

NON-DISCRIMINATION/AFFIRMATIVE ACTION

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, marital status, domestic partnership status, familial status, liability for service in the Armed Forces of the United States, 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, 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 Medford Lakes 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 board authorizes the Superintendent to develop and implement a multi-year 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 Superintendent 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 appoint 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.

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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;
- 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.

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 Medford Lakes schools. 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 Superintendent 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 Superintendent/board. Law enforcement shall be summoned when appropriate. This policy

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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.

School and Classroom Practices

In implementing affirmative action, the district shall:

- A. Identify and correct the denial of equality of educational opportunities for pupils solely on the basis of any classification protected by law;
- B. 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.

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 Superintendent 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 noninstructional operations, and the personnel policies of the district at #3320, #3327, #4111.1 and #4211.1.

Disabled

In addition to prohibiting educational and employment decisions based on nonapplicable 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 Superintendent 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.

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Date: *Reviewed: February 21, 2007; January 19, 2011*
Readopted: March 26, 2007; March 23, 2011

Legal References: Use legal reference sheet.

Cross References: List your appropriate policies. See legal reference sheet for possibilities.

Key Words

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

Legal References

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Monitored:

Indicators 1.1, 8.1, 8.2

Mandated:

N.J.S.A. 18A:37-15 requires policy that prohibits harassment, intimidation or bullying on school property, at a school-sponsored function or on a school bus. The board is required to solicit school community input into the policy and to submit the adopted product to the county superintendent. The policy is to be published with any codes of conduct or student handbooks. (See policy 5131 Conduct/discipline).

N.J.A.C. 6A:7-1.4 mandates policy on equal educational opportunity, and recognition of the value of diversity.

Requirements of the multi-year equity plan include policy on various aspects of this topic.

Other Reasons:

The Americans with Disabilities Act (ADA) imposes obligations on boards of education both as employers and providers of education. Many of these obligations duplicate or expand existing obligations under Section 504 and other federal law.

N.J.S.A. 2C:16-1(a)(i) makes a person guilty of the crime of bias intimidation if he commits, attempts to commit, conspires with another to commit, or threatens the immediate commission of an offense with a purpose to intimidate an individual or group of individuals because of race color, religion, gender, handicap, sexual orientation or ethnicity.

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N.J.S.A. 10:5-3 forbids discriminatory practices against any person or that person's spouse by reason of race, creed, color, national origin, ancestry, age, sex, affectional or sexual orientation, marital status, familial status, liability for service in the Armed Forces of the United States, or nationality.

N.J.S.A. 10:5-4.1 applies all provisions of the statutes against discrimination to the disabled.

N.J.S.A. 10:5-12 makes it unlawful to discriminate in employment practices against persons in the above categories and includes genetic information, individuals with atypical hereditary cellular or blood traits, or refusal to submit to a genetic test or make the results of a genetic test known, or domestic partnership status.

N.J.S.A. 10:5-27 reads: "With respect only to affectional or sexual orientation, nothing contained herein shall be construed to require the imposition of affirmative action, plans or quotas as specific relief from an unlawful employment practice or unlawful discrimination."

N.J.A.C. 6A:7-1.4(2)c requires the board to develop a comprehensive equity plan every three years.

N.J.A.C. 6A:7-1.5 requires the board to annually designate a staff member as the affirmative action officer and form an affirmative action team.

N.J.A.C. 6A:7-1.6 requires the board to provide professional development for all school personnel to identify and resolve problems associated with the student achievement gap and other inequities arising from prejudice.

N.J.A.C. 6A:7-1.7 requires the board to provide equal and bias-free access for all students to all school facilities, courses, programs, activities and services.

N.J.A.C. 6A:7-1.8 requires the board to ensure equal and bias free access to all categories of employment in the district.

Recommendation:

A major policy statement here addressing all aspects of school district-related nondiscrimination/affirmative action for pupils and employees. The protected classes should be listed here, because not all will be pertinent in each of the more limited policies in other sections of the manual--personnel, pupils and instruction (4111.1, 4211.1, 5145.4, 6121). The topics of nondiscrimination/affirmative action, the multi-year equity plan and harassment are primary administrative considerations.

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| <u>Legal References:</u> | <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:37-14 | |
| | through -19 | Harassment, intimidation, and bullying defined; definitions |

NONDISCRIMINATION/AFFIRMATIVE ACTIONLegal References (continued)

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| <u>N.J.S.A.</u> 18A:36-20 | Discrimination; prohibition |
| <u>N.J.S.A.</u> 26:8A-1 <u>et seq.</u> | Domestic Partnership Act |
| <u>N.J.A.C.</u> 5:23-7.1 <u>et seq.</u> | Barrier free subcode of the uniform construction code |
| <u>N.J.A.C.</u> 6A:7-1.1 <u>et seq.</u> | Managing for Equality and Equity in Education |
| <u>See particularly:</u> | |
| <u>N.J.A.C.</u> 6A:7-1.4, -1.5, -1.6, -1.7, -1.8 | |
| <u>N.J.A.C.</u> 6A:30-1.1 <u>et seq.</u> | Evaluation of the Performance of School Districts |
| <u>N.J.A.C.</u> 6A:32-12.1 | Reporting requirements |
| <u>N.J.A.C.</u> 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 - 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 of Civil Rights.

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Legal References (continued)

Manual for the Evaluation of Local School Districts

Comprehensive Equity Plan, New Jersey Department of Education

Possible

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| <u>Cross References:</u> | *3320 | Purchasing procedures |
| | *4111 | Recruitment, selection and hiring |
| | *4111.1 | Nondiscrimination/affirmative action |
| | *4131/4131.1 | Staff development; inservice education/visitations/conferences |
| | *4211 | Recruitment, selection and hiring |
| | *4211.1 | Nondiscrimination/affirmative action |
| | *4231/4231.1 | Staff development; inservice 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.