or with one of the compliance officer identified in Policy 1362.02 - Anti-Harassment Complaint Procedure. Oral complaints of harassment will be reduced to writing by the individual receiving the complaint and the complainant will be asked to verify the accuracy of the reported charge by signing the document. Complaints received by a school building principal will be immediately reported to the appropriate compliance officer identified in Policy 1362.02 - Anti-Harassment Complaint Procedure and the principal will not conduct an investigation unless directed to do so by the Compliance Officer.

The complaint process, which is set forth in Policy 1362.02 - Anti-Harassment Complaint Procedure, is not intended to interfere with the rights of a member of the District community or a third party to pursue a complaint of unlawful harassment with the United States Department of Education, Office for Civil Rights, the Florida Commission on Human Relations, or the Equal Employment Opportunity Commission.

The Board reserves the right to investigate and resolve a complaint or report of unlawful harassment regardless of whether the member of the District 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 and Policy 1362.02 or in such other manner as deemed appropriate by the Board or its designee.

Sanctions and Monitoring

The Board shall vigorously enforce its prohibitions against unlawful 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 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 becomes aware that a prior remedial action has been taken against a member of the District community, all subsequent sanctions imposed by the Board and/or Superintendent shall be reasonably calculated to eliminate such conduct in the future.

Education and Training

In support of this policy, the Board promotes age preventative educational measures to create greater awareness of unlawful discriminatory practices. The Superintendent or designee shall provide age appropriate training to all members of the District community related to the implementation of this policy and Policy 1362.02. All training regarding this policy, Policy 1362.02, and harassment in general, will be age and content appropriate.

F.S. 110.1221, 760.01, 760.10, 1000.05

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

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

29 U.S.C. 621 et seq.

29 U.S.C. 794

29 C.F.R. Part 1635

42 U.S.C. 12101 et seq.

20 U.S.C. 1681 et seq.

42 U.S.C. 1983

42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act National School Boards Association Inquiry and Analysis - May 2008

Revised: 9/21/2021

Appendix A4

HILLSBOROUGH COUNTY PUBLIC SCHOOLS Policy Manual

1380 – Threatening Behavior Toward Staff Members

Hillsborough County Public Schools Policy Manual

Printed on 11/23/2021

1380 - Threatening Behavior Toward Staff Members

The Superintendent and the Board believe that a staff member should be able to work in an environment free of threatening speech or actions.

In order to provide a safe, caring, and orderly environment, the Board expects civility from all who engage in school activities. Mutual respect, professionalism, and common courtesy are essential qualities that all need to demonstrate in promoting an educational environment free from disruptions, harassment, bullying, and aggressive actions.

Threatening behavior consisting of any words or deeds that intimidate a staff member or cause anxiety concerning physical well-being is strictly forbidden. Any parent, visitor, staff member, volunteer, or agent of the Board who is found to have threatened a member of the staff will be subject to discipline or reported to the authorities.

F.S. 1006.145

20 U.S.C. 1681 et seq.

29 U.S.C. 621 et seq.

29 U.S.C. 794 et seq.

41 U.S.C. 1983, Civil Rights Act

42 U.S.C. 2000 et seq.

42 U.S.C. 12101 et seq.

Appendix A5

HILLSBOROUGH COUNTY PUBLIC SCHOOLS Policy Manual

3140 – Suspension, Termination or Dismissal of Instructional Staff

Hillsborough County Public Schools Policy Manual

Printed on 11/23/2021

3140 - Suspension, Termination, or Dismissal of Instructional Staff

It is the desire of the Superintendent to maintain a staff of well-trained, competent instructional employees in order to offer comprehensive services to the students of this District.

Upon recommendation of the Superintendent, an employee may be suspended from duty or dismissed from employment by the Board pursuant to the collective bargaining agreement.

F.S. 1012.22, 1012.27, 1012.33, 1012.34
Hillsborough County Teacher Tenure Act

Appendix A6

HILLSBOROUGH COUNTY PUBLIC SCHOOLS Policy Manual

3210 – Standards of Ethical Conduct

Hillsborough County Public Schools Policy Manual

Printed on 11/23/2021

3210 - Standards of Ethical Conduct

An effective educational program requires the services of men and women of integrity, high ideals, and human understanding.

The Board hereby establishes the following as the standards of ethical conduct for all instructional staff members in the District:

- A. An instructional staff member shall
 1. make a reasonable effort to protect the student from conditions harmful to learning and/or to the student's mental and/or physical health and/or safety.
 2. not unreasonably restrain a student from independent action in pursuit of learning.
 3. not unreasonably deny a student access to diverse points of view.
 4. not intentionally suppress or distort subject matter relevant to a student's academic program.
 5. not intentionally expose a student to unnecessary embarrassment or disparagement.
 6. not intentionally violate or deny a student's legal rights.
 7. not harass or discriminate against any student on the basis of race, color, religion, sex, age, national or ethnic origin, political beliefs, marital status, handicapping condition, sexual orientation, or social and family background and shall make reasonable efforts to assure that each student is protected from harassment or discrimination.
 8. not exploit a relationship with a student for personal gain or advantage.
 9. keep in confidence personally identifiable information obtained in the course of professional service, unless disclosure serves professional purposes or is required by law.
 10. take reasonable precautions to distinguish between personal views and those of any educational institution or organization with which the individual is affiliated.
 11. not intentionally distort or misrepresent facts concerning an educational matter in direct or indirect public expression.
 12. not use institutional privileges for personal gain or advantage.

13. accept no gratuity, gift, or favor that might influence professional judgment.
14. offer no gratuity, gift, or favor to obtain special advantages.
15. maintain honesty in all professional dealings.
16. not on the basis of race, color, religion, sex, age, national or ethnic origin, political beliefs, marital status, handicapping condition if otherwise qualified, or social and family background deny to a colleague professional benefits or advantages or participation in any professional organization.
17. not interfere with a colleague's exercise of political or civil rights and responsibilities.
18. not engage in harassment or discriminatory conduct which unreasonably interferes with an individual's performance of professional or work responsibilities or with the orderly processes of education or which creates a hostile, intimidating, abusive, offensive, or oppressive environment; and, further, shall make reasonable efforts to assure that each individual is protected from such harassment or discrimination.
19. not make malicious or intentionally false statements about a colleague.
20. not use coercive means or promise special treatment to influence professional judgments of colleagues.
21. not misrepresent one's own professional qualifications.
22. not submit fraudulent information on any document in connection with professional activities.
23. not make any fraudulent statement or fail to disclose a material fact in one's own or another's application for a professional position.
24. not withhold information regarding a position from an applicant or misrepresent an assignment or conditions of employment.
25. provide, upon the request of any employee, a written statement of specific reason for recommendations that lead to the denial of increments, significant changes in employment, or termination of employment.
26. not assist entry into or continuance in the profession of any person known to be unqualified in accordance with these standards of ethical conduct and other applicable Florida statutes and State Board of Education rules.
27. self-report within forty-eight (48) hours to appropriate authorities (as determined by the District) any arrests/charges other than a minor traffic offense (driving under the influence of alcohol or controlled substances is not considered a minor offense). Such notice shall not be considered an admission of guilt. In addition, an instructional staff member shall self-report any conviction, finding of guilt, withholding of adjudication, commitment to a pretrial diversion program, or entering of a plea of guilty or Nolo Contendere for any criminal offense other than a minor traffic violation within forty-eight (48) hours

after the final judgment. When handling sealed and expunged records disclosed under this rule, school districts shall comply with the confidentiality provisions of F.S. 943.0585(4)(c) and 943.059(4)(c).

28. report to appropriate authorities any known allegation of a violation of the Florida School Code or State Board of Education rules as defined in F.S. 1012.795(1).
29. seek no reprisal against any individual who has reported any allegation of a violation of the Florida School Code or State Board of Education rules as defined in F.S. 1012.795(1).
30. comply with the conditions of an order of the District or the Education Practices Commission imposing probation, imposing a fine, or restricting the authorized scope of practice.
31. cooperate with the District and/or the Education Practices Commission in monitoring the probation of a subordinate.

B. All District instructional staff members shall adhere to the principles enumerated above.

All instructional staff members shall be required to complete training on the standards established herein upon employment and annually thereafter.

F.S. 112.313, 1001.42(6), 1012.23
F.A.C. 6B-1.001, 6B-1.006

Appendix A7

HILLSBOROUGH COUNTY PUBLIC SCHOOLS Policy Manual

5517 – Anti-Harassment (Student)

Hillsborough County Public Schools

Policy Manual

Printed on 11/23/2021

5517 - Anti-Harassment

General Policy Statement

It is the policy of the School Board to maintain an educational and work environment which is free from all forms of unlawful harassment, including sexual harassment. This commitment applies to all School District 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 harassment based on sex, race, religion, color, age, national or ethnic origin, political beliefs, marital status, handicapping condition, sexual orientation, gender identity, or social and family background, and encourages those within the School District community as well as third parties, who feel aggrieved to seek assistance to rectify the problems. The Board will investigate all allegations of unlawful harassment and in those cases where legally prohibited harassment is substantiated, the Board will take immediate steps to end the harassment. Individuals who are found to have engaged in unlawful harassment will be subject to appropriate disciplinary action.

For purposes of this policy, "School District community" means students, administrators, teachers, staff, and all other school personnel, including 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 School District 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 School District community at school-related events/activities (whether on or off School District 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:

- 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 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

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 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.
- 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 student or subordinate employee with whom the teacher or superior is sexually involved and where such favoritism adversely affects other students and/or employees.

Not all behavior with sexual connotations constitutes unlawful sexual harassment. Conduct must be sufficiently severe, pervasive, and persistent such that it adversely affects an individual's employment or education, or such that it creates a hostile or abusive employment or educational environment.

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.

Reports and Complaints of Harassing Conduct

Members of the School District community and third parties are encouraged to promptly report incidents of unlawful harassing conduct to an administrator, supervisor, or other School District official so that the Board may address the conduct before it becomes severe, pervasive, or persistent.

Members of the School District community or third parties who believe they have been unlawfully harassed by another member of the School District community or a third party are entitled to utilize the Board's complaint process that is set forth in Policy 5517.02 - Anti-Harassment Complaint Procedure. 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.

The titles of the Anti-Harassment Compliance Officers with whom complaints of sexual and other forms of unlawful harassment should be filed are set forth in Policy 5517.02 - Anti-Harassment Complaint Procedure. The titles of these individuals will be published annually in the student and staff handbooks, on the School District's web site, and/or on each individual school's web site.

The formal and informal processes for making a charge of harassment, 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 in Policy 5517.02 - Anti-Harassment Complaint Procedure. This policy and Policy 5517.02 - Anti-Harassment Complaint Procedure will be readily available to all members of the School District community and posted in appropriate places throughout the School District.

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. Thereafter, the Compliance Officer must

contact the student, if age 18 or older, or the student's parents if under the age of 18, to advise she/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.

Privacy/Confidentiality

The School District 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.

Informal Process for Addressing Complaints of Harassment

An informal complaint process to provide members of the School District community or third parties who believe they are being unlawfully harassed with a range of options designed to bring about a resolution of their concerns is set forth in Policy 5517.02 - Anti-Harassment Complaint Procedure. Members of the School District 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. Those members of the School District 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 a District employee or any other adult member of the School District community against a student will be formally investigated.

Formal Process for Addressing Complaints of Harassment

Policy 5517.02 - Anti-Harassment Complaint Procedure also includes a formal complaint process. While the formal complaint process may serve as the first step to resolution of a charge of unlawful harassment, it is also available in those circumstances when the informal complaint process fails to satisfactorily resolve a concern. Because of the need for flexibility, no specific time lines are established for initiating the formal complaint process; however, once the formal complaint process is begun, the investigation will be completed in a timely manner (ordinarily, within 31 calendar days of the complaint being received).

Members of the School District community or third parties who feel they have been unlawfully harassed should file a formal written complaint with the principal of their school building or with one of the compliance officers identified in Policy 5517.02 - Anti-Harassment Complaint Procedure. Oral complaints of harassment will be reduced to writing by the individual receiving the complaint and the complainant will be asked to verify the accuracy of the reported charge by signing the document. Complaints received by a school building principal will be immediately reported to the appropriate compliance officer identified in Policy 5517.02 - Anti-Harassment Complaint Procedure and the principal will not conduct an investigation unless directed to do so by the Compliance Officer.

The complaint process that is set forth in Policy 5517.02 - Anti-Harassment Complaint Procedure is not intended to interfere with the rights of a member of the School District community or a 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.

The Board reserves the right to investigate and resolve a complaint or report of unlawful harassment regardless of whether the member of the School District 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 and Policy 5517.02 or in such other manner as deemed appropriate by the Board or its designee.

Sanctions and Monitoring

The Board shall vigorously enforce its prohibitions against unlawful 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 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 becomes aware that a prior remedial action has been taken against a member of the School District community, all subsequent sanctions imposed by the Board and/or Superintendent shall be reasonably calculated to eliminate such conduct in the future.

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 training to all members of the School District community related to the implementation of this policy and Policy 5517.02 - Anti-Harassment Complaint Procedure. All training regarding this policy, Policy 5517.02 - Anti-Harassment Complaint Procedure, and harassment in general will be age and content appropriate.

F.S. 110.1221, 1000.05, 1006.07

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

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

29 U.S.C. 621 et seq.

29 U.S.C. 794

42 U.S.C. 12101 et seq.

20 U.S.C. 1681 et seq.

42 U.S.C. 1983

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