

NON-DISCRIMINATION/AFFIRMATIVE ACTION – SEXUAL HARASSMENT

State and federal statutes and regulations prohibit school districts from discriminatory practices in employment or educational opportunity against any person by reason of race, color, national origin, ancestry, age, sex, affectional or sexual orientation, gender identity or expression, marital status, domestic partnership status, familial status, liability for service in the Armed Forces of the United States, nationality, atypical hereditary cellular or blood trait of any individual, genetic information, or refusal to submit to a genetic test or make the results of a genetic test known, pregnancy in employment or in educational opportunities. Further state and federal protection is extended on account of disabilities, social or economic status, pregnancy, childbirth, pregnancy-related disabilities, actual or potential parenthood, or family status.

The Kittatinny Regional Board of Education will continue to support its Affirmative Action Resolution, and to implement the district's equal educational opportunity policy, school and classroom practices plan and contract/employment practices plan in accordance with law and regulation.

The chief school administrator shall oversee the development and implementation of the three year comprehensive equity plan to ensure that the district provides equality in educational programs and to identify and correct, or assess and prevent, all bias, discrimination and impermissible isolation in policies, practices and facilities of the district. Upon approval of this plan by the state department of education, the Board shall adopt it by resolution. The chief school administrator shall report to the Board annually on progress toward goals established in the plan. A copy of the district's affirmative action/equity plans and self-evaluation of their achievement shall be available in the district office.

Affirmative Action Officer and Team

The Board shall annually designate a member of the staff as the affirmative action officer and form an affirmative action team, of whom the affirmative action officer is a member. The affirmative action officer shall serve as affirmative action/504 officer and/or desegregation coordinator. The affirmative action officer must have New Jersey certification with an administrative, instructional, or education services endorsement. The Board shall ensure that all members of the school community know who the affirmative action officer is and how to access him/her. The Board shall adopt the job description of the affirmative action officer(s), granting to him/her the responsibility to facilitate, oversee and ensure the development and implementation of school and classroom practices plans, employment and contract practices plan, school desegregation plan and section 504 plans, as well as related inter-program coordination. The affirmative action officer(s) shall ensure that the district upholds all regulations, codes and laws related to equity in the schools.

The affirmative action officer(s) shall monitor compliance with this policy. The name, work location and telephone number of the district affirmative action officer(s) shall annually be made known to staff, pupils and members of the community.

The affirmative action officer shall:

- A. Coordinate the required professional development training for certificated and non-certificated staff;
- B. Notify all students and employees of district grievance procedures for handling discrimination complaints; and
- C. Ensure that the district grievance procedures, including investigative responsibilities and reporting information, are followed.

The affirmative action team shall:

- A. Develop the comprehensive equity plan in compliance with administrative code;
- B. Oversee the implementation of the district's comprehensive equity plan;

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- C. Collaborate with the affirmative action office in coordinating the required professional development training;
- D. Monitor the implementation of the comprehensive equity plan; and
- E. Conduct the annual district internal monitoring to ensure continuing compliance with state and federal law and code governing educational equity.

Comprehensive Equity Plan

The Board directs the affirmative action team to develop a comprehensive equity plan once every three years. The comprehensive equity plan shall identify and correct all discriminatory and inequitable educational and hiring policies, patterns, programs, and practices affecting its facilities, programs, students, and staff.

Prior to developing the comprehensive equity plan, the district's needs for achieving equity and equality in educational programs shall be assessed. The purpose of the needs assessment is to identify and eliminate discriminatory practices and other barriers to achieving equity in educational programs.

- A. The needs assessment shall include an analysis of:
 - 1. Student performance data such as National Assessment of Educational Progress and State assessment results;
 - 2. Preschool through grade 12 promotion/retention data;
 - 3. Preschool through grade 12 completion rates; and
 - 4. Re-examination and re-evaluation of classification and placement of students in special education programs if there is over representation within certain groups;
 - 5. Staffing practices;
 - 6. Student demographic and behavioral data;
 - 7. Quality of program data; and
 - 8. Stakeholder satisfaction data.
- B. The comprehensive equity plan shall address:
 - 1. Professional development;
 - 2. Equality in school and classroom practices;
 - 3. Equality in employment and contract practices.
- C. The comprehensive equity plan shall include:
 - 1. An assessment of the school district's needs for achieving equity in educational programs. The assessment shall include staffing practices, quality-of-program data, stakeholder-satisfaction data, and student assessment and behavioral data disaggregated by gender, race, ethnicity, limited English proficiency, special education, migrant, date of enrollment, student suspension, expulsion, child study team referrals, preschool through grade 12 promotion/retention data, preschool through grade 12 completion rates, and re-examination and re-evaluation of classification and placement of students in special education programs if there is overrepresentation within certain group;
 - 2. A description of how other Federal, State, and school district policies, programs, and practices are aligned to the comprehensive equity plan;
 - 3. Progress targets for closing the achievement gap;
 - 4. Professional development targets regarding the knowledge and skills needed to provide a thorough and efficient education as defined by the New Jersey Student Learning Standards, differentiated instruction, and formative assessments aligned to the New Jersey Student Learning Standards and high expectations for teaching and learning; and

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5. Annual targets that address school district needs in equity in school and classroom practices and are aligned to professional development targets.

The comprehensive equity plan shall include goals, objectives, timelines, and benchmarks for measuring progress. The Board shall submit the comprehensive equity plan to the executive county superintendent for approval and a copy of the comprehensive equity plan to the New Jersey Department of Education. The Board shall initiate the comprehensive equity plan within 60 days of its approval, and shall implement the plan in accordance with the timelines approved by the Department.

Harassment

The Board of Education shall maintain an instructional and working environment that is free from harassment of any kind. Administrators and supervisors will make it clear to all staff, pupils and vendors that harassment is prohibited. Sexual harassment shall be specifically addressed in the affirmative action inservice programs required by law for all staff.

Sexual harassment shall include, but not be limited to, unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when:

- A. Submission to the conduct or communication is made a term or condition of employment or education;
- B. Submission to, or rejection of, the conduct or communication is the basis for decisions affecting employment and assignment or education;
- C. The conduct or communication has the purpose or effect of substantially interfering with an individual's work performance or education;
- D. The conduct or communication has the effect of creating an intimidating, hostile or offensive working or educational environment.

Sexual harassment of staff or children interferes with the learning process and will not be tolerated in the Kittatinny Regional School District. Harassment by Board members, employees, parents, students, vendors and others doing business with the district is prohibited. Any child or staff member who has knowledge of or feels victimized by sexual harassment should immediately report his/her allegation to the affirmative action officer or building principal. Anyone else who has knowledge of or feels victimized by sexual harassment should immediately report his/her allegation to the chief school administrator or Board president. Employees whose behavior is found to be in violation of this policy will be subject to the investigation procedure which may result in discipline, up to and including dismissal. Other individuals whose behavior is found to be in violation of this policy will be subject to appropriate sanctions as determined and imposed by the chief school administrator/Board. Law enforcement shall be summoned when appropriate. This policy statement on sexual harassment shall be distributed to all staff members.

Staff or pupils may file a formal grievance related to harassment on any of the grounds addressed in this policy. The affirmative action officer will receive all complaints and carry out a prompt and thorough investigation, and will protect the rights of both the person making the complaint and the alleged harasser.

Findings of discrimination or harassment will result in appropriate disciplinary action.

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School and Classroom Practices

A. In implementing affirmative action, the district shall:

1. Identify and correct the denial of equality of educational opportunities for pupils solely on the basis of any classification protected by law;
2. Continually reexamine and modify, as may be necessary, its school and classroom programs; location and use of facilities; its curriculum development program and its instructional materials; availability of programs for children; and equal access of all eligible pupils to all extracurricular programs.

B. The Board shall provide all students with equal and bias-free access to all school facilities, courses, programs, activities, and services, regardless of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, gender identity or expression, religion, disability, or socioeconomic status, by:

1. Ensuring equal and barrier-free access to all school and classroom facilities;
2. Attaining within each school minority representation that approximates the school district's overall minority representation. Exact apportionment is not required; the ultimate goal is a reasonable plan achieving the greatest degree of racial balance that is feasible and consistent with sound educational values and procedures;
3. Utilizing on an annual basis a State-approved English language proficiency measure for determining the special needs of English language learners and their progress in learning English;
4. Utilizing bias-free multiple measures for determining the special needs of students with disabilities;
5. Ensuring support services, including intervention and referral services and school health services; and
6. Ensuring a student is not discriminated against because of a medical condition. A student shall not be excluded from any education program or activity because of a long-term medical condition unless a physician certifies such exclusion is necessary. If excluded, the student shall be provided with equivalent and timely instruction that may include home instruction, without prejudice or penalty.

These topics are included in the pupil and instruction policies of the district at 5145.4 Equal Educational Opportunity, 6121 Nondiscrimination/Affirmative Action, and 6145 Extracurricular Activities.

Contract/Employment Practices

The district directs the chief school administrator to ensure that appropriate administrators implement the district's affirmative action policies by:

- A. Adhering to the administrative code in selection of vendors and suppliers; informing vendors and suppliers that their employees are bound by the district's affirmative action policies in their contacts with district staff and pupils;
- B. Continuing implementation and refinement of existing practices and affirmative action plans, making certain that all recruitment, hiring, evaluation, training, promotion, personnel-management practices and collective bargaining agreements are structured and administered in a manner that furthers equal employment opportunity principles and eliminates discrimination on any basis protected by law, holding inservice programs on affirmative action for all staff in accordance with law.

These topics are included in the business and non-instructional operations, and the personnel policies of the district at #3320 Purchasing Procedures, 3327 Relations with Vendors, 4111.1 and 4211.1 Nondiscrimination/Affirmative Action.

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Disabled

In addition to prohibiting educational and employment decisions based on non-applicable disabling condition, the district shall, as much as feasible, make facilities accessible to disabled pupils, employees and members of the community as intended by Section 504 and as specified in the administrative code.

Report on Implementation

The chief school administrator shall devise regulations, including grievance forms and procedures to implement the district's affirmative action policies. He/she shall report to the Board annually on the effectiveness of this policy and the implementing procedures.

SAIF POLICY

It is the policy of the Board that no qualified handicapped or disabled person shall, on the basis of handicap or disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination in employment or under any program, activity or vocational opportunities sponsored by this Board. The Board shall comply with §504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990. The Board shall also comply with the Individuals with Disabilities Education Act.

Notice of the Board's policy on nondiscrimination in employment and education will be included in the Board policy manual, posted throughout the district, and referenced in any district statement regarding the availability of employment positions or educational services.

Employment

No employee or candidate for employment shall be discriminated against in recruitment, hiring, advancement, discharge, compensation, training, transfer, or any other term, condition, or privilege of employment solely because of his/her handicap/disability, provided the employee or candidate can, with or without reasonable accommodation, perform the essential functions of the position sought or held.

No candidate for employment shall be required to answer a question or submit to an examination regarding a handicap/disability except as such handicap/disability relates directly to the performance of the job sought. No candidate will be discriminated against on the basis of a handicap/disability that is not directly related to the essential function of the position for which he/she has applied.

Reasonable accommodations, not directly affecting the educational and/or instructional program, shall be made to accommodate employment conditions to the needs of qualified persons with handicaps/disabilities. Such accommodations may include, but are not limited to rescheduling; restructuring jobs; making facilities accessible; acquiring or modifying equipment; modifying examinations, training materials, policies and procedures; and providing readers or interpreters.

The Board employment policies and procedures shall comply with the Americans with Disabilities Act.

Facilities Accessibility

No qualified handicapped/disabled person shall, because of the school district's facilities being inaccessible or unusable by handicapped/disabled persons, be denied the benefits of, be excluded from participation in or otherwise be subjected to discrimination under any program or activity offered by the Board. No new facilities shall be constructed that do not fully comply with §504 of the Rehabilitation Act of 1973 and the American with Disabilities Act. Alterations to existing facilities or part there of, shall be altered in such a manner to the

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maximum extent feasible, that the facilities are readily accessible and usable by individuals with handicaps/ disabilities who have a need to access Board facilities.

Educational Program Accessibility

No qualified handicapped/disabled person shall be denied the benefit of, be excluded from participation in, or otherwise be subjected to discrimination in any activity offered by this district.

The Board has an affirmative obligation to evaluate a pupil who is suspected of having a handicap/disability to determine the pupil’s need for special education and related services. The Board directs that all reasonable efforts be made to identify unserved children with handicaps/ disabilities in this district who are eligible for special education and/or related services in accordance with the Individuals with Disabilities Education Act, §504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990.

Section 504 of the Rehabilitation Act requires the Board to address the needs of children who are considered handicapped/disabled under §504 and do not qualify for services under the Individuals with Disabilities Education Act. A pupil may be handicapped/disabled within the meaning of §504, and therefore entitled to regular or special education and related aids and services under the §504 regulation, even though the pupil may not be eligible for special education and related services under Part B of the Individuals with Disabilities Education Act.

No pupil will be denied, because of his/her educational handicap/disability, participation in co-curricular, intramural, or interscholastic activities or any of the services offered or recognitions rendered regularly to the pupils of this district.

There will be grievance procedures for persons alleging discriminatory acts by the Board and/or staff. The due process rights of pupils with handicaps/disabilities and their parents will be rigorously enforced.

Enforcement

The CSA will assign a certified staff member the as district coordinator for matters dealing with §504 and Title IX. The district coordinator shall act as a compliance officer and can be contacted at the following address or telephone number:

Address: Kittatinny Regional School District
77 Halsey Road
Newton, NJ 07860

Telephone Number: (973) 383-1800

A complaint regarding a violation of law and this policy will be subject to a complaint procedure that provides for the prompt and equitable resolution of disputes.

The complainant shall be notified of his/her rights of appeal at each step of the process, and accommodations to the needs of handicapped/disabled complainants shall be made. A complainant shall be informed of his/her right to file a formal action for redress with or without recourse to the complaint procedure established by this policy and its accompanying regulation.

A complaint regarding the identification, evaluation, classification, or educational program of a pupil with a handicap/disability shall be governed by the due process rules of the State Board of Education, N.J.A.C. 6A:14-2.7 and the Office of Administrative Law, N.J.A.C. 1:6A-1 et seq., and by the procedural safeguard processes established by Board Policy.

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Guarantee of Rights

The Board shall not interfere, directly or indirectly, with any person's exercise or enjoyment of the rights protected by the §504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Individuals with Disabilities Education Act or Title IX.

The Board shall not discriminate against any person for that person's opposition to any act or practice made unlawful by law or this policy or for that person's participation in any manner in an investigation or proceeding arising under §504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Individuals with Disabilities Education Act or Title IX.

Evaluation and Compliance

The Board directs the CSA to evaluate district programs and practices on nondiscrimination, in accordance with law, and to report evaluations to the Board. The Board will submit such assurances of compliance as are required by law.

Annual Publication

This Policy will be published yearly prior to the beginning of the school year in a regional newspaper, magazine and/or other written communication that is available to the public.

- 29 U.S.C. 794 (Sec. 504, Rehabilitation Act of 1973)
- 20 U.S.C. 1401 et seq. (Individuals with Disabilities Education Act)
- 42 U.S.C. 12101 (Americans with Disabilities Act of 1990)
- N.J.S.A. 10:5-1 et seq.
- N.J.S.A. 18A:18A-17
- N.J.A.C. 6A:14-1 et seq.
- 34 CFR Part 104

Key Words

Affirmative Action, Discrimination, Americans With Disabilities Act, Access, Nondiscrimination, Sexual Harassment, Harassment, Equal Educational Opportunity

Legal References:

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| <u>N.J.S.A.</u> 2C:16-1 | Bias intimidation |
| <u>N.J.S.A.</u> 2C:33-4 | Harassment |
| <u>N.J.S.A.</u> 10:5-1 <u>et seq.</u> | Law Against Discrimination |
| <u>N.J.S.A.</u> 18A:6-5 | Inquiry as to religion and religious tests prohibited |
| <u>N.J.S.A.</u> 18A:6-6 | No sex discrimination |
| <u>N.J.S.A.</u> 18A:18A-17 | Facilities for handicapped persons |
| <u>N.J.S.A.</u> 18A:26-1 | Citizenship of teachers, etc. |
| <u>N.J.S.A.</u> 18A:26-1.1 | Residence requirements prohibited |
| <u>N.J.S.A.</u> 18A:29-2 | Equality of compensation for male and female teachers |
| <u>N.J.S.A.</u> 18A:35-1 et seq. | Curriculum and courses |
| <u>N.J.S.A.</u> 18A:37-14 through -19 | Harassment, intimidation, and bullying defined; definitions |
| <u>N.J.S.A.</u> 18A:36-20 | Discrimination; prohibition |
| <u>N.J.S.A.</u> 18A:38-5.1 | Attendance at school |
| <u>N.J.S.A.</u> 26:8A-1 <u>et seq.</u> | Domestic Partnership Act |
| <u>N.J.A.C.</u> 5:23-1 <u>et seq.</u> | Uniform construction code |

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N.J.A.C. 6A:7-1.1 et seq. Managing for Equality and Equity in Education

See particularly:

N.J.A.C. 6A:7-1.4,
-1.5, -1.6, -1.7, -1.8

N.J.A.C. 6A:30-1.1 et seq. Evaluation of the Performance of School Districts

New Jersey State Constitution, Article I, Paragraph 5 Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000 et seq. Executive Order 11246 as amended

29 U.S.C.A. 201 § 206 - Equal Pay Act of 1963 as amended

20 U.S.C.A. 1681 et seq. - Title IX of the Education Amendments of 1972

42 U.S.C.A. 2000e et seq. - Title VII of the Civil Rights Act of 1964 as amended by the Equal Employment Opportunities Act of 1972

29 U.S.C.A. 794 et seq. - Section 504 of the Rehabilitation Act of 1973

20 U.S.C.A. 1401 et seq. - Individuals with Disabilities Education Act

42 U.S.C.A. 12101 et seq. - Americans with Disabilities Act (ADA)

Meritor Savings Bank v. Vinson, 477 U.S. 57 (1986)

School Board of Nassau County v. Arline, 480 U.S. 273 (1987)

Vinson v. Superior Court of Alameda County, 740 P. 2d 404 (Cal. Sup. Ct. 1987)

State v. Mortimer, 135 N.J. 517 (1994)

Taxman v. Piscataway Bd. of Ed. 91 F. 3d 1547 (3d Cir. 1996)

Davis v. Monroe County Board of Education, 526 U.S. 629 (1999)

Saxe v. State College Area School Dist., 240 F. 3d 200 (3d Cir. 2001)

L.W. v. Toms River Regional Schools Board of Education, N.J., No. A-111-05 (Feb. 22, 2007), 2007 N.J. LEXIS 184. The New Jersey Supreme Court ruled that a school district may be held liable under the New Jersey Law Against Discrimination (LAD), N.J.S.A. 10:5-1 to -49, when students harass another student because of his perceived sexual orientation. A district school will be liable for such harassment if it knew or should have known of the harassment but failed to take reasonable remedial actions. The matter was remanded to the Director of the Division on Civil Rights.

Comprehensive Equity Plan, New Jersey Department of Education

Possible

Cross References:

- *3320 Purchasing procedures
- *4111 Recruitment, selection and hiring
- *4111.1 Nondiscrimination/affirmative action
- *4131/4131.1 Staff development; in-service education/visitations/conferences
- *4211 Recruitment, selection and hiring

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- *4211.1 Nondiscrimination/affirmative action
- *4231/4231.1 Staff development; in-service education/visitations/conferences
- *5131 Conduct/discipline
- *5145.4 Equal educational opportunity
- *6121 Nondiscrimination/affirmative action
- *6145 Extracurricular activities

* Indicates policy is included in the Critical Policy Reference Manual

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