

**Policy**

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**STAFF AND STUDENT PROTECTION FROM SEXUAL HARASSMENT**

It is the policy of the Medford Lakes Board of Education to maintain a learning and working environment that is free from all forms of discrimination, particularly sexual harassment. Sexual harassment is a form of misconduct that undermines the integrity of the employment relationship and learning environment. It also constitutes sex discrimination in violation of state and federal law. No employee or student, either male or female, should be subjected to unsolicited and unwelcome sexual overtures or conduct, either verbal or physical. No employee or student should be subjected to a hostile working or learning environment created by sexual harassment

It will be a violation of this policy for any employee of the Medford Lakes Public School District to harass another employee or pupil through commission of any of the prohibited behaviors listed below, It will also be a violation of this policy for pupils to harass other pupils or employees through commission of any of the prohibited behaviors listed below.

Prohibited Behavior

Sexual harassment shall consist of unwelcome sexual advances, requests for sexual favors, and other inappropriate verbal or physical contact of a sexual nature when made by an employee to another employee or pupil or when made by any pupil to another pupil or employee where:

- submission to such conduct is made either implicitly or explicitly a term or condition of an individual's employment; or
- submission to or rejection of such conduct by an individual is used as the basis for academic or employment decisions affecting that individual; or
- such conduct has the purpose or effect of interfering with an Individual's academic or work performance and thereby creates an intimidating, hostile or offensive educational or work environment.

Prohibited sexual harassment includes unsolicited and unwelcome contact that has sexual overtones, This includes, but is not limited to:

- written contact, such as sexually suggestive or obscene drawings, letters, notes or invitations.
- verbal contact, such as sexually suggestive or obscene comments including remarks about a person's body or rumors about a person's sex life; queries, including those about a person's sexual fantasies, preferences or history; threats, slurs, epithets, jokes about gender specific traits or sexual propositions;
- nonverbal contact such as giving a person unwanted personal gift or following a person;

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- \* physical contact, such as Intentional touching, pinching or brushing against another body, touching oneself in a sexual manner in front of another person, impeding or blocking movement, assault, or coercing sexual intercourse, and
- \* visual contact, such as leering or staring at another person's body, gesturing, or displaying sexually suggestive objects or pictures, cartoons, posters, or magazines.

Sexual harassment also includes continuing to express sexual or social interest after being informed directly that the interest is unwelcome, and includes using sexual behavior to control, influence or affect the career, salary and/or working or educational environment of an employee or pupil.

Sexual harassment may also consist of intimidating, abusive or hostile behavior of a non-sexual nature toward an employee or pupil because of their gender. Verbal abuse and hostility that is not sexual in character but is directed solely at a female staff member or student because they are female, for example, is likewise a violation of this policy on the same level as harassment of a sexual nature.

It is impermissible to threaten, suggest or imply that failure to accept a request for date or sexual intimacy will affect an employee's employment or pupil's educational prospects or benefits. Also, explicitly or implicitly offering educational or employment benefits, such as grades, progress reports, recommendations, promotions, favorable performance evaluations, favorable assigned duties, recommendations or transfers in exchange for sexual favors is forbidden.

Monitoring

The Medford Lakes Board of Education shall take all reasonable steps to see that this policy prohibiting sexual harassment is followed by all employees and pupils.

Discipline

Any employee found to have violated this policy shall be subject to appropriate disciplinary action according to the severity of the offense, such as verbal or written warning, reprimand, suspension, discharge or tenure charges. Any pupil found to have violated this policy shall be subject to appropriate disciplinary action according to the severity of the offense, up to and including suspension and expulsion, consistent with the pupil discipline code.

Retaliation

Retaliation complaints will be promptly investigated. Appropriate disciplinary action will be imposed where retaliation is found.

Any employee or pupil bringing a sexual harassment complaint or assisting in investigating such a complaint will not be adversely affected in terms and conditions of employment or education, nor discriminated against or disciplined as a result, unless the individual has knowingly and maliciously participated in a false complaint or given false testimony. Such an individual will be subject to disciplinary action.

## REPORTING PROCEDURES

Because of the mature and seriousness of sexual harassment in the school environment, the receipt of complaints, investigations and recommendation for disciplinary action, if necessary, shall be the responsibility of the District's Affirmative Action Officer. The Affirmative Action Officer for the Medford

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Lakes School District is shall be designated at the annual reorganization meeting of the Board of Education.

**Reporting Action to be Initiated by Students**Student to Student

The student who in his/her opinion determines he/she has been sexually harassed by another student will follow the following procedures to bring an end to the action (being age appropriate):

- Inform the offender that the behavior is unacceptable,
- Contact his/her teacher and inform him/her of the alleged harasser's behavior.
- The teacher will inform the building principal of the incident within one day of its occurrence. The building principal will discuss the situation with the student and teacher.
- The building principal will contact the Superintendent/Affirmative Action Officer, the parent/guardians of the student who has been allegedly harassed and the parents/guardians of the alleged harasser to inform them of the matter. The administrator will inform the parents/guardians of both parties of the procedure to be followed to resolve the situation.
- The building principal and the Superintendent/Affirmative Action Officer will meet with the student who has been allegedly harassed and the student's parents/guardians.
- After the conference with the student who has been allegedly harassed, the building principal and the superintendent/ affirmative action officer will meet with the alleged harasser and the student's parents/guardians to determine the extent of the offending behavior and prevent any retaliatory behavior on the student's part. The parties will remedy the offensive behavior of the individual.
- The teacher, parents/guardians of both students, the alleged harasser and the alleged harassed student will meet with the school building principal and the Superintendent/Affirmative Action Officer to discuss resolution of the matter.
- The Superintendent/Affirmative Action Officer at the conference will inform each student that he/she may file a formal grievance with the office, if in his/her opinion the harassment continues.

School Employee to Student

The student who in his/her opinion determines he/she has been sexually harassed by a school employee will follow the following procedures to bring an end to the action (being age appropriate):

- Inform the employee that the behavior is unacceptable. Contact his/her teacher and inform him/her of the alleged harasser's behavior.
- The teacher will inform the building principal of the incident within one day of its occurrence. (If the alleged harasser is the one to be contacted, then the student will bypass that individual and contact the next appropriate person i.e. nurse. another teacher etc.)
- The building principal will meet with the student who has been allegedly harassed and the teacher/administrator.
- The building principal and/or teacher will contact the Superintendent/Affirmative Action Officer to apprise them of the matter.
- The building principal will inform the parents/guardians of the student who has alleged the harassment and the alleged harasser and detail the procedure to be followed.
- The Superintendent/Affirmative Action Officer and building principal will meet with the student who claims he/she has been sexually harassed, along with the student's parents/guardian.
- After meeting with the student and his/her parents/guardians, the Superintendent/Affirmative

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Action Officer and school building principal will meet with the employee who is the alleged harasser.

- The Superintendent/Affirmative Action Officer, the building principal, after meeting with the alleged harasser, will inform the student, the parents/guardians of the student, and the employee of the resolution of the matter at separate conferences. Each party will also be informed that he/she may file a formal grievance with the district's superintendent/affirmative action officer if in each party's opinion the sexual harassment continues.

### Reporting Procedures to be Initiated by Employees

#### Employee to Employee:

Any employee who in his/her opinion determines he/she has been sexually harassed by another employee will follow the following procedures to bring an end to the actions:

- Inform the employee offender that the behavior is unacceptable.
- Contact his/her supervisor and inform he/she of the alleged harasser's behavior.
- The supervisor will inform the building principal or other proper administrator of the incident within one day of its occurrence.
- The building principal/administrator will contact the Superintendent/Affirmative Action Officer and apprise this individual of the matter. The building principal/administrator and the Superintendent/Affirmative Action Officer will meet with the employee who has been allegedly harassed. After the conference with the employee who has been allegedly harassed, the building principal/administrator and the Superintendent/Affirmative Action Officer will meet with the alleged harasser to determine the extent of the offending behavior and prevent any retaliatory behavior on each employee's part. The parties will remedy the offensive behavior of the Individual. The building principal/administrator and the Superintendent/Affirmative Action Officer will meet with the alleged harasser and the alleged harassed employee to discuss the resolution of the matter. The Superintendent/Affirmative Action Officer at the conference will inform each employee that he/she may file a formal grievance with the office, if in his/her opinion the harassment continues.

Any person who feels the sexual harassment as defined herein continues after the above guidelines are followed may file a formal grievance with the Superintendent/Affirmative Action Officer. Teachers who observe sexual harassment between students shall not only report the matter to the principal but also the Superintendent/Affirmative Action Officer. The filing of a bona fide complaint or otherwise reporting sexual harassment will not adversely affect the individual's employment status, or future terms and conditions of employment or grades.

#### Investigation of Formal Grievances

As long as the Affirmative Action Officer is also the Superintendent, the Superintendent will decide whether to bring the investigation of formal grievances to the Board of Education level or have the investigation conducted by any other investigative source deemed appropriate. Otherwise, the Affirmative Action Officer will promptly commence an investigation of the alleged sexual harassment which may include interviews and written statements from the victim, the alleged harasser and any witnesses. The Affirmative Action Officer may request the assistance of counsel or other supervisory personnel in conducting the investigation. Confidentiality shall be maintained throughout the investigation process.

A written report of the investigation shall be prepared by the Affirmative Action Officer or other appropriate official within seven days of the conclusion of the investigation, with a copy sent to the victim and the alleged harasser. The report shall contain recommendations for remedial measures and disciplinary action.

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if necessary. Within ten (10) days the Superintendent can adopt, amend, reject or direct that additional investigation be undertaken once the report is complete.

Any person who has filed a formal grievance with the Superintendent/Affirmative Action Officer and is not satisfied with the Investigation may file the grievance directly with the Board of Education. The Board President shall be notified and the applicable procedures as outlined above will be triggered.

Remedial Measures

If the allegations of sexual harassment are found to continue after the Initial guidelines outlined previously are followed, the Superintendent shall immediately institute remedial and/or corrective action plan which may include counseling, change in work assignments, or disciplinary action shall be consistent with the collective bargaining agreement and, if applicable, the New Jersey Tenure Hearing Act. The victim of sexual harassment shall be informed of the nature of any disciplinary action taken. A substantiated charge against a student shall be consistent with the student disciplinary code and may include suspension or expulsion. All due process procedures applicable to student disciplinary actions shall be followed.

The Superintendent/Affirmative Action Officer shall insure that the remedial action taken by the District has been effective in stopping the harassment and that no retaliation has occurred.

Appeal

If any individual aggrieved with the investigation, findings and/or remedies of pursuant to this policy, he/she may assert any right of appeal contained in the collective bargaining agreement, if appropriate, file a complaint with the New Jersey Division on Civil Rights, or pursue any other civil remedy.

Notice of this policy will be circulated at both schools in the Medford Lakes School District on an annual basis and incorporated into teacher and student handbooks. The policy shall also be permanently placed on all employee bulletin boards. Training sessions on this policy and the prevention of sexual harassment shall be held for supervisory personnel, teachers and students in all schools during appropriate in service training programs and orientation sessions.

Employee Responsibility

It is the duty of all members of the Medford Lakes School Community to be familiar with this policy. More importantly, each employee and student has a stake in preventing sexual harassment and thus shares responsibility with the Board in eliminating sexual harassment in the workplace and learning environment. Employees and students who feel victimized by sexual harassment are encouraged to come forward with complaints. Employees should also inform their coworker or supervisor in no uncertain terms that conduct is offensive and unwelcome. Often disputes arise only because of misperceptions and insensitivity, which can be corrected simply through communication. If self-help remedies do not resolve the dispute, report the matter promptly to the Affirmative Action Officer. Also, employees have a responsibility to cooperate fully with the investigation of sexual harassment. Although the extent of each investigation will vary, confidentiality and cooperation are crucial at all levels. Finally, any retaliatory conduct or recurrence of the offensive behavior should be reported immediately.

***Date reviewed: January 19, 2000***

***Date readopted: January 19, 2000; May 4, 2011***

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**Legal References****Monitored:**

Indicators 1.1(1)(f), 8.1(1)(a), 8.1(1)(e); procedural guidelines 1.1

**Mandated:**

N.J.A.C. 6:4-1.3 mandates policy on equal educational opportunity.

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. 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 individuals with atypical hereditary or cellular blood traits.

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. 6:4-1.3(b) requires development of two affirmative action plans: employment and contract practices, and school and classroom practices.

N.J.A.C. 6:4-1.3(d) states: "As part of its affirmative action programs or plans, each local school district shall arrange for or provide inservice training for school personnel on a continuing basis to identify and resolve problems arising from prejudice on the basis of race, color, creed, religion, sex, ancestry, national origin or social or economic status."

N.J.A.C. 6:4-1.5(c) addresses pregnancy, childbirth, pregnancy-related disabilities, actual or potential parenthood, or family or marital status as protected grounds on which students may not be discriminated against.

N.J.A.C. 6:4-1.7 requires approval and continuing implementation of the two plans.

**Legal References:**

N.J.S.A. 2C:33-4	Harassment
N.J.S.A. 10:5-1 et seq.	Law Against Discrimination
N.J.S.A. 18A:6-5, -6	Inquiry as to religion and religious tests prohibited ...
N.J.S.A. 18A:18A-17	Facilities for handicapped persons
N.J.S.A. 18A:26-1, -1.1	Citizenship of teachers, etc. ...
N.J.S.A. 18A:29-2	Equality of compensation for male and female teachers
N.J.S.A. 18A:36-20	Discrimination; prohibition
N.J.A.C. 5:23-7	Barrier free subcode of the uniform construction code
N.J.A.C. 6:4-1.1 et seq.	Equality in educational programs
See particularly:	
N.J.A.C. 6:4-1.3, -1.5, -1.6	

N.J.A.C. 6:8-4.3	Quality assurance
N.J.A.C. 6:8-4.10 and services	State and Federally mandated programs

Executive Order 11246 as amended

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

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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. - Education of the Handicapped Act  
42 U.S.C.A. 12101 et seq. - Americans with Disabilities Act (ADA)  
Meritor Savings Bank v. Vinson, 106 S. Ct. 2399 (1986)  
School Board of Nassau County v. Arline, 107 S. Ct. 1123 (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. F. 3d (3d Cir. 1996)  
Manual for the Evaluation of Local School Districts (June 1993)  
Multi-year Equity Plan for 1996-97 through 1998-99, SDOE Bureau of Equal Educational Opportunity, Doc. #MISM260040699

**Possible Cross References:**

*2224.1	Staff and Student Protection from Sexual Harassment
*2224.2	Harassment

\*Indicates policy is included in the Critical Policy Reference Manual.

