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**NONDISCRIMINATION/AFFIRMATIVE ACTION**

The Board of Education guarantees to all persons equal access to all categories of employment, retention and advancement in this district, regardless of race, creed, 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, disability, atypical hereditary cellular or blood trait of any individual, non-applicable disability or because of genetic information or refusal to submit to or make available the results of a genetic test.

An affirmative action/equity program shall be a part of every aspect of employment including, but not limited to, upgrading; demotion or transfer; recruitment or recruitment advertising; renewal or non-renewal; layoff or termination; rates of pay or other forms of compensation including fringe benefits; employment selection or selection for training and apprenticeships; promotion; or tenure.

The Board-designated Affirmative Action Officer and/or Alternative Affirmative Action Officer shall identify and recommend correction of any existing inequities, and any that occur in the future.

**Harassment, Intimidation, Bullying and Favoritism**

The Board is an affirmative action employer and holds all its employees responsible for maintaining a working environment that is free from all discriminatory and harassing practices. Harassment, bullying, intimidation or favoritism on any basis included in the board's statement of equal access to employment, retention and advancement is prohibited.

Administrators and supervisors shall be familiarized with the actions that constitute harassment, bullying, intimidation and favoritism. This material shall be included in the legally mandated affirmative action in-service training for all employees, and shall be clear and specific (see policy 2224). When the Affirmative Action Officer and/or Alternative Affirmative Action Officer has/have determined that an act or acts of harassment, intimidation or bullying has/have taken place, appropriate disciplinary and/or remedial action will follow. All such determinations shall be reported to the Superintendent and Board.

Some, but not all, of the specific types of actions that are prohibited are outlined below:

1. **Sexual Harassment**

The Board shall maintain a working environment that is free from sexual harassment. Administrators and supervisors will make it clear to all staff that sexual harassment is prohibited. No supervisory employee shall threaten or insinuate, either directly or indirectly, that an

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employee's refusal to submit to sexual advances will adversely affect the employee's continued employment, evaluation, compensation, assignment or advancement. No supervisory employee shall promise or suggest, either directly or indirectly, that an employee's submission to sexual advances will result in any improvement in any term or condition of employment of an employee. Sexually harassing conduct committed by nonsupervisory personnel is also prohibited.

2. Harassment Intimidation or Bullying

“Harassment, intimidation or bullying” means as any gesture, any written, verbal or physical act, or any electronic communication that is reasonably perceived as being motivated either by any actual or perceived characteristic, such as race, color, religion, gender, disability, sexual orientation, gender identity or expression, national origin or ethnicity, or by any other distinguishing characteristic and that:

1. Is motivated by any actual or perceived characteristic, such as race, color, religion, ancestry, national origin, gender, sexual orientation, gender identity and expression, or a mental, physical or sensory disability; or
2. By any other distinguishing characteristic; and
3. A reasonable person should know, under the circumstances, that the act(s) will have the effect of harming an employee or damaging the employee’s property, or placing an employee in reasonable fear of harm to his/her person or damage to his/her property; or
4. Has the effect of insulting or demeaning any employee or group of employees in such a way as to cause substantial disruption in, or substantial interference with, the orderly operation of the District.

“Electronic communication” is a communication that is transmitted by means of an electronic device, including, but not limited to a telephone, cellular phone, computer, or pager.

The Board prohibits any acts of harassment, intimidation, or bullying by or against an employee. The Board has determined that a safe and civil working environment in school is necessary for its students to learn and achieve high academic standards. The Board expects all of its employees to treat each other with civility and respect, and will not tolerate acts of harassment, intimidation or bullying. All acts of harassment, intimidation, or bullying that include the use of, or occur on school property (e.g., school computers, other electronic or wireless communication devices) are strictly prohibited and consequences for such acts may be imposed regardless of whether the subject or recipient of the bullying is on or off school property. The Board also prohibits active or passive support for acts of harassment, intimidation, or bullying.

**Reporting Harassment, Intimidation, Bullying and Favoritism**

Any school employee or volunteer who has witnessed, or has reliable information that an employee has been subject to harassment, intimidation or bullying, must report the incident to the Affirmative Action Officer and/or Alternative Affirmative Action Officer.

While submission of an Incident Report Form to the Affirmative Action Officer and/or Alternative Affirmative Action Officer is not required, the reporting party is encouraged to use the Incident Report Form available from the Building Principal or District's Administrative offices or the reporting party may use the District's web-based reporting system, if one is available. Nonetheless, all oral, written, or electronic reports will also be considered official reports. Reports may be made anonymously, but formal disciplinary action may not be based solely on the basis of an anonymous report.

A school employee who promptly reports an incident of harassment, intimidation, or bullying in accordance with this Policy, and who makes this report in compliance with the procedures set forth in this Policy, is immune from a cause of action for damages arising from any failure to remedy the reported incident as set forth in N.J.S.A. 18A:37-16. However, the Board prohibits any employee, volunteer, or visitor person from falsely accusing another as a means of harassment, intimidation, or bullying. Consequences and appropriate remedial action for an employee found to have falsely accused another as a means of harassment, intimidation, or bullying shall be disciplined with consequences and remedial action ranging from admonishment to termination of employment, in accordance with district policies, procedures, and then applicable collective bargaining agreements. Consequences and appropriate remedial action for a visitor or volunteer, found to have falsely accused another as a means of harassment, intimidation, or bullying shall be determined by the Superintendent, Building Principal, or his/her designee after consideration of the nature, severity and circumstances of the act, with consequences and remedial action ranging from admonishment to dismissal from the volunteer position, including which may include a reports to appropriate law enforcement officials.

**Investigation**

In accordance with File Code 2224 "NONDISCRIMINATION/AFFIRMATIVE ACTION" the Affirmative Action Officer and/or Alternative 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.

**Response**

Findings of discrimination in the form of any type of harassment, intimidation, bullying or favoritism will result in appropriate disciplinary and/or remedial action. In this regard appropriate consequences and remedial actions for any employee who commits an act of harassment, intimidation, or bullying may, subject to the terms of the then applicable collective bargaining agreement, include, but not be limited to, verbal or written reprimand, increment withholding, legal action, disciplinary action, and/or termination. Remedial measures for any

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staff member who commits an act of harassment, intimidation or bullying may, subject to the terms of the then applicable collective bargaining agreement, include, but not be limited to, in or out-of-school counseling, professional development programs, and work environment modifications.

The Board shall not tolerate an act of reprisal or retaliation against any person who reports an act of harassment, intimidation or bullying. The consequence and appropriate remedial action for an employee or volunteer person who engages in reprisal or retaliation shall be determined by the Superintendent, Building Principal, or his/her designee after consideration of the nature, severity and circumstances of the act, in accordance with case law, Federal and State statutes and regulations and District policies and procedures. The consequences for employees will range from an admonishment to termination of employment. The consequences for a volunteer will range from an admonishment to dismissal from the volunteer position.

**"Whistleblower" Protection**

The Board prohibits discrimination or retaliation against any school employee who does any of the following:

- A. Discloses or threatens to disclose to a supervisor or to a public body an activity, policy or practice of the board that the employee reasonably believes is in violation of a law, or a rule or regulation established pursuant to law;
- B. Provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into any violation of law, or a rule or regulation established pursuant to law by the board; or
- C. Objects to, or refuses to participate in any activity, policy or practice which the employee reasonably believes is in violation of law, rule or regulation; is fraudulent or criminal; or is incompatible with public health, safety or welfare or protection of the environment.

The Board shall ensure that notices are posted conspicuously in each school, informing employees that they are protected under the "Conscientious Employee Protection Act."

**Report on Implementation**

The Superintendent or his/her designee shall devise regulations, including grievance forms and procedures to implement this policy. He/she shall be responsible for informing staff annually of the identity and location of the affirmative action officer and the implementing procedures.

Date: April 29, 1997

Date Revised: February 22, 2010

Reviewed/Revised: March 28, 2011

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**Legal References:**

- N.J.S.A. 10:5-1 *et seq.* Law Against Discrimination  
See particularly:  
N.J.S.A. 10:5-3, -4.1,  
-12, -27
- N.J.S.A. 18A:6-5 Inquiry as to religion and religious tests  
prohibited
- N.J.S.A. 18A:6-6 No sex discrimination
- N.J.S.A. 18A:18A-17 Facilities for handicapped persons
- N.J.S.A. 18A:26-1 Citizenship of teachers, etc.
- N.J.S.A. 18A:26-1.1 Residence requirements prohibited
- N.J.S.A. 18A:29-2 Equality of compensation for male and female  
teachers
- N.J.S.A. 26:8A-1 *et seq.* Domestic Partnership Act
- N.J.S.A. 34:19-1 *et seq.* Conscientious Employee Protection  
Act
- 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, -1.8
- N.J.A.C. 6A:30-1.1 *et seq.* Evaluation of the Performance of School  
Districts
- N.J.A.C. 6A:32-14.1 Review of mandated programs and  
services
- Executive Order 11246 as amended
- 29 U.S.C.A. 201 - 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)

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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)

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

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

The Comprehensive Equity Plan, New Jersey State Department of Education

**Possible  
Cross References:**

2224 Nondiscrimination/affirmative action  
3320 Purchasing procedures  
4111 Recruitment, selection and hiring  
4111.1 Nondiscrimination/Affirmative Action  
4112.8 Nepotism  
4147 Employee safety  
4211 Recruitment, selection and hiring  
4212.8 Nepotism  
4247 Employee Safety  
5131 Conduct/Discipline  
5145.4 Equal educational opportunity  
6121 Nondiscrimination/affirmative action