



THE NEWARK PUBLIC SCHOOLS Newark, New Jersey POLICY



FILE CODE: 4111.1

(Page 1 of 4)

NONDISCRIMINATION/AFFIRMATIVE ACTION

The State District Superintendent guarantees to all persons equal access to all categories of employment and advancement in the Newark Public Schools (the "District") District, regardless 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, atypical hereditary cellular or blood trait of any individual, nonapplicable disability or of genetic information or refusal to submit to or make available the results of 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, 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 District's Affirmative Action Officer shall identify and recommend correction of any existing and future inequities.

All District employees and students are required to cooperate in any investigation by the District's Affirmative Action Officer. Those District employees and/or students refusing to take part in an investigation, may be subject to disciplinary action.

Harassment and Favoritism

The District is an affirmative action employer and holds all its employees responsible for maintaining a working environment that is free from all discriminatory practices. Harassment or favoritism on any basis is prohibited.

District administrators and supervisors shall become familiar with the actions that constitute harassment and favoritism. This material shall be included in the legally mandated affirmative action inservice training for all employees, and shall be clear and specific. (See District policy File Code: 2224.) When harassment and/or favoritism have been determined to have taken place, disciplinary action will follow. All such determinations shall be reported to the State District Superintendent .

Sexual Harassment

It is the policy of the District to maintain an instructional and working environment that is free from harassment of any kind. District administrators and supervisors will make it clear to all District employees, students, and vendors that sexual harassment is prohibited. Sexual harassment shall be specifically addressed in the affirmative action in-service programs District employees.

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 (see File Code 2224).

Sexual harassment of District employees or children interferes with the learning process and will not be tolerated in the District. Sexual harassment by Advisory Board members, employees, parents, students,

NONDISCRIMINATION/AFFIRMATIVE ACTION (continued)

vendors and others doing business with the District is prohibited. Any student who has knowledge of or feels victimized by sexual harassment should immediately report his/her allegation to the building principal and/or designee. Anyone else who has knowledge of or feels victimized by sexual harassment should immediately report his/her allegation to the District Affirmative Action Officer. Employees whose behavior is found to be in violation of this policy will be subject to the investigation procedure, which may result in disciplinary action, 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 State District Superintendent. This policy statement on sexual harassment shall be made available to all District employees.

District employees or students may file a formal grievance related to sexual harassment on any of the grounds addressed in this policy. The Affirmative Action Officer will receive all complaints and carry out a thorough investigation, and will protect the rights of both the person making the complaint and the alleged sexual harasser.

Findings of harassment will result in appropriate disciplinary action.

"Whistleblower" Protection

The State District Superintendent and/or designee prohibits discrimination or retaliation against any District 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 District that the District 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 District; or
- C. Objects to, or refuses to participate in any activity, policy or practice which the District employee reasonably believes is in violation of law, rule or regulation; is fraudulent or criminal; or is incompatible with public health, safety or welfare.

The District 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 State District Superintendent in collaboration with the local school board shall devise regulations, including grievance forms and procedures to implement this policy. The State District Superintendent and/or designee shall be responsible for informing District employees annually of the identity and location of the Affirmative Action Officer and the implementing procedures.

Date Adopted by State District Superintendent: January 25, 2005

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

NONDISCRIMINATION/AFFIRMATIVE ACTION (continued)

<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> 26:8A-1 <u>et seq.</u>	Domestic Partnership Act
<u>N.J.S.A.</u> 34:19-1 <u>et seq.</u>	Conscientious Employee Protection Act
<u>N.J.A.C.</u> 6:8-4.1	Review of mandated programs and services
<u>N.J.A.C.</u> 6A:7-1.1 <u>et seq.</u>	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

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)

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)

Manual for the Evaluation of Local School Districts (September 2002)

Multi-year Equity Plan for the Academic Years 2000-2001 through 2002-2003,
New Jersey State Department of Education Division of Student Services Office
of Bilingual Education and Equity Issues

NONDISCRIMINATION/AFFIRMATIVE ACTION (continued)

<u>Cross References:</u>	2224	Nondiscrimination/affirmative action
	3320	Purchasing procedures
	4111	Recruitment, selection and hiring
	4112.8	Nepotism
	4147	Employee safety
	5145.4	Equal educational opportunity
	6121	Nondiscrimination/affirmative action