

**ESTELL MANOR SCHOOL DISTRICT**  
**Estell Manor, New Jersey**

**Policy Manual**

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TABLE OF CONTENTS

**2000 Administration**

2000/2010	Concepts and Roles in Administration; Goals and Objectives
2121	Line of Responsibility
2130	Principal Evaluation <ul style="list-style-type: none"><li>• Regulation</li></ul>
2131	Superintendent
2210	Administrative Leeway in Absence of Board Policy
2224	Nondiscrimination/Affirmative Action
2224.1	Title IX – Sex Based Discrimination <ul style="list-style-type: none"><li>• Regulation</li><li>• Report form</li></ul>
2240	Research, Evaluation and Planning
2255	Action Planning for NJQSAC

**ESTELL MANOR SCHOOL DISTRICT**  
**Estell Manor, New Jersey**

**FILE CODE: 2000/2010**

☐ **Monitored**

☐ **Mandated**

☒ **Other Reasons**

**Policy**

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CONCEPTS AND ROLES IN ADMINISTRATION; GOALS AND OBJECTIVES

The Estell Manor Board of Education shall establish policies that govern all aspects of district operations. The board expects the educational administration to direct, coordinate and supervise students and staff in their efforts to reach goals and objectives adopted by the board.

Within the guidelines of board policy, negotiated agreements and New Jersey law, the board expects the educational administration to:

- A. Provide up-to-date information and sound professional advice to the board, as an aid in informed decision making;
- B. Plan, organize, implement and evaluate the educational programs established by board policy, in order to provide optimum educational opportunities to the students of the district;
- C. Provide these optimum educational opportunities at the lowest possible cost;
- D. Use efficient administrative and management procedures including supervision and evaluation of teaching staff, pursuant to law and regulations, and developed after consultation with and among the board, administrators and appropriate staff members;
- E. Coordinate the resources of the community with those of the district;
- F. Keep the board informed of all new legislative actions or changes in code and statute that affect the policies, programs or operations of the district.

Adopted: June 19, 2000  
NJSBA Review/Update: July 2021  
Readopted: October 27, 2021

Key Words

Administrative Role

<b>Legal References:</b>	<u>N.J.S.A. 18A:7A-3 et al.</u>	<u>Public School Education Act of 1975</u>
	<u>N.J.S.A. 18A:7F-43 et seq.</u>	<u>School Funding Reform Act of 2008</u>
	<u>N.J.S.A. 18A:11-1</u>	General mandatory powers and duties
	<u>N.J.S.A. 18A:12-21 et seq.</u>	<u>School Ethics Act</u>
	<u>N.J.S.A. 18A:54-20</u>	Powers of board (county vocational schools)
	<u>N.J.A.C. 6A:8-1.1 et seq.</u>	Standards and Assessment
	<u>N.J.A.C. 6A:28-1.1 et seq.</u>	School Ethics Commission
	<u>N.J.A.C. 6A:30-1.1 et seq.</u>	Evaluation of the Performance of School Districts
	<u>N.J.A.C. 6A:32-1.1 et seq.</u>	School District Operations

**Possible**

**Cross References:** \*2131 Superintendent  
\*2210 Administrative leeway in absence of board policy

CONCEPTS AND ROLES IN ADMINISTRATION;  
GOALS AND OBJECTIVES (continued)

- 3293.1 Signatures/facsimiles
- \*4111 Recruitment, selection and hiring
- \*4115 Supervision
- \*4116 Evaluation
- \*4211 Recruitment, selection and hiring
- \*4215 Evaluation
- \*9000 Role of the board
- \*9313 Formulation, adoption, amendment of administrative regulations

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

**ESTELL MANOR SCHOOL DISTRICT**  
**Estell Manor, New Jersey**

**FILE CODE: 2121**  
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**Policy**

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**LINE OF RESPONSIBILITY**

The Estell Manor Board of Education shall operate under a unit control system headed by the superintendent.

The authority of the board of education is transmitted through the superintendent along specific paths from person to person as shown in the organization chart of the school district. The lines of authority represent direction of authority and responsibility. The lines are those approved by the board of education and are intended to establish clear understanding on the part of all personnel of the working relationships in the school system.

Personnel are expected to refer matters requiring administrative action to the administrator to whom they are responsible. Personnel are expected to keep the person to whom they are immediately responsible informed of their activities by appropriate means.

Adopted: June 19, 2000  
NJSBA Review/Update: July 2021  
Readopted: October 27, 2021

**Key Words**

Unit Control, Dual Control, Line of Authority, Organization Chart

<u><b>Legal References:</b></u>	<u>N.J.S.A.</u> 18A:11-1	General mandatory powers and duties
	<u>N.J.S.A.</u> 18A:17-5	Secretaries, Assistant Secretaries and School Business
	through -14.3	Administrators
	<u>N.J.S.A.</u> 18A:17-15	Superintendents and Assistant Superintendent of
	through -23	Schools
	<u>N.J.S.A.</u> 18A:17-24.1 <u>et seq.</u>	Shared Administrators, Superintendents
	<u>N.J.S.A.</u> 18A:54-20	Powers of board (county vocational schools)
	<u>N.J.A.C.</u> 6A:9B-12.3	Authorization
	<u>N.J.A.C.</u> 6A:9B-12.4	School administrator
	<u>N.J.A.C.</u> 6A:9B-12.7	School business administrator
	<u>N.J.A.C.</u> 6A:32-2.1	Definitions (superintendent)

**Possible**

<u><b>Cross References:</b></u>	*1312	Community complaints and inquiries
	2100	Administrative staff organization
	*2131	Superintendent
	*2210	Administrative leeway in absence of board policy
	*3000/3010	Concepts and roles in business and noninstructional operations; goals and objectives
	9123	Appointment of board secretary
	*9313	Formulation, adoption, amendment of administrative regulations

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

**Regulation**

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PRINCIPAL EVALUATION

**GENERAL STATEMENT**

The board of education directs the superintendent to oversee the implementation of the evaluation process for all principals, vice-principals and assistant principals. The board recognizes that the procedures for the implementation of the evaluation process shall in part depend on the specific procedural instructions accompanying the board adopted evaluation rubrics and practice instruments. Therefore, the board directs the superintendent to dedicate the supervisory staff necessary to conduct the evaluation process according to such instruction within the time frames detailed in law and board policy.

**STAFF RESPONSIBLE**

The following chart lists the staff members responsible for the implementation of the regulation and summarizes their responsibilities:

<b>Position</b>	<b>Summary of Main Responsibilities</b>
Superintendent	<ul style="list-style-type: none"><li>• General policy and procedure oversight within the district</li><li>• Developing and recommending for board adoption the evaluation rubrics and practice instruments</li><li>• Complete training and ensure all administrators conducting evaluations receive training on the evaluation process</li><li>• Conduct observations and designate staff to conduct observations and post-observation conferences</li><li>• Report district evaluation data to the board</li></ul>
Building principal	<ul style="list-style-type: none"><li>• General oversight of policy and procedures in the school</li><li>• Conduct observations and post-observation conferences of assistant and vice principals</li></ul>
Principal, vice principal, assistant principal	<ul style="list-style-type: none"><li>• Receive training in observation, evaluation rubrics, practice instruments</li></ul>
School leader	<ul style="list-style-type: none"><li>• Complete training in implementation of the evaluation rubric, fully and appropriately observe and evaluate staff members pursuant to district policy</li></ul>
Board of education	<ul style="list-style-type: none"><li>• Approve evaluation rubric and practice instruments</li><li>• Annually readopt teacher evaluation policies and procedures</li></ul>

**DEFINITIONS**

"Observation" means a method of collecting data on the performance of a teaching staff member's assigned duties and responsibilities. An observation for the purpose of evaluation will be included in the determination of the annual summative evaluation rating and shall be conducted by an individual employed in the school district in a supervisory role and capacity and possessing a school administrator, principal, or supervisor endorsement. Short observations shall last at least 20 minutes. Long observations shall last at least 40 minutes or one class period, whichever is longer.

"School leader" means a district staff member who holds a position that requires the possession of a superintendent, principal, or supervisor endorsement, however for the purposes of Policy File Code 2130 and

PRINCIPAL EVALUATION (regulation continued)

Regulation File Code 2130, the term does not include the superintendent.

"Student growth objective" means an academic goal that teachers and evaluators set for groups of students.

"Student growth percentile" means a specific metric for measuring individual student progress on statewide assessments by tracking how much a student's test scores have changed relative to other students Statewide with similar scores in previous years.

"Supervisor" means an appropriately certified teaching staff member, as defined in N.J.S.A. 18A:1-1, or superintendent employed in the school district in a supervisory role and capacity, and possessing a school administrator, principal, or supervisor endorsement.

"Teacher" means a teaching staff member who holds the appropriate standard, provisional, or emergency instructional certificate issued by the State Board of Examiners and is assigned a class roster of students for at least one particular course.

"Teaching staff member" means a member of the professional staff of any district or regional board of education, or any county vocational school district board of education, holding office, position, or employment of such character that the qualifications for such office, position, or employment require him or her to hold a valid, effective, and appropriate standard, provisional, or emergency certificate issued by the State Board of Examiners.

**PROCEDURES**

As part of the evaluation rubric, the board shall approve and adopt a principal practice evaluation instrument that appears on an approved list provided by the Department of Education or shall obtain Commissioner approval to implement a district evaluation instrument.

Annually the superintendent shall submit the evaluation rubric by June 1 for Commissioner approval by August 1. The evaluation rubrics shall include all relevant minimum standards set forth in (N.J.S.A. 18A:6-123):

- A. Four defined annual ratings: ineffective, partially effective, effective, and highly effective;
- B. The evaluation rubric must be partially based on multiple objective measures of student learning that assess student growth from one year's measure to the next year's measure;
- C. The district may determine the methods for measuring student growth, in grades in which a state test is not required;
- D. Multiple measures of practice and student learning are used in conjunction with professional standards of practice using a comprehensive evaluation process in rating effectiveness with specific measures and implementation processes;
- E. Standardized assessments shall be used as a measure of student progress but shall not be the predominant factor in the overall evaluation of a teacher;
- F. The rubric is based on the professional standards for that employee;
- G. The performance measures used in the rubric are linked to student achievement;
- H. The employee receives multiple observations during the school year which shall be used in evaluating the employee;
- I. At each observation of a teacher, either the principal, his or her designee who is employed by the district

PRINCIPAL EVALUATION (regulation continued)

in a supervisory role and capacity, and who possesses a school administrator certificate, principal certificate, or supervisor certificate, the vice-principal, or the assistant principal shall be present. The staff member who will be observing shall receive training on the use of the teaching practice observation instrument. The training shall be completed before the evaluator conducts the observation;

- J. An opportunity for the employee to improve his or her effectiveness from evaluation feedback;
- K. Guidelines regarding training and the demonstration of competence on the evaluation system to support its implementation;
- L. A process for ongoing monitoring and calibration of the observers to ensure that the observation protocols are being implemented correctly and consistently (the Commissioner has developed suggested calibration protocols that can be accessed [here](#));
- M. A performance framework, associated evaluation tools, and observation protocols, including training and observer calibration resources;
- N. A process for a school district to obtain the approval of the commissioner to utilize other evaluation tools; and
- O. A process for ensuring that the results of the evaluation help to inform instructional development.
- P. The superintendent shall ensure that the Board approved evaluation rubric is filed with the Commissioner of Education on or before June 1 of each school year. ([Additional rubric information can be found at the AchieveNJ website.](#))

Training

The superintendent shall ensure that all principals, vice principals, assistant principals and supervisors successfully complete the required training detailed in board policies 2130 Principal Evaluation and 4116 Evaluation of Teaching Staff Members.

The superintendent is directed to:

- A. Complete annual training on the evaluation rubric for all principals being evaluated in the school district. Training shall include all evaluation rubric components including detailed descriptions of student achievement components, and all aspects of the principal practice and principal observation components of the evaluation instruments. Such training shall be completed before the superintendent conducts his or her first observation.
- B. Complete training on the educator practice instruments for the evaluation of teaching staff members.
- C. Complete annual updates and/or refresher training on the educator practice instruments for the purpose of increasing accuracy and consistency among observations.
- D. Annually, the superintendent shall certify to the Department of Education that all supervisors of teaching staff members who are utilizing educator practice instruments have completed training on the instrument and its application and have demonstrated competency in applying the educator practice instruments.

The superintendent is further directed to:

- E. Establish a training program that includes instruction on each component of the Commissioner approved evaluation rubric for all principal, assistant principal, and vice-principal who are being evaluated, with more comprehensive training for any principal, assistant principal, and vice-principal who is being evaluated for the first time. The training shall include detailed descriptions of all evaluation rubric

PRINCIPAL EVALUATION (regulation continued)

components including detailed descriptions of student achievement measures, principal practice and principal observations.

- F. Provide training on the Commissioner approved principal practice instrument for any supervisor who will conduct observations for the purpose of evaluating teaching staff members. Training must be completed before the supervisor conducts his or her first observation for the purpose of evaluation.
- G. Annually provide updates and refreshers on the approved educator practice instruments for each supervisor who will observe educator practice for the purpose of increasing accuracy and consistency among observers.
- H. Annually require each supervisor who will conduct observations for the purpose of evaluation of a teacher to complete two co-observations during the academic year.
  - 1. Co-observers shall use the co-observation to promote accuracy in scoring, and to continually train themselves on the instrument.
  - 2. A co-observation shall count as one required observation for the purpose of evaluation pursuant to N.J.A.C. 6A:10-4.4, as long as the observer meets the requirements set forth in N.J.A.C. 6A:10-4.3 and 4.4

The superintendent shall notify all teaching staff members of the adopted policies and procedures by October 1 of each academic year. The board shall also ensure that the superintendent notifies newly hired staff of the evaluation policies and procedures within the first ten days of employment and that all teaching staff members are notified of any revisions to policy or procedure within ten days of adoption or issuance.

Measurements of the Principal Evaluation Rubric

- A. Measures of student achievement (N.J.A.C. 6A:10-5.2) shall be used to determine impact on student learning and the approved principal evaluation rubric shall include the following student achievement components:
  - 1. The school-wide student growth percentile, where applicable, of all students assigned to the principal;
  - 2. The average of the student growth objective scores of every teacher assigned to the principal; and
  - 3. Administrator goals set by principals, vice principals, and assistant principals in consultation with their supervisor which shall be specific and measurable, based on student growth and/or achievement data.

Student Growth Percentiles

The schoolwide student growth percentile score shall be included in the annual summative rating of principals, assistant principals, and vice principals who are assigned to a school as of October 15 and who are employed in schools where student growth percentiles are available for students in one or more grades. If a principal, assistant principal, or vice principal is employed in more than one school, the superintendent shall assign to the administrator, as appropriate, the schoolwide student growth percentile from one school and shall notify the administrator at the beginning of the school year of the school student growth percentile assignment.

The New Jersey Department of Education shall calculate the schoolwide student growth percentile for principals, assistant principals, and vice principals.

Average Student Growth Objective Scores

The average student growth objective (SGO) scores of all teachers, as described in law and board policy and regulation (N.J.A.C. 6A:10-4.2(e); see 4116 Teacher Evaluation, policy and regulation for more specific information on SGO) shall be a component of the principal's annual summative rating. The average student



PRINCIPAL EVALUATION (regulation continued)

growth objective scores for assistant principals or vice principals shall be determined according to the following procedures:

- A. The principal, in consultation with the assistant principal or vice principal, shall determine prior to the start of the year, which teachers, if not all teachers in the school, shall be linked to the assistant principal and vice principal's average student growth objective score;
- B. If the assistant principal or vice principal does not agree with the list of teachers linked to his or her name for the purposes of this measurement, the principal shall make the final determination. ([More information can be found here.](#))

Administrator Goals

Administrator goals for principals, assistant principals, or vice-principals shall be developed and measured according to the following procedures:

- A. The superintendent shall determine for all principals, assistant principals, or vice principals, the number of required administrator goals which shall reflect the achievement of a significant number of students within the school. By April 15 prior to the school year in which the evaluation rubric applies, the Department shall provide on the Department's website the minimum and maximum number of required goals, which will be at least one goal and no more than four goals;
- B. Principals, assistant principals, or vice principals shall develop in consultation with their designated supervisor, each administrator goal.
- C. Each vice principal and assistant principal shall set goals specific to his or her job description or adopt the same goals as his or her principal. If the principal, assistant principal, or vice principal and his or her supervisor do not agree upon the administrator goal score, the principal, assistant principal, or vice principal's supervisor shall make the final determination.
- D. Administrator goals and the criteria for assessing performance based on those objectives shall be determined, recorded, and retained by the principal, vice principal, or assistant principal and his or her designated supervisor by October 31 of each academic year, or within 25 work days of the principal, vice principal, or assistant principal's start date if he or she begins work after October 1.
- E. The administrator goal score shall be calculated by the designated supervisor of the principal, vice principal, or assistant principal. The principal, vice principal, or assistant principal's administrator goal score, if available, shall be discussed at his or her annual summary conference and recorded in his or her personnel file.

Measures of Principal Practice

Measures of principal practice shall include a measure determined through a Commissioner-approved principal practice instrument, and may include a leadership measure determined through the Department-created leadership rubric.

Principal practice component rating shall be based on the measurement of the principal, assistant principal, or vice principal's performance according to the school district's Commissioner-approved principal practice instrument. Observations pursuant to N.J.A.C. 6A:10-5.4 shall be used as one form of evidence for this measurement.

Leadership practice shall be determined by a score on a leadership rubric, which will assess the principal, vice-principal, or assistant principal's ability to improve student achievement and teaching staff member effectiveness through identified leader behaviors. The rubric will be posted on the Department of Education's website and annually maintained.

PRINCIPAL EVALUATION (regulation continued)Principal, Assistant Principal, and Vice Principal Observations

The superintendent, or his or her designee, shall conduct observations for the evaluation of principals.

A principal, or a superintendent or his or her designee, shall conduct observations for the evaluation of assistant principals and vice principals.

For the purpose of collecting data for the evaluation of a principal, assistant principal, or vice principal, an observation may include, but is not limited to: building walk-through, staff meeting observation, parent conference observation, or case study analysis of a significant student issue.

Each tenured principal, assistant principal, and vice principal shall be observed at least two times during each school year. Each nontenured principal, assistant principal, and vice principal shall be observed at least three times during each school year, as required by N.J.S.A. 18A:27-3.1. During the first year of employment, the three required observations shall be completed by April 30. The number of required observations shall be prorated if the principal, assistant principal or vice principal has been employed for less than one academic year on April 30.

Post-observation conferences shall include the following procedures:

- A. The supervisor who is present at the observation shall conduct a post-observation conference with the principal, assistant principal, or vice principal being observed. A post-observation conference shall occur no more than 15 teaching staff member working days following each observation;
- B. The post-observation conference shall be for the purpose of reviewing the data collected at the observation, connecting the data to the principal practice instrument and the principal, assistant principal, or vice principal's individual professional development plan, collecting additional information needed for the evaluation, and offering areas to improve effectiveness;
- C. With the consent of the observed principal, assistant principal, or vice principal, post-observation conferences for individuals who are not on a corrective action plan may be conducted via written communication, including electronic communication;
- D. One post-observation conference may be combined with the principal, assistant principal, or vice principal's annual summary conference as long as it occurs within the required 15 teaching staff member working days following the observation;
- E. A written or electronic evaluation report shall be signed by the supervisor who conducted the observation and post-observation and the principal, assistant principal, or vice principal who was observed;
- F. The principal, assistant principal, or vice principal shall submit his or her written objection(s) of the evaluation within 10 working days following the conference. The objection(s) shall be attached to each party's copy of the annual written performance report.

An additional observation and post-observation conference shall be required as part of the corrective action plan for any principal, assistant principal or vice-principal who has been rated ineffective or partially effective on the annual summative evaluation, as measured by the evaluation rubrics.

Professional Development Plans

The superintendent shall oversee and review for each principal and supervisor, professional development that links to individual, school, and district professional development goals and the school district's professional development plan.

PRINCIPAL EVALUATION (regulation continued)

Each school leader shall create, implement, and complete an individual professional development plan (PDP) that:

- A. Aligns with the Professional Standards for School Leaders (N.J.A.C. 6A:9-3.4) and the Standards for Professional Learning (N.J.A.C. 6A:9C-3.3);
- B. Derives from the results of observations, evidence, and recommendations included in the annual performance evaluation of the school leader;
- C. Identifies professional goals that address specific individual, school, or district goals; and
- D. Grounds professional learning in objectives related to improving teaching, learning, and student achievement, and aligns to the school and/or school district plan for professional development; and
- E. Includes training on: school law, ethics, and governance; and other statutory requirements related to student safety, bullying and harassment, and well-being.
- F. The superintendent/designee shall:
  - 1. Review each school leader's individual PDP and individual training needs to ensure alignment to district goals and the school district's plan for professional development;
  - 2. Meet with the principal, supervisor, or other school leader at mid-year to assess progress toward his or her PDP's completion or modification; and
  - 3. Review the individual PDP's status as part of the principal's, supervisor's, or other school leader's annual performance evaluation.

*Note: see board policy 4131/4131.1 Staff Development*

Corrective Action Plans

A principal, assistant principal and vice principal are included in the definition of teaching staff member, in accordance with N.J.A.C. 6A:10-1.2 Definitions.

- A. For each principal, assistant principal or vice principal rated ineffective or partially effective on the annual summative evaluation, as measured by the evaluation rubrics, a corrective action plan shall be developed by that principal, assistant principal or vice principal and their designated supervisor. If the principal, assistant principal or vice principal does not agree with the corrective action plan's content, the designated supervisor shall make the final determination. The corrective action plan shall be developed according to the procedures detailed in board policy 2130 Principal Evaluation and 4131/4131.1 Staff Development.
- B. The corrective action plan shall be developed and the principal, assistant principal or vice principal and his or her designated supervisor shall meet to discuss the corrective action plan by October 31 of the school year following the year of evaluation;
- C. When the ineffective or partially effective summative evaluation rating is received after October 1 of the school year following the year of evaluation, a corrective action plan shall be developed, and the principal, assistant principal or vice principal and his or her designated supervisor shall meet to discuss the corrective action plan within 25 teaching staff member working days following the school district's receipt of the teaching staff member's summative rating;
- D. The content of the corrective action plan shall replace the content of the individual professional development plan required in N.J.A.C. 6A:9C-4.3(a) and 4.4(a) and shall:
  - 1. Address areas in need of improvement identified in the evaluation rubric;

PRINCIPAL EVALUATION (regulation continued)

2. Include specific, demonstrable goals for improvement;
  3. Include responsibilities of the evaluated employee and the school district for the plan's implementation; and
  4. Include timelines for meeting the goal(s).
- E. The principal, assistant principal or vice principal's designated supervisor and the teaching staff member on a corrective action plan shall discuss the principal, assistant principal or vice principal's progress toward the goals outlined in the corrective action plan during each required post-observation conference, pursuant to N.J.S.A. 18A:27-3.1 or N.J.A.C. 6A:10-4.4. The principal, assistant principal or vice principal and his or her designated supervisor may update the goals outlined in the corrective action plan to reflect any change(s) in the teaching staff member's progress, position, or role.
- F. Progress toward the principal, assistant principal or vice principal's goals outlined in the corrective action plan shall be documented in the teaching staff member's personnel file and reviewed at the annual summary conference and the mid-year evaluation. Both the teaching staff member on a corrective action plan and his or her designated supervisor may collect data and evidence to demonstrate the teaching staff member's progress toward his or her corrective action plan goals.
- G. Progress toward the teaching staff member's goals outlined in the corrective action plan may be used as evidence in the school leader's next annual summative evaluation; however, such progress shall not guarantee an effective rating on the next summative evaluation.
- H. Responsibilities of the evaluated employee on a corrective action plan shall not be exclusionary of other plans for improvement determined to be necessary by the teaching staff member's designated supervisor.
- I. A superintendent, or his or her designee, and the principal, as appropriate, shall conduct a mid-year evaluation of any school leader pursuant to N.J.S.A. 18A:6-121(c), where the school leader was rated ineffective or partially effective in his or her most recent annual summative evaluation. The mid-year evaluation shall occur approximately midway between the development of the corrective action plan and expected receipt of the next annual summative rating. The mid-year evaluation shall include, at a minimum, a conference to discuss progress toward the school leader's goals outlined in the corrective action plan. The mid-year evaluation conference may be combined with a post-observation conference.

The superintendent shall ensure principals, vice principals and assistant principals with a corrective action plan receive one observation and a post-observation in addition to the observations required in N.J.A.C. 6A:10-5.4 for the purpose of evaluation, as described in N.J.A.C. 6A:10-1.2 and 5.4.

The corrective action plan shall remain in effect until the teaching staff member receives his or her next summative evaluation rating.

There shall be no minimum number of teaching staff member working days that a teaching staff member's corrective action plan can be in place.

Records

All information contained in written performance reports and all information collected, compiled, and/or maintained by employees of the district for the purposes of conducting the educator evaluation process pursuant to this chapter shall be confidential. Such information shall not be subject to public inspection or copying pursuant to the Open Public Records Act, N.J.S.A. 47:1A-1 et seq. Nothing contained in this section shall be construed to prohibit the Department of Education from, at its discretion, collecting evaluation data pursuant to N.J.S.A. 18A:6-123(e) or distributing aggregate statistics regarding evaluation data.

All information contained in annual performance reports and all information collected, compiled, and/or maintained by employees of a district board of education for the purposes of conducting the educator evaluation process, including, but not limited to, digital records, shall be confidential. Such information shall

PRINCIPAL EVALUATION (regulation continued)

not be subject to public inspection or copying pursuant to the Open Public Records Act, N.J.S.A. 47:1A-1 et seq. Nothing contained in this policy shall be construed to prohibit the New Jersey Department of Education or the district from, at its discretion, collecting evaluation data or distributing aggregate statistics regarding evaluation data.

**REGULATION HISTORY**

Adopted: October 27, 2021

**CROSS REFERENCES**

2131 Superintendent  
4116 Evaluation of Teaching Staff Members  
4116 Evaluation of Teaching Staff Members, Regulation  
4131/4131.1 Staff Development  
4131/4131.1 Staff Development, Exhibit

**RESOURCES**

The Commissioner list of approved practice instruments can be found [here](#)

**Policy**

**PRINCIPAL EVALUATION**

The Estell Manor Board of Education believes that the evaluation of effective leadership and administration practices improves success in the achievement of the educational goals of this district, including student achievement of the New Jersey Student Learning Standards. The board shall implement an effective system for the evaluation of principals, assistant principals, and vice-principals. The purpose of this evaluation shall be to promote professional excellence and improve the skills of principals, assistant principals and vice-principals; improve student learning and growth; and provide a basis for the review of performance. The board is committed to establishing educator evaluation rubrics for the evaluation of administrative staff members' effectiveness to further the development of a professional corps of State educators and to increase student achievement. The district evaluation system shall facilitate:

- A. Continual improvement of leadership and instruction;
- B. Meaningful differentiation of performance using four performance levels;
- C. Use of multiple valid measures in determining performance levels, including objective measures of student performance and measures of professional practice;
- D. Evaluation of principals, assistant principals and vice-principals on a regular basis;
- E. Delivery of clear, timely and useful feedback, including feedback that identifies areas for growth and guides professional development; and
- F. School district personnel decisions.

**Evaluation Rubrics**

Annually, on or before June 1, the board will submit to the Commissioner of Education, the evaluation rubric(s) to be used to assess the effectiveness of principals, vice principals, and assistant principals for the Commissioner's approval. The board shall ensure that the evaluation rubric complies with the standards established by the State Board of Education and currently established at N.J.S.A. 18A:6-123 and codified at N.J.A.C. 6A:10-5.1 and as detailed in board regulation at this file code (2130), including but not limited to:

- A. Measures of student achievement;
- B. And measures of principal practice including observation.

In the event the board fails to timely submit an evaluation rubric for approval, the model rubric shall be used to assess the effectiveness of principals, vice principals, and assistant principals.

**Training**

Prior to conducting an observation for the evaluation of a principal, the superintendent/designee shall complete training in the evaluation rubric approved for the principal title. The evaluation rubric must have been approved by the Commissioner of Education and the board prior to its use in the district as an evaluative measure. The superintendent shall be trained on the components of the evaluation rubric including student achievement measures and all aspects of the practice instrument.

Prior to conducting an observation for the evaluation of a vice principal or assistant principal, the

PRINCIPAL EVALUATION (continued)

superintendent/designee or principal shall complete training in the evaluation rubric approved for the vice principal or assistant principal title. The evaluation rubric must have been approved by the Commissioner of Education and the board prior to its use in the district as an evaluative measure.

Collective Bargaining

No collective bargaining agreement entered into after July 1, 2013 may contain terms that conflict with any provision of board policy and regulation and the Teacher Effectiveness and Accountability for the Children of New Jersey Act (N.J.S.A. 18A:6-117 et seq.). The district's Commissioner approved evaluation rubric shall not be subject to collective negotiations.

Principal Evaluation

The components of the principal evaluation rubric shall apply to professional staff members appointed to the position of principal, vice principal, or assistant principal and holding a valid and effective standard, provisional, or emergency administrative certificate issued by the State Board of Examiners.

The principal evaluation rubric shall meet the standards provided in N.J.S.A. 18A:6-123 and N.J.A.C. 6A:10-5.1, including, but not limited to:

- A. Student achievement;
- B. Principal practice; and
- C. Principal observations.

The superintendent or his designee and the principal, as appropriate, shall conduct a mid-year evaluation of any principal, assistant principal, or vice-principal who is evaluated as ineffective or partially effective in his most recent annual summative evaluation.

Principal, Assistant Principal, and Vice Principal Observations

The superintendent, or his or her designee, shall conduct observations for the evaluation of principals.

A principal, or a superintendent or his or her designee, shall conduct observations for the evaluation of assistant principals and vice principals. For the purpose of collecting data for the evaluation of a principal, assistant principal, or vice principal, an observation may include, but is not limited to: building walk-through, staff meeting observation, parent conference observation, or case study analysis of a significant student issue.

Each tenured principal, assistant principal, and vice principal shall be observed at least two times during each school year. Each nontenured principal, assistant principal, and vice principal shall be observed at least three times during each school year, as required by N.J.S.A. 18A:27-3.1. During the first year of employment, the three required observations shall be completed by April 30. The number of required observations shall be prorated if the principal, assistant principal or vice principal has been employed for less than one academic year on April 30.

Each evaluation shall be followed by a post-observation conference between the principal, assistant principal or vice principal and his or her superiors in order to determine whether recommend re-appointment, identify any deficiencies, extend assistance for their correction and improve professional competence. The post-observation conference shall consist of a meeting, either in-person or remotely, between the evaluator and the principal, assistant principal or vice-principal to discuss the data collected in the observation. Post observation conferences shall be conducted according to law and board procedure (see: 2130 Principal Evaluation, Regulation).

PRINCIPAL EVALUATION (continued)

An additional observation and post-observation conference shall be required as part of the corrective action plan for any principal, assistant principal or vice-principal who has been rated ineffective or partially effective on the annual summative evaluation, as measured by the evaluation rubrics. The superintendent or principal shall determine the length of the observation.

Professional Development Plans

The superintendent shall oversee and review for each principal and supervisor, professional development that links to individual, school, and district professional development goals and the school district's professional development plan. The individual professional development plans shall be derived from the results of observations, evidence, and recommendations included in the annual performance evaluation of the principal, assistant principal or vice-principal (see: 2130 Principal Evaluation, Regulation and board policy 4131/4131.1 Staff Development).

Corrective Action Plans

Each principal, assistant principal or vice-principal, rated ineffective or partially effective on the annual summative evaluation, as measured by the evaluation rubrics, shall develop a corrective action plan in consultation with the superintendent/designee. The corrective action plan shall be developed and conducted according law and board procedure 2130 Principal Evaluation, Regulation.

The content of the corrective action plan shall replace the content of the individual professional development plan required in N.J.A.C. 6A:9C-3.4(c) and 3.7(c) until the next annual summary conference. The corrective action plan shall remain in effect until the school leader receives his or her next summative evaluation rating.

The content of the corrective action plan shall:

- A. Address areas in need of improvement identified in the evaluation rubric that resulted in the partially ineffective or ineffective rating;
- B. Include specific, demonstrable goals for improvement;
- C. Include responsibilities of the evaluated employee and the school district for the plan's implementation; and
- D. Include timelines for meeting the goal(s).

The corrective action plan shall remain in effect until the principal, assistant principal or vice-principal receives his or her next summative evaluation rating.

There shall be no minimum number of teaching staff member working days that a teaching staff member's corrective action plan can be in place.

Records

The board shall include all written performance reports and supporting data, including, but not limited to, written observation reports and additional components of the summative evaluation rating as part the teaching staff member's personnel file, or in an alternative, confidential location. If reports and data are stored in an alternative location, the personnel file shall clearly indicate the report's location and how it can be easily accessed. The records shall be confidential and shall not be subject to public inspection or copying pursuant to the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

All information contained in annual performance reports and all information collected, compiled, and/or maintained by employees of a district board of education for the purposes of conducting the educator evaluation process, including, but not limited to, digital records, shall be confidential. Such information shall



PRINCIPAL EVALUATION (continued)

not be subject to public inspection or copying pursuant to the Open Public Records Act, N.J.S.A. 47:1A-1 et seq. Nothing contained in this policy shall be construed to prohibit the New Jersey Department of Education or the district from, at its discretion, collecting evaluation data or distributing aggregate statistics regarding evaluation data.

Certification

Annually, the superintendent shall certify to the Department of Education that all supervisors of teaching staff members in the school district who are utilizing educator practice instruments have completed training on the instrument and its application and have demonstrated competency in applying the educator practice instruments.

Adopted: January 2014  
 NJSBA Review/Update: July 2021  
 Readopted: October 27, 2021

Key Words

Evaluation, Principal Evaluation, Personnel Evaluation, Principal, Assistant Principal, Vice-Principal Evaluation Rubric

<b>Legal References:</b> <u>N.J.S.A. 18A:4-15</u>	General rule-making power, State Board of Education
<u>N.J.S.A. 18A:4-16</u>	Incidental powers conferred, State Board of Education
<u>N.J.S.A. 18A:6-10 et seq.</u>	Dismissal and reduction in compensation of persons under tenure in public school system
<u>N.J.S.A. 18A:6-117 et seq.</u>	Teacher Effectiveness and Accountability for the Children of New Jersey (TEACHNJ) Act
<u>See particularly:</u>	Definitions relative to the TEACHNJ Act
<u>N.J.S.A. 18A:6-119</u>	School improvement panel
<u>N.J.S.A. 18A:6-120</u>	Evaluation of principal, assistant principal, vice-principal
<u>N.J.S.A. 18A:6-121</u>	Annual submission of evaluation rubrics
<u>N.J.S.A. 18A:6-122</u>	Review, approval of evaluation rubrics
<u>N.J.S.A. 18A:6-123</u>	Conflicts with collective negotiations agreements
<u>N.J.S.A. 18A:6-126</u>	Research-based mentoring program
<u>N.J.S.A. 18A:6-127</u>	Ongoing professional development; corrective action plan
<u>N.J.S.A. 18A:6-128</u>	"School leader" defined; training as part of professional development
<u>N.J.S.A. 18A:26-8.2</u>	Evaluation of non-tenured teaching staff
<u>N.J.S.A. 18A:27-3.1 through -3.3</u>	
<u>N.J.S.A. 18A:27-4</u>	Power of boards of education to make rules governing employment of teacher
<u>N.J.S.A. 18A:27-4.1</u>	Board of Education, procedure for certain personnel actions
<u>N.J.S.A. 18A:27-10 et seq.</u>	Nontenured teaching staff member; offer of employment for next succeeding year or notice of termination before May 31
<u>N.J.S.A. 18A:28-5</u>	Requirements for tenure
<u>N.J.S.A. 18A:28-5.1</u>	Tenure upon transfer to an underperforming school
<u>N.J.S.A. 18A:29-14</u>	Withholding increments; causes; notice of appeals
<u>N.J.A.C. 6A:9C-1.1 et seq.</u>	Required professional development for teachers and school leaders
<u>See particularly:</u>	
<u>N.J.A.C. 6A:9C-3.2</u>	Components of professional development
<u>N.J.A.C. 6A:9C-3.3</u>	Standards for professional learning
<u>N.J.A.C. 6A:9C-4.2</u>	District- and school-level plans for professional development implementation

PRINCIPAL EVALUATION (continued)

<u>N.J.A.C.</u> 6A:9C-4.3	Requirements for and implementation of school leaders' individual professional development plans
<u>N.J.A.C.</u> 6A:10-1.1 <u>et seq.</u>	Educator effectiveness
<u>See particularly:</u>	
<u>N.J.A.C.</u> 6A:10-1.2	Definitions
<u>N.J.A.C.</u> 6A:10-2.2	Duties of district boards of education
<u>N.J.A.C.</u> 6A:10-5.1 <u>et seq.</u>	Components of principal evaluation
<u>See particularly:</u>	
<u>N.J.A.C.</u> 6A:10-5.1 through -5.3	Components of principal evaluation rubrics
<u>N.J.A.C.</u> 6A:10-5.4	Principal, assistant principal and vice-principals observations
<u>N.J.A.C.</u> 6A:32-5.1 <u>et seq.</u>	Standards for determining seniority

**Possible**

<b><u>Cross References:</u></b>	*2131	Superintendent
	*4112.6/4212.6	Personnel records
	*4115	Supervision
	*4116	Evaluation
	*4117.41	Nonrenewal
	*4131/4131.1	Staff development; inservice education/visitations/conferences
	*4215	Supervision
	*4216	Evaluation
	*4231/4231.1	Staff development; inservice education/visitations/conferences
	*6143.1	Lesson plans

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

## ESTELL MANOR SCHOOL DISTRICT

Estell Manor, New Jersey

FILE CODE: 2131

  X   Monitored

  X   Mandated

  X   Other Reasons

### Policy

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#### SUPERINTENDENT

The Estell Manor Board of Education, in compliance with state law, will evaluate the superintendent at least annually. Each evaluation shall be in writing, a copy shall be provided to the superintendent and the board shall meet to discuss the findings. The evaluations shall be based upon the goals and objectives of the district, the responsibilities of the superintendent and such other criteria as the State Board of Education shall by regulation prescribe. Every newly appointed or elected board member shall complete the New Jersey School Boards Association's training program on evaluation of superintendents within six months of commencement of his/her term of office. The purpose of the evaluation shall be:

- A. To promote professional excellence and improve the skills of the superintendent;
- B. To improve the quality of the education received by the students served by the public schools of the district;
- C. To provide a basis for the review of the job performance of the superintendent.

#### Role and Responsibility of the Board

The role and responsibility of the board in the evaluation of the superintendent shall be:

- A. To ensure that each member completes the New Jersey School Boards Association training program on the evaluation of the superintendent within six months of the commencement of newly appointed or elected district board member's term of office (N.J.S.A. 18A:17-20.3, b; see board policy 9200 Orientation and Training of Board Members);
- B. After consultation with the superintendent, to determine the roles and responsibilities for the implementation of this policy and attendant procedures;
- C. After consultation with the superintendent, to prepare an individual plan for professional growth and development of the superintendent based in part upon any needs identified in the evaluation. This plan shall be mutually developed by the board and the superintendent;
- D. To ensure that a majority of the full membership of the board shall prepare an annual performance report and convene an annual summary conference between the superintendent and a majority of the full membership of the board;
- E. To hold an annual summary conference with a majority of the total membership of the board and the superintendent. The annual summary conference shall be held before the written performance report is filed. The conference shall be held in executive session, unless the superintendent, subsequent to adequate notice, requests that it be held in public. The conference shall include, but not be limited to, review of the following:
  - 1. Performance of the superintendent based upon the job description;
  - 2. Progress of the superintendent in achieving and/or implementing the school district's goals, program objectives, policies, instructional priorities, State goals, and statutory requirements; and
  - 3. Indicators of student progress and growth toward program objectives.

SUPERINTENDENT (continued)

- F. To prepare, by July 1, subsequent to the annual summary conference, an annual written performance report. The annual performance report shall be prepared by a majority of the full membership of the board and provided to the superintendent. This report shall include, but not be limited to:
1. Performance areas of strength;
  2. Performance areas needing improvement based upon the job description and evaluation criteria in "E" above;
  3. Recommendations for professional growth and development;
  4. A summary of available indicators of student progress and growth and a statement of how these available indicators relate to the effectiveness of the overall program and the performance of the superintendent;
  5. An option for the superintendent, within 10 days of receipt of the report, to include for performance data which has not been included in the report prepared by the board of education to be entered into the record by the superintendent.

The board shall add to the superintendent's personnel file, all written performance reports and supporting data, including, but not limited to, indicators of student progress and growth to a superintendent's personnel file. The records shall be confidential and not be subject to public inspection or copying pursuant to the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

The board may determine whether the services of a qualified consultant will contribute substantially to the evaluation process and to engage such a consultant as deemed appropriate to assist the board. The evaluation itself shall be the responsibility of the board.

Role and Responsibility of the Superintendent

The board shall determine the roles and responsibilities of the superintendent in consultation with the superintendent. The superintendent shall provide information and propose procedures for:

- A. The development of a job description and evaluation criteria, based upon the district's local goals, program objectives, policies, instructional priorities, state goals, statutory requirements, and the functions, duties and responsibilities of the superintendent. The evaluation criteria shall include but not be limited to available indicators of student progress;
- B. Specification of methods of data collection and reporting appropriate to the job description;
- C. Design of evaluation instruments suited to reviewing the superintendent's performance based upon the job description;
- D. Establishing an evaluation calendar to include a date for the annual conference and including appropriate information to allow proper consideration of all the items to be included in the subsequent written performance report;
- E. After the board's preparation of the annual written performance report, to provide all other appropriate information relative to evaluation of his/her performance not contained in the report.
- F. Preparation and review of the Professional Growth Plan for the administrator's professional development.

The policy shall be delivered to the superintendent upon adoption. Amendments to the policy shall be distributed within 10 working days after adoption.

SUPERINTENDENT (continued)

Adopted: March 19, 2014  
 NJSBA Review/Update: July 2021  
 Readopted: October 27, 2021

Key Words

Superintendent Evaluation, Superintendent Job Description, CSA, Superintendent, Evaluation

Legal References:

**NOTE:** These legal references pertain primarily to the superintendent's employment and evaluation. Many specific responsibilities are assigned by other statutes and administrative code regulations.

<u>N.J.S.A.</u> 18A:4-15	General rule-making power
<u>N.J.S.A.</u> 18A:6-10	Dismissal and reduction in compensation of persons
through -17	under tenure in public school system
<u>N.J.S.A.</u> 18A:12-21 <u>et seq.</u>	School Ethics Act
<u>N.J.S.A.</u> 18A:17-15	Appointment of superintendents; terms;
through -21	
<u>N.J.S.A.</u> 18A:17-20	Tenured and non-tenured superintendents; general
<u>See particularly:</u>	powers and duties
<u>N.J.S.A.</u> 18A:17-20.3	Evaluation of superintendent's performance
<u>N.J.S.A.</u> 18A:17-24	Clerks in superintendent's office
<u>N.J.S.A.</u> 18A:17-24.1	Shared administrators, superintendents
<u>N.J.S.A.</u> 18A:27-4.1	Appointment, transfer, removal or renewal of officers and
	employees; exceptions
<u>N.J.S.A.</u> 18A:28-3	No tenure for noncitizens
through -6.1	
<u>N.J.S.A.</u> 18A:29-14	Withholding increments; causes; notice of appeals
<u>N.J.S.A.</u> 40A:65-1 <u>et seq.</u>	Uniform Shared Services and Consolidation Act
<u>N.J.A.C.</u> 6A:9-3.4	Professional standards for school leaders
<u>N.J.A.C.</u> 6A:9B-12.1	Requirements for administrative certification
<u>N.J.A.C.</u> 6A:10-8.1	Evaluation of superintendents
<u>N.J.A.C.</u> 6A:28-1.1 <u>et seq.</u>	School Ethics Commission
<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:32-4.1 <u>et seq.</u>	Employment of teaching staff
8 <u>U.S.C.</u> 1101 <u>et seq.</u>	Immigration and Nationality Act

Possible

<b><u>Cross References:</u></b>	*2000/2010	Concepts and roles in administration; goals and objectives
	*2121	Line of responsibility
	*4111	Recruitment, selection and hiring
	*4211	Recruitment, selection and hiring
	*9000	Role of the board
	*9400	Board self-evaluation

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

**ESTELL MANOR SCHOOL DISTRICT**  
**Estell Manor, New Jersey**

**FILE CODE: 2210**

☐ **Monitored**

☐ **Mandated**

☒ **Other Reasons**

**Policy**

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**ADMINISTRATIVE LEEWAY IN ABSENCE OF BOARD POLICY**

In cases where immediate action must be taken within the Estell Manor school system when the board has provided no guidelines for administrative action, the superintendent shall have the power to act, but his/her decisions shall be subject to review by the board at its next regular meeting.

It shall be the duty of the superintendent to inform the board promptly of such action and of the need for policy.

Adopted: June 19, 2000  
NJSBA Review/Update: July 2021  
Readopted: October 27, 2021

**Key Words**

Administrative Leeway in Absence of Board Policy, Absence of Board Policy

**Legal References:** N.J.S.A. 18A:11- 1 General mandatory powers and duties  
N.J.S.A. 18A:17-20 Tenured and non-tenured superintendents; general powers and duties  
N.J.S.A. 18A:54-20 Powers of board (county vocational schools)

**Possible**

**Cross References:** \*3516 Safety  
4135.16/4235.16 Work stoppages/strikes  
\*5131.6 Drugs, alcohol, tobacco (substance abuse)  
\*5141.1 Accidents  
\*5141.2 Illness  
\*6114 Emergencies and disaster preparedness  
\*9311 Formulation, adoption, amendment of policies  
\*9313 Formulation, adoption, amendment of administrative regulations

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

**ESTELL MANOR SCHOOL DISTRICT**  
**Estell Manor, New Jersey**

**FILE CODE: 2224**

  X   **Monitored**

  X   **Mandated**

  X   **Other Reasons**

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**Policy**

**NONDISCRIMINATION/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, 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 Estell Manor 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 superintendent 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 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 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 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

NONDISCRIMINATION/AFFIRMATIVE ACTION (continued)

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 8 promotion/retention data;
  - 3. Preschool through grade 8 completion rates;
  - 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 8 promotion/retention data, preschool through grade 8 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
  - 5. Annual targets that address school district needs in equity in school and classroom practices and are



NONDISCRIMINATION/AFFIRMATIVE ACTION (continued)

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, students 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 Estell Manor school. 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 statement on sexual harassment shall be distributed to all staff members.

Staff or students 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

- A. In implementing affirmative action, the district shall:
  - 1. Identify and correct the denial of equality of educational opportunities for students solely on the basis of any classification protected by law;

NONDISCRIMINATION/AFFIRMATIVE ACTION (continued)

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 students 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 student 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 students;
- 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 Purchasing Procedures, 3327 Relations with Vendors, 4111.1 and 4211.1 Nondiscrimination/Affirmative Action.

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 students, employees and members of the community as intended by Section 504 and as specified in the administrative code.

NONDISCRIMINATION/AFFIRMATIVE ACTION (continued)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.

Adopted: July 23, 2014  
 NJSBA Review/Update: July 2021  
 Readopted: October 27, 2021

Key Words

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

**Legal References:** N.J.S.A. 2C:16-1 Bias intimidation  
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 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. 18A:35-1 et seq. Curriculum and courses  
N.J.S.A. 18A:37-14 Harassment, intimidation, and bullying defined;  
 through -19 definitions  
N.J.S.A. 18A:36-20 Discrimination; prohibition  
N.J.S.A. 18A:38-5.1 Attendance at school  
N.J.S.A. 26:8A-1 et seq. Domestic Partnership Act  
N.J.A.C. 5:23-1 et seq. Uniform construction code  
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)

NONDISCRIMINATION/AFFIRMATIVE ACTION (continued)

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

International Building Code 2015. New Jersey Edition; First Printing: September 2015; ISBN: 978-1-60983-156-1; Copyright 2015, International Code Council, Inc.

**Possible**

<b><u>Cross References:</u></b>	*3320	Purchasing procedures
	*4111	Recruitment, selection and hiring
	*4111.1/4211.1	Nondiscrimination/affirmative action
	*4131/4131.1	Staff development; inservice education/visitations/conferences
	*4211	Recruitment, selection and hiring
	*4231/4231.1	Staff development; inservice education/visitations/conferences
	*5131	Conduct/discipline
	*5131.1	Harassment, intimidation and bullying
	*5145.4	Equal educational opportunity
	*6121	Nondiscrimination/affirmative action
	*6145	Extracurricular activities

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

☒ Monitored  
☒ Mandated  
☒ Other Reasons

**Sample Regulation**

TITLE IX – SEX BASED DISCRIMINATION  
PROCEDURES AND GRIEVANCE PROCESS

**GENERAL STATEMENT**

The Title IX sexual harassment procedures and grievance process for complaints prescribed in this regulation apply only when a report includes allegations of sexual harassment subject to Title IX regulations. (34 CFR 106.44, 106.45)

All other reports or complaints of discrimination or retaliation shall follow the complaint procedures established in policy 2224 Nondiscrimination/Affirmative Action.

**STAFF RESPONSIBLE**

The following chart lists the staff members responsible for the implementation of the regulation and summarizes their responsibilities:

Position	Summary of Main Responsibilities
Superintendent	<ul style="list-style-type: none"> <li>General policy procedure oversight within the district</li> <li>Reporting to the board</li> <li>Notification of due process and appeal rights as well as name and contact information for Title IX Coordinator</li> </ul>
Board of education	<ul style="list-style-type: none"> <li>General oversight of the superintendent</li> <li>Board hearings in closed session when required by statute, code or policy</li> </ul>
Title IX coordinator	<ul style="list-style-type: none"> <li>Oversight of the Title IX policy and procedures: investigation, informal and formal complaint process; supportive measures; required notifications, appeals</li> <li>Appoints the decision-maker(s)</li> <li>Appoints the investigator</li> </ul>
Investigator	<ul style="list-style-type: none"> <li>Investigates allegations to establish burden of proof</li> </ul>
Decision-maker	<ul style="list-style-type: none"> <li>Determines based on the evidence if the allegations qualify as Title IX sexual harassment</li> <li>Composes the written determination of responsibility and distributes it to the parties within the stated time frame</li> </ul>
Director of Special Education	<ul style="list-style-type: none"> <li>Consults with the Title IX coordinator on all cases that involve classified students and students with special education plans, including IEPs and 504 plans</li> </ul>

**DEFINITIONS**

"Education program or activity" includes locations, events, or circumstances over which the district exercised substantial control over both the respondent and the context in which the sexual harassment occurs.

"Complainant" means an individual who is alleged to be the victim of conduct that could constitute sexual harassment.

TITLE IX – SEX BASED DISCRIMINATION  
PROCEDURES AND GRIEVANCE PROCESS (regulation continued)

“Respondent” means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

“Actual knowledge” means notice of sexual harassment or allegations of sexual harassment to the district’s Title IX coordinator or any district official who has the authority to institute corrective measures on behalf of the district, or to any employee of an elementary and secondary school, other than the respondent. “Notice” as used in this paragraph includes, but is not limited to, a report of sexual harassment to the Title IX Coordinator as described in § 106.8(a).

“Exculpatory evidence” means evidence tending to exonerate the accused or helps to establish their innocence.

“Inculpatory” evidence means evidence tending to incriminate the accused or indicate their guilt.

“Formal complaint” means a document filed by a complainant or signed by the Title IX coordinator alleging Title IX sexual harassment and requesting that the district investigate the allegation. The authority for the Title IX coordinator to sign a formal complaint does not make the Title IX coordinator the complainant or other party during the grievance process. The phrase “document filed by a complainant” refers to a document or electronic submission that contains the complainant’s physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint.

“Retaliation” shall mean actions including, but not limited to, intimidation, threats, coercion, or discrimination against any individual for the purpose of interfering with any right or privilege secured by Title IX or its regulated regulations, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under Title IX and its related regulations. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by title IX or this part, constitutes retaliation.. The following actions shall not constitute retaliation:

- A. An individual exercising free speech under the rights protected by the First Amendment;
- B. The assignment of consequences consistent with board policy and the code of student conduct when an individual makes a materially false statement in bad faith in an investigation. The fact that the charges of discrimination were unfounded or unsubstantiated shall not be the sole reason to conclude that any party made a materially false statement in bad faith.

“Supportive measures” are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Supportive measures shall be designed to restore or preserve equal access to the education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the educational environment, or to deter sexual harassment. Supportive measures may include, but shall not be limited to:

- A. Counseling;
- B. Extensions of deadlines or other course-related adjustments;
- C. Modifications of work or class schedules;
- D. Campus escort services;

TITLE IX – SEX BASED DISCRIMINATION  
PROCEDURES AND GRIEVANCE PROCESS (regulation continued)

- E. Mutual restrictions on contact between the parties;
- F. Changes in work locations or school of attendance;
- G. Leaves of absence;
- H. Increased security;
- I. Monitoring of certain areas of the campus;
- J. Referral to domestic violence or rape crisis programs;
- K. Referral to community health resources including counseling resources.

Supportive measures may also include assessments or evaluations to determine eligibility for special education or related services, or the need to review an individualized education program (IEP) or Section 504 service agreement based on a student's behavior. This could include, but is not limited to, a manifestation determination or functional behavioral assessment (FBA), in accordance with applicable law, regulations and board policy 6171.4 Special Education.

"Title IX sexual harassment" means conduct on the basis of sex that satisfies one or more of the following:

- A. A district employee conditioning the provision of an aid, benefit, or district service on an individual's participation in unwelcome sexual conduct;
- B. Unwelcome conduct determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to a district education program or activity;
- C. Sexual assault, dating violence, domestic violence or stalking:
  - 1. Dating Violence means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship is determined by the following factors:
    - a. Length of relationship;
    - b. Type of relationship;
    - c. Frequency of interaction between the persons involved in the relationship.
  - 2. Domestic violence includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving federal funding, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction;
  - 3. Sexual assault means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation;

TITLE IX – SEX BASED DISCRIMINATION  
PROCEDURES AND GRIEVANCE PROCESS (regulation continued)

4. Stalking, under Title IX means stalking on the basis of sex, for example when the stalker desires to date a victim. Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to either:
  - a. Fear for their safety or the safety of others;
  - b. Suffer substantial emotional distress.

Such conduct must have taken place during a district education program or activity and against a person in the United States to qualify as sexual harassment subject to Title IX regulations. An education program or activity includes the locations, events or circumstances over which the district exercises substantial control over both the respondent and the context in which the harassment occurs.

“Recipient” means any State or political subdivision thereof, or any instrumentality of a State or political subdivision thereof, any public or private agency, institution, or organization, or other entity, or any person, to whom Federal financial assistance is extended directly or through another recipient and which operates an education program or activity which receives such assistance, including any subunit, successor, assignee, or transferee thereof

Reporting Sexual Harassment

- A. Any person, whether the alleged victim or not, may report Title IX sexual harassment by any of the following:
  1. Using the discrimination/sexual harassment report form; or
  2. Making a general report verbally or in writing to the building principal; or
  3. Making a general report verbally or in writing to a staff member; or
  4. Using the contact information listed for the Title IX coordinator and making a verbal or written report; or
  5. Any other means that results in the Title IX coordinator receiving the person's verbal or written report.
- B. When Title IX sexual harassment is reported to a school staff member, the school staff member shall immediately notify the building principal.
- C. A report may be made at any time, including during nonbusiness hours. Verbal reports shall be documented by the Title IX coordinator or employee receiving the report using the discrimination/sexual harassment report form.
- D. The parents/guardians of a student who is the complainant, the respondent, or other individual relating to a complaint, have the right to act on behalf of the student at any time and report Title IX sexual harassment and all other conduct violations on the basis of sex including but not limited to sexual assault, dating violence, domestic violence or stalking.
- E. An adult student who is the complainant, the respondent, or other individual relating to a complaint, shall have the right to act on their own behalf at any time and report Title IX sexual harassment and all other conduct violations on the basis of sex including but not limited to sexual assault, dating violence, domestic violence or stalking.

Initial Investigation

When the district has actual knowledge of Title IX sexual harassment, the district is required to respond promptly and in a manner that is not deliberately indifferent, meaning not clearly unreasonable in light of the known circumstances.



TITLE IX – SEX BASED DISCRIMINATION  
PROCEDURES AND GRIEVANCE PROCESS (regulation continued)

- A. All sexual harassment reports and complaints received by the building principal or other school staff member shall be promptly directed to the Title IX coordinator, in accordance with board policy. The Title IX coordinator shall use the report form to gather additional information from the reporter and/or other parties identified in the report. Using the information gathered, the Title IX coordinator shall determine if the allegations meet the definition and parameters for Title IX sexual harassment.
- B. The Title IX coordinator shall promptly contact the complainant regarding the report to gather additional information as necessary, and to discuss the availability of supportive measures. The Title IX coordinator shall consider the complainant's wishes with respect to supportive measures.
- C. The Title IX coordinator shall initially assess whether the reported conduct:
  - 1. Poses an immediate threat to the physical health or safety of the complainant or any other individual;
  - 2. May meet the definition of Title IX sexual harassment;
  - 3. Occurred in a district program or activity sponsored by the district and against a person in the United States;
  - 4. Involves other board policies or code of student conduct violations;
  - 5. Involves a student identified as a student with a disability under the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act (see board policy 6171.4 Special Education);
- D. If the result of this initial assessment determines that none of the allegations fall within the scope of Title IX sexual harassment, but the matter merits review and possible action under the code of student conduct and other board policies, then the Title IX coordinator shall redirect the report to the appropriate administrator to address the allegations;
- E. If the result of the initial assessment determines that the allegations may constitute Title IX sexual harassment, the Title IX coordinator shall promptly explain to the complainant the process for filing a formal complaint and inform the complainant of the continued availability of supportive measures with or without the filing of a formal complaint;
- F. The Title IX coordinator shall contact the parents/guardians and provide them with information regarding the report and Title IX sexual harassment procedures and grievance process for formal complaints;.
- G. The Title IX coordinator shall contact the adult student and provide them with information regarding the report and Title IX sexual harassment procedures and grievance process for formal complaints;
- H. If the complainant, school staff or others with professional knowledge relating to the complainant's health and well-being indicate that notifying the parents/guardians could cause serious harm to the health or well-being of the complainant or other person(s), the Title IX coordinator will determine, in consultation with such individuals and upon advice of legal counsel, whether to withhold or delay notification of the report from the complainant's parents/guardians;
- I. The Title IX coordinator shall also determine what supportive measures may be offered to the respondent;
- J. If either party is an identified student with a disability, or thought to be disabled, the Title IX coordinator shall contact the director of special education to coordinate the required actions in accordance with board policy 6171.4 Special Education;
- K. Confidentiality regarding the supportive measures offered and the identity of the following individuals shall be maintained, except as may be permitted by law or regulations relating to the conduct of any investigation (20 U.S.C. Sec. 1232g; 34 CFR Parts 99, 106):

**TITLE IX – SEX BASED DISCRIMINATION**  
**PROCEDURES AND GRIEVANCE PROCESS** (regulation continued)

1. Individuals making a report or formal complaint;
2. Complainant(s);
3. Respondent(s);
4. Witnesses;

L. The district shall treat complainants and respondents equitably by:

1. Offering supportive measures to the complainant and may offer such measures to the respondent;
2. Following the grievance process for formal complaints before imposing disciplinary sanctions or other actions that are not supportive measures on the respondent.

**Complaint Procedures**

**Step 1 – Formal Complaint**

- A. The Title IX coordinator shall initiate the grievance process for formal complaints when a complainant or the complainant's parent/guardian files a formal complaint. The Title IX coordinator is also authorized to initiate this process despite a complainant's wishes when actions limited to supportive measures are not a sufficient response to alleged behavior, or when a formal complaint process is necessary to investigate and address the situation adequately. For example, if the respondent is an employee, or if further investigation is needed to assess the extent of the behavior and impact on others, it may be reasonable to initiate the formal complaint process. Only the Title IX coordinator is authorized to initiate the formal complaint process despite a complainant's wishes, but the Title IX coordinator may consult with the school attorney and other district officials in making this decision;
- B. The complainant or the Title IX coordinator shall use the designated section of the discrimination/sexual harassment report form to file or sign a formal complaint;
- C. The Title IX coordinator shall assess whether the investigation should be conducted by the building principal, another district employee, the Title IX coordinator or an attorney and shall promptly assign the investigation to that individual;
- D. The Title IX coordinator, investigator, decision-maker, or any individual designated to facilitate the informal resolution process, each must have completed the required training and shall not have a conflict of interest or bias for or against an individual complainant or respondent, or for or against complainants or respondents in general;
- E. The respondent shall be presumed not responsible for the alleged conduct until a written determination regarding responsibility has been made at the conclusion of the grievance process for formal complaints;
- F. Notice Requirements:

Upon receipt of a formal complaint, or when the Title IX coordinator signs a formal complaint to initiate the grievance process for formal complaints, the Title IX coordinator shall provide written notice to all known parties, and the parents/guardians of known parties, where applicable, providing the following information:

1. Notice of the district's grievance process for formal complaints and any informal resolution process that may be available;
2. Notice of the allegations potentially constituting Title IX sexual harassment, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include:
  - a. The identity of the parties involved, if known;

TITLE IX – SEX BASED DISCRIMINATION  
PROCEDURES AND GRIEVANCE PROCESS (regulation continued)

- b. The conduct allegedly constituting sexual harassment;
- c. The date and location of the alleged incident(s), if known;
- 3. A statement that a written determination regarding responsibility shall be made at the conclusion of the grievance process for formal complaints and, until that time, the respondent is presumed not responsible for the alleged conduct;
- 4. Notice that parties may have an advisor of their choice, who may be, but is not required to be, an attorney. The advisor may inspect and review evidence;
- 5. Notice of provisions in board policy and the district's Code of Student Conduct that prohibits knowingly making false statements or knowingly submitting false information to school officials in connection with reports of misconduct or discrimination complaints;
- 6. Notice to all known parties of any additional allegations that the district decides to investigate during the course of the investigation.

**Step 2 – Informal Resolution Process**

The informal resolution process cannot be offered or used to facilitate a resolution for any formal complaint where the allegations state that an employee sexually harassed a student.

At any time after a formal complaint has been filed, but prior to reaching a determination of responsibility, if the Title IX coordinator believes the circumstances are appropriate, the Title IX coordinator may offer the parties the opportunity to participate in an informal resolution process, which does not involve a full investigation and adjudication of the Title IX sexual harassment complaint.

The district may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal Title IX sexual harassment complaints. Similarly, a district may not require the parties to participate in an informal resolution process.

Informal resolutions can take many forms, depending on the particular case. Examples include, but are not limited to, mediation, facilitated discussions between the parties, restorative practices, acknowledgment of responsibility by a respondent, apologies, a requirement to engage in specific services, or supportive measures.

When offering an informal resolution process, the Title IX coordinator shall:

- A. Provide the parties a written notice disclosing the following:
  - 1. The allegations;
  - 2. The requirements of the informal resolution process, including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations;
  - 3. That at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process for formal complaints;
  - 4. Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;
- B. Obtain the parties' voluntary, written consent to the informal resolution process. As part of the consent process, all parties shall be informed of the rights being waived by agreeing to the informal resolution process, and shall acknowledge such agreement in writing.
- C. The informal resolution process shall be conducted within (select an option: five (5) school days; ten (10) school days; twenty (20) school days; other) of the parties' signed agreement for the informal resolution process;

TITLE IX – SEX BASED DISCRIMINATION  
PROCEDURES AND GRIEVANCE PROCESS (regulation continued)

- D. If the matter is resolved to the satisfaction of the parties, the district employee facilitating the informal resolution process shall document the nature of the complaint and the proposed resolution of the matter, have both parties sign the documentation and receive a copy, and forward it to the Title IX coordinator;
- E. Within (**select an option:** ten (10) school days; twenty (20) school days; other) after the complaint is resolved, the Title IX coordinator shall contact the complainant to determine if the resolution was effective and to monitor the agreed upon remedies;
- F. The Title IX coordinator shall document the informal resolution process, responses from all parties, and an explanation of why the district's response was not deliberately indifferent to the reported complaint of sexual harassment.

\*If Step 2 Informal Resolution Process results in the final resolution of the complaint, the following steps are not applicable.

### **Step 3 – Investigation**

The designated investigator, if other than the Title IX coordinator, shall work with the Title IX coordinator to assess the scope of the investigation, who needs to be interviewed and what records or evidence may be relevant to the investigation. The investigation stage shall be concluded within (**select an option:** twenty (20) school days; thirty (30) school days; other).

When investigating a formal complaint, the investigator shall:

- A. Bear the burden of proof and gather evidence and conduct interviews sufficient to reach a written determination;
- B. Not access, consider, disclose or otherwise use a party's records which are protected by legal privilege during the process of gathering evidence, unless the district has obtained the voluntary, written consent of the party, or the party's parent/guardian when legally required. Such records include but are not limited to records made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with providing treatment to the party (Safe2Say Something Procedures);
- C. Objectively evaluate all available evidence, including inculpatory and exculpatory evidence;
- D. Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence;
- E. Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence. The district may request that a nondisclosure agreement be signed by the parties and their advisor(s), if any, stating that they will not disseminate or disclose evidence and documents exchanged in the investigation;
- F. Provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to have an advisor of the party's choice accompany the party to any interview or other meeting related to the grievance procedure. The district may establish restrictions, applicable to both parties, regarding the extent to which the advisor may participate;
- G. Provide written notice to any party whose participation is invited or expected during the investigation process with the following information, in sufficient time for the party to prepare to participate:

TITLE IX – SEX BASED DISCRIMINATION  
PROCEDURES AND GRIEVANCE PROCESS (regulation continued)

1. Date;
  2. Time;
  3. Location;
  4. Participants;
  5. Purpose of all investigative interviews or other meetings;
- H. Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations, including evidence the district does not intend to rely on to reach a determination regarding responsibility and any inculpatory and exculpatory evidence, whether obtained from a party or other source;
- I. If at any point the investigation expands to include additional allegations that were not included in the initial notice provided upon initiation of the grievance process for formal complaints, the investigator shall alert the Title IX coordinator. The Title IX coordinator shall provide written notice of the new allegations to the known parties;
- J. Prior to the completion of the investigative report, the investigator shall:
1. Send to each party and the party's advisor, if any, the evidence subject to inspection and review in electronic or hard copy format;
  2. Provide the parties at least ten (10) school days following receipt of the evidence to submit a written response;
  3. Consider the written response prior to drafting the investigative report;
- K. The investigator shall draft an investigative report that fairly summarizes relevant evidence and, at least 10 days prior to a hearing (if a hearing is required under section 106.45(b) of the Title IX regulations or otherwise provided) or other time of determination regarding responsibility, send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response;
- L. If the investigation reveals that the conduct being investigated may involve a violation of criminal law, the investigator shall promptly notify the Title IX coordinator, who shall promptly inform the superintendent and law enforcement authorities about the allegations and make any additional required reports, in accordance with law, regulations and board policy;
- M. The obligation to conduct this investigation shall not be negated by the fact that a criminal or child protective services investigation of the allegations is pending or has been concluded. The investigator should coordinate with any other ongoing investigations of the allegations, including agreeing to request for a delay in fulfilling the district's investigative responsibilities during the fact-finding portion of a criminal or child protective services investigation. Such delays shall not extend beyond the time necessary to prevent interference with or disruption of the criminal or child protective services investigation and the reason for such delay shall be documented by the investigator;
- N. In the course of an investigation, it is possible that conduct other than, or in addition to, Title IX sexual harassment may be identified as part of the same incident or set of circumstances. The fact that there may be Title IX sexual harassment involved does not preclude the district from addressing other identified violations of the code of student conduct or board policy. If such other conduct is being investigated and addressed together with Title IX sexual harassment as part of the Title IX grievance process for formal complaints, disciplinary action normally should not be imposed until the completion of the Title IX grievance process for formal complaints. A decision whether and when to take such action should be made in consultation with the school attorney.

TITLE IX – SEX BASED DISCRIMINATION  
PROCEDURES AND GRIEVANCE PROCESS (regulation continued)

**Step 4 – Written Determination and District Action**

- A. To avoid any conflict of interest or bias, the decision-maker cannot be the same person as the Title IX coordinator or the investigator. The responsibility as the decision-maker for complaints of Title IX sexual harassment shall generally be designated to the **(select an option: building principal; superintendent; director of student services; other)**;
- B. If the designated decision-maker has a conflict of interest or bias, or is a party in the formal complaint process, they shall disclose the conflict and the Title IX coordinator shall designate another individual to serve as the decision-maker;
- C. A written determination of responsibility (written determination) must not be finalized less than ten (10) days after the investigator completes the investigative report and provides it to all parties. Before the decision-maker reaches a determination regarding responsibility, the decision-maker shall afford each party the opportunity to submit written, relevant questions that a party wants to be asked of any party or witness, shall provide each party with the answers, and shall allow for additional, limited follow-up questions from each party;
- D. Relevant questions for a party or witness must be submitted by each party within **(select an option: three (3) school days; five (5) school days; other)** following receipt of the investigative report;
- E. Follow-up questions must be submitted by each party within **(select an option: three (3) school days; five (5) school days; other)** of being provided the answers to the initial questions;
- F. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant as part of the questions and responses, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent;
- G. The decision-maker shall explain to the party proposing the questions about any decision to exclude a question as not relevant;
- H. The decision-maker must issue a written determination for the conduct alleged in formal complaints. To reach this determination, the decision-maker shall apply the preponderance of the evidence standard, meaning that the party bearing the burden of proof must present evidence which is more credible and convincing than that presented by the other party or which shows that the fact to be proven is more probable than not;  
  
*[Note: Districts may consult with their school attorney and decide to use the "clear and convincing evidence" standard, as permitted by the federal regulations, in place of the "preponderance of the evidence" standard. However, the legal disadvantages of this should be carefully considered with the school attorney. The clear and convincing evidence standard means that the party bearing the burden of proof must show that the truth of the allegations is highly probable.]*
- I. In considering evidence, the decision-maker shall ensure credibility determinations are not based on an individual's status as a complainant, respondent or witness;
- J. After considering all relevant evidence, the decision-maker shall issue a written determination that includes:
  - 1. Identification of the allegations potentially constituting Title IX sexual harassment;

TITLE IX – SEX BASED DISCRIMINATION  
PROCEDURES AND GRIEVANCE PROCESS (regulation continued)

2. A description of the procedural steps taken from the receipt or signing of the formal complaint through the written determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and, if relevant, hearings held;
  3. Findings of fact supporting the determination;
  4. Conclusions regarding the application of the district's code of student conduct or board policies to the facts;
  5. A statement of, and rationale for, the result as to each allegation, including:
    - a. Determination regarding responsibility;
    - b. Disciplinary sanctions;
    - c. Remedies designed to restore or preserve equal access to the district's education program or activity that will be provided by the district to the complainant. Such remedies may be punitive or disciplinary and need not avoid burdening the respondent;
  6. The procedures, deadline and permissible bases for the complainant and respondent to appeal;
- K. The written determination shall be provided to the parties simultaneously. The determination becomes final either:
1. On the date that the district provides the parties with the written decision of the result of the appeal, if an appeal is filed; or
  2. If an appeal is not filed, on the date on which an appeal would no longer be considered timely, in accordance with the timeframe established for appeals in this procedure;

The Title IX coordinator shall be responsible to ensure that any remedies are implemented by the appropriate district officials and for following up as needed to assess the effectiveness of such remedies. Disciplinary actions shall be consistent with the code of student conduct, board policies and administrative regulations, district procedures, applicable collective bargaining agreements, and state and federal laws and regulations, including specific requirements and provisions for students with disabilities.

Disciplinary Procedures When Reports Allege Title IX Sexual Harassment

When reports allege Title IX sexual harassment, disciplinary sanctions may not be imposed until the completion of the grievance process for formal complaints. The district shall presume that the respondent is not responsible for the alleged conduct until a determination has been made at the completion of the grievance process for formal complaints.

When an emergency removal, as described below, is warranted to address an immediate threat to the physical health or safety of an individual, and it is not feasible to continue educational services remotely or in an alternative setting, the normal procedures for suspension and expulsion shall be conducted to accomplish the removal, including specific provisions to address a student with a disability where applicable (see board policy 5114 Suspension and Expulsion).

When an emergency removal is not required, disciplinary sanctions will be considered in the course of the Title IX grievance process for formal complaints. Following the issuance of the written determination and any applicable appeal, any disciplinary action specified in the written determination or appeal decision shall be implemented in accordance with the normal procedures for suspensions, expulsions or other disciplinary actions, including specific provisions to address a student with a disability where applicable.

Supportive Measures

All supportive measures provided by the district shall remain confidential, to the extent that maintaining such confidentiality would not impair the ability of the district to provide the supportive measures (34 CFR 106.44).

TITLE IX – SEX BASED DISCRIMINATION  
PROCEDURES AND GRIEVANCE PROCESS (regulation continued)

When any party is an identified student with a disability, or thought to be a student with a disability, the Title IX coordinator shall notify the director of special education and coordinate to determine whether additional steps must be taken as supportive measures for the party while the Title IX procedures are implemented. Such measures may include, but are not limited to, conducting a manifestation determination, functional behavior assessment or other assessment or evaluation, in accordance with applicable law, regulations or board policy. Functional behavior assessments must be conducted when a student's behavior interferes with the student's learning or the learning of others and information is necessary to provide appropriate educational programming, and when a student's behavior violates the code of student conduct and is determined to be a manifestation of a student's disability.

Reasonable Accommodations

Throughout the Title IX sexual harassment procedures, the district shall make reasonable accommodations for any parties with identified qualifying disabilities, and address barriers being experienced by disadvantaged students such as English learners and homeless students, consistent with the requirements of federal and state laws and regulations and board policy.

Emergency Removal

If the district has determined, based on an individualized safety and risk analysis, that there is an immediate threat to the physical health or safety of any student or other individual due to the allegations of Title IX sexual harassment that justifies removal, the respondent may be removed from the district's education program or activity or moved to an alternative setting, consistent with all rights under federal and state laws and regulations, and board policy, including but not limited to the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act and the Americans with Disabilities Act. If the respondent is an identified student with a disability, or thought to be disabled, the Title IX coordinator shall contact the director of special education to coordinate the required actions in accordance with board policy. The respondent shall be provided with notice and provided an opportunity for due process, in accordance with law, regulations and board policy. When expulsion is necessary because continuation of educational services is not feasible, the board's written adjudication of expulsion shall address the pending Title IX process and the impact of the outcome of the Title IX process on a student's emergency removal status (20 U.S.C. Sec. 1400 et seq. ; 29 U.S.C. Sec. 794; 42 U.S.C. Sec. 12101 et seq. ; 34 CFR 106.44; board policy 5114 Suspension and Expulsion).

Administrative Leave

When an employee, based on an individualized safety and risk analysis, poses an immediate threat to the health or safety of any student or other individual justifying removal, the employee may be removed on an emergency basis.

An accused nonstudent district employee may be placed on administrative leave during the pendency of the grievance process for formal complaints, consistent with all rights under Section 504 of the Rehabilitation Act and the Americans with Disabilities Act, and in accordance with state law and regulations, and an applicable collective bargaining agreement or individual contract (29 U.S.C. Sec. 794, 42 U.S.C. Sec. 12101 et seq., 34 CFR 106.44).

Required Reporting Under Other Policies

In addition to implementing the Title IX sexual harassment procedures, the Title IX coordinator shall ensure that reported conduct which meets the definition of other laws, regulations or board policies, is also appropriately addressed in accordance with the applicable laws, regulations or board policies, including but not limited to, incidents under the Safe Schools Act, reports of educator misconduct, threats, or reports of suspected child abuse.



TITLE IX – SEX BASED DISCRIMINATION  
PROCEDURES AND GRIEVANCE PROCESS (regulation continued)

Timeframes

Reasonably prompt timeframes shall be established for the conclusion of the grievance process for formal complaints, including timeframes for the informal resolution process and timeframes for filing and resolving appeals.

The established timeframes included in these procedures may be adjusted to allow for a temporary delay or a limited extension of time for good cause. Written notice of the delay or extension and the reason for such action shall be provided to the complainant and the respondent, and documented with the records of the complaint. Good cause may include, but is not limited to, considerations such as:

- A. The absence of a party, a party's advisor or a witness;
- B. Concurrent law enforcement activity;
- C. Need for language assistance or accommodation of disabilities.

Redirection or Dismissal of Title IX Formal Complaints

Formal complaints may be dismissed, if at any time during the investigation or written determination steps described below:

- A. A complainant provides written notification of withdrawal of any allegations or of the formal complaint;
- B. The respondent is no longer enrolled or employed by the district in a district program or activity;
- C. Specific circumstances prevent the district from gathering evidence sufficient to reach a determination as to the formal complaint or allegations;
- D. Only alleged conduct that occurred in the district's education program or activity, and against a person in the United States, may qualify as Title IX sexual harassment within the district's jurisdiction. If it is determined during the investigation or written determination steps below that none of the allegations, if true, would meet the definition and parameters of Title IX sexual harassment within the district's jurisdiction, the Title IX coordinator shall dismiss the formal complaint under Title IX. If the matter merits review and possible action under the code of student conduct and other board policies, then the Title IX coordinator shall redirect the report to the appropriate administrator to address the allegations;
- E. Written notification shall be promptly issued to the parties simultaneously of any allegations found not to qualify or that are dismissed in compliance with Title IX. Written notification shall state whether the allegations will continue to be addressed pursuant to the code of student conduct and other board policies;
- F. A dismissal may be appealed via the appeal procedures set forth in this procedure.

Consolidation of Title IX Formal Complaints

The district may consolidate formal complaints against more than one (1) respondent, or by more than one (1) complainant against one or more respondents, or by one (1) individual against another individual, where the allegations of sexual harassment arise out of the same facts or circumstances.

Appeal Process

TITLE IX – SEX BASED DISCRIMINATION  
PROCEDURES AND GRIEVANCE PROCESS (regulation continued)

Both parties shall have the right to appeal a determination of responsibility and the right to appeal the district's dismissal of a Title IX formal complaint or any allegation in the Title IX formal complaint. The scope of appeals related to Title IX sexual harassment are limited to the following reasons for appeal as stated in the Title IX regulations:

- A. A procedural irregularity that affected the outcome of the matter;
- B. New evidence that that could affect the outcome was not reasonably available at the time the decision to dismiss or determination of responsibility was made;
- C. The Title IX coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against the individual complainant or respondent or for or against complainants or respondents generally that affected the outcome of the matter.

Written notice of a party's appeal shall be submitted to the Title IX coordinator within **(select an option: five (5) school days; ten (10) school days; other)** after the date of the written determination. Notice of appeal shall include a brief statement describing the basis for the appeal.

The Title IX coordinator shall ensure that the designated appeal authority is not the same person as the decision-maker that reached the determination, the investigator, or the Title IX coordinator. The designated appeal authority shall be the **(select an option: the district attorney or outside counsel; outside hearing officer; other)**.

For all appeals, the designated appeal authority shall:

- A. Provide written notice to the other party when notice of an appeal is filed and implement appeal procedures equally for both parties;
- B. Provide both parties a reasonable, equal opportunity to submit a written statement in support of or challenging the stated basis for the appeal. Supporting statements shall describe in detail as applicable the procedural irregularities asserted to have affected the outcome of the determination, the nature of any new evidence asserted to have affected the outcome, and the nature of any conflict of interest or bias asserted to have affected the outcome, with an explanation of how the outcome was affected by such factors. If evidence exists supporting the basis for appeal, it shall accompany the supporting statement, or it shall identify where such evidence may be found.

Supporting statements must be submitted to the appeal authority and provided to the other party within **(select an option: five (5) school days; ten (10) school days; other)** of the written notice of appeal.

Statements in opposition to the appeal shall be submitted within five (5) school days of the submission of supporting statements. If a statement in opposition to an appeal refers to any evidence beyond what is described in a supporting statement, the statement shall accompany the statement in opposition, or the statement shall identify where such evidence may be found.

The appeal authority may accept and consider evidence in support of or in opposition to an appeal in making any conclusions necessary to deciding the appeal. Alternatively, when the appeal authority determines that factors exist making it necessary for the decision-maker to further develop the evidentiary record relevant to the basis for appeal, the appeal authority may return the matter to the decision-maker for that limited purpose.

- C. Determine whether the appeal meets the grounds for permitted reasons for appeal and justifies modifying the written determination.

**TITLE IX – SEX BASED DISCRIMINATION**  
**PROCEDURES AND GRIEVANCE PROCESS** (regulation continued)

- D. Issue a written decision setting forth the respects, if any, in which the written determination is modified and the rationale for the result within **(select an option: five (5) school days; ten (10) school days; twenty (20) school days; other)**.
- E. Provide the written decision simultaneously to both parties. A copy of the written decision shall also be provided to the Title IX coordinator.

**Recordkeeping**

The district shall maintain the following records for a of a minimum of seven (7) years after conclusion of procedures and implementation of disciplinary sanctions and/or remedies, or in the case of a complainant or respondent who is a minor, until the expiration of the longest statute of limitations for filing a civil suit applicable to any allegation (whichever is longer):

- A. Each Title IX sexual harassment investigation including any written determination and any audio or audiovisual recording or transcript, disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to the district's education program or activity;
- B. Any appeal and the result;
- C. Any informal resolution and the result;
- D. All materials used to train the Title IX coordinator, investigators, decision-makers, and any person who facilitates an informal resolution process;
- E. Records of any district actions, including any supportive measures, taken in response to a report or formal complaint of Title IX sexual harassment. In each instance, the district shall document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the district's education program or activity. If a district does not provide a complainant with supportive measures, then the district must document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the district in the future from providing additional explanations or detailing additional measures taken.

*[Note: a live hearing process is not required for the grievance process for formal complaints in the K-12 setting. Language on a live hearing process is not included in these procedures, but the district may add language in consultation with the school attorney.]*

**REGULATION HISTORY**

Adopted: October 27, 2021

**CROSS REFERENCES**

1410	Local Units
2224	Nondiscrimination/Affirmative Action
4111.1/4211.1	Nondiscrimination, Affirmative Action
4112.6, 4212.6	Personnel Records
4119.21, 4219.21	Conflict of Interest
4119.22, 4219.22	Conduct and Dress
4131/4131.1	Staff Development, Inservice Education, Visitation, Conferences

TITLE IX – SEX BASED DISCRIMINATION  
PROCEDURES AND GRIEVANCE PROCESS (regulation continued)

5114	Suspension and Expulsion
5125	Student Records
5131	Conduct and Discipline
5131	Code of Student Conduct, Regulation
5131.1	Harassment, Intimidation and Bullying
5131.5	Violence and Vandalism
5131.5/5131.7	Violence and Weapons, Regulation
5131.3	Substance Abuse
5131.6	Substance Abuse, Regulation
5131.7	Weapons and Dangerous Instruments
5141.4	Missing, Abused and Neglected Children
5142	Student Safety
5145.4	Equal Educational Opportunity
6121	Nondiscrimination/Affirmative Action
6142.4	Physical Education and Health (Dating Violence)
6171.4	Special Education

**EXHIBITS**

Exhibit 1	Discrimination/sexual Harassment Report Form
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Based on the Pennsylvania School Boards Association procedure: *103-Attach 3 Title IX Sexual Harassment Procedures and Grievance Process for Formal Complaints*

## NJSBA POLICY SERVICES

FILE CODE: 2224.1

☒ Monitored

☒ Mandated

☒ Other Reasons

Exhibit

### DISCRIMINATION/SEXUAL HARASSMENT REPORT FORM

The board shall endeavor to provide a safe, positive learning and working environment that is free from bullying, hazing, dating violence, sexual harassment and other discrimination, and retaliation. If you have experienced, or if you have knowledge of, any such actions, we encourage you to complete this form. The Title IX Coordinator will be happy to support you by answering any questions about the report form, reviewing the report form for completion and assisting as necessary with completion of the report. The Title IX Coordinator's contact information is:

Position: \_\_\_\_\_

Address: \_\_\_\_\_

Email: \_\_\_\_\_

Phone Number: \_\_\_\_\_

#### **Retaliation Prohibited**

The district, its employees and others are prohibited from intimidating, threatening, coercing, or discriminating against you for filing this report. Please contact the Title IX Coordinator immediately if you believe retaliation has occurred.

#### **Confidentiality**

Confidentiality of all parties, witnesses, the allegations and the filing of a report shall be handled in accordance with applicable law, regulations, board policy, procedures, and the district's legal and investigative obligations. The school will take all reasonable steps to investigate and respond to the report consistent with a request for confidentiality as long as doing so does not preclude the school from responding effectively to the report or from complying with applicable law and board policy. If you have any questions regarding how the information contained in this report may be used, please discuss them with the Title IX Coordinator prior to filing the report. Once this report is filed, the district has an obligation to investigate the information provided.

**Note:** For purposes of Title IX sexual harassment, this Report Form serves initially as an informal report, not a formal complaint of Sexual Harassment under Title IX.

#### **I. Information About the Person Making This Report:**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

School Building: \_\_\_\_\_

I am a: \_\_\_\_\_

DISCRIMINATION/SEXUAL HARASSMENT REPORT FORM (continued)

☐ Student      ☐ Parent/Guardian      ☐ Employee      ☐ Volunteer      ☐ Visitor

☐ Other (please explain relationship to the district) If you are not the victim of the reported conduct, please identify the alleged victim:

Name: \_\_\_\_\_

The alleged victim is: ☐ Your Child      ☐ Another Student      ☐ A District Employee

☐ Other: (please explain relationship to the alleged victim)

## **II. Information About the Person(s) You Believe is/are Responsible for the Bullying, Hazing, Harassing or Other Discrimination You are Reporting**

What is/are the name(s) of the individual(s) you believe is/are responsible for the conduct you are reporting?

Name(s):

**The reported individual(s) is/are:**

☐ Student(s)      ☐ Employee(s)

☐ Other (please explain relationship to the district)

## **III. Description of the Conduct You are Reporting**

In your own words, please do your best to describe the conduct you are reporting as clearly as possible. Please attach additional pages if necessary:

When did the reported conduct occur? (Please provide the specific date(s) and time(s) if possible):

Where did the reported conduct take place?

Please provide the name(s) of any person(s) who was/were present, even if for only part of the time.

Please provide the name(s) of any other person(s) that may have knowledge or related information surrounding the reported conduct.

Have you reported this conduct to any other individual prior to giving this report?

☐ Yes      ☐ No

If yes, who did you tell about it?

If you are the victim of the reported conduct, how has this affected you?

I affirm that the information reported above is true to the best of my knowledge, information and belief.

DISCRIMINATION/SEXUAL HARASSMENT REPORT FORM (continued)\_\_\_\_\_  
Signature of Person Making the Report\_\_\_\_\_  
Date\_\_\_\_\_  
Received By Date**FOR OFFICIAL USE ONLY**

***This section is to be completed by the Title IX Coordinator based on reviewing the report with the complainant or other individual making the report.***

***The purpose of this form is to assist the Title IX Coordinator in gathering information necessary to properly assess the circumstances surrounding the reported conduct to determine if the allegations fall under the definition of Title IX sexual harassment and/or if the matter merits review and action under the Code of Student Conduct and/or other board policies. The Title IX Coordinator shall gather as much information as possible in cases of incomplete or anonymous reports (including those that may be received through the Safe2Say Something program) to assess the report.***

***Upon receipt of the report, the Title IX Coordinator shall promptly contact the complainant regarding the report to gather additional information as necessary, and to discuss the availability of supportive measures as described in board policy 2224.1 Title IX – Sex Based Discrimination. The Title IX Coordinator shall consider the complainant’s wishes with respect to supportive measures.***

**I. Reporter Information:**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

School Building: \_\_\_\_\_

Reporter is a: \_\_\_\_\_

☐ Student    ☐ Parent/Guardian    ☐ Employee    ☐ Volunteer    ☐ Visitor

☐ Other (please explain relationship to the district)

If the reporter is not the victim of the reported conduct, please identify the alleged victim:

Name: \_\_\_\_\_

The alleged victim is: ☐ Reporter’s Child    ☐ Another Student    ☐ Another Employee

☐ Other: (please explain relationship to the alleged victim)
**II. Respondent Information**

Please state the name(s) of the individual(s) believed to have committed the reported violation:

DISCRIMINATION/SEXUAL HARASSMENT REPORT FORM (continued)

Name(s): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

The reported respondent(s) is/are:

- ☐ Student(s)                      ☐ Employee(s)
- ☐ Other (please explain relationship to the district)

**III. Level of Report:**

- ☐ Informal                      ☐ Formal (see additional information below on Title IX formal complaints)

**IV. Type of Report:**

- ☐ Title IX Sexual Harassment                      ☐ Discrimination                      ☐ Retaliation                      ☐ Bullying
- ☐ Hazing    ☐ Dating Violence                      ☐ Other

**Nature of the Report (check all that apply):**

- ☐ Race
- ☐ Age
- ☐ Color
- ☐ Creed
- ☐ Religion
- ☐ Sex
- ☐ Gender identity or expression
- ☐ Sexual Orientation
- ☐ Sexual Harassment (Title IX)
- ☐ National Origin
- ☐ Ancestry
- ☐ Marital Status
- ☐ Family status
- ☐ Relationship status (including marital, domestic partnership, or civil union status)
- ☐ Pregnancy
- ☐ Breastfeeding
- ☐ Disability
- ☐ Bullying
- ☐ Hazing
- ☐ Dating Violence
- ☐ Atypical hereditary cellular or blood trait, genetic information (including the refusal to participate in genetic testing or provide genetic information)
- ☐ Military service
- ☐ Other: \_\_\_\_\_



DISCRIMINATION/SEXUAL HARASSMENT REPORT FORM (continued)**V. Reported Conduct**

Describe the reported conduct below, including specific actions, dates, times, locations and any other details necessary to properly assess the reported incident(s).

How often did the conduct occur?

Is it being repeated? ☐ Yes ☐ No

Do the circumstances involve a student identified as a student with a disability under the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act?

☐ No.

☐ Yes, please identify the student with a disability and contact the Director of Special Education.

Date Director of Special Education was contacted: \_\_\_\_\_

How has the conduct affected the alleged victim's ability to fully participate in the school's academic programs, activities or school employment?

What is the alleged victim's relationship with the alleged respondent?

Insert names, descriptions, and/or contact information of individuals believed to have observed the conduct or who otherwise may have knowledge of the conduct and/or related circumstances.

Additional observations or evidence including pictures, texts, emails, video or other information submitted to the Title IX Coordinator.

**VI. Safety Concerns**

Are there physical health or safety concerns that may require Emergency Removal of or Administrative Leave for a respondent? (This requires an individualized safety and risk analysis as to whether there is an immediate threat to the physical health or safety of a student or other individual arising from the sexual harassment allegations justifying removal.)

☐ No.

☐ Yes, please describe:

**VII. Other Reports**

Has the conduct been reported to the police or any other agency?

☐ No

☐ Yes Date reported: \_\_\_\_\_

DISCRIMINATION/SEXUAL HARASSMENT REPORT FORM (continued)

Agency: \_\_\_\_\_

**VIII. Identification of Policies Implicated by Reported Conduct**

Check all that apply:

- ☐ Policy 2224 Nondiscrimination/Affirmative Action
- ☐ Policy 2224.1 Title IX Sexual Harassment Affecting
- ☐ Policy 4111.1/4211.1 Nondiscrimination/Affirmative Action
- ☐ Policy 5131.1 Harassment, Intimidation and Bullying
- ☐ Policy 6121 Nondiscrimination/Affirmative Action
- ☐ Policy 6142.4 Physical Education and Health (Dating Violence)

To meet the definition of Title IX sexual harassment, the conduct must have taken place during a district education program or activity and against a person in the United States. An **education program or activity** includes the locations, events or circumstances over which the district exercises substantial control over both the respondent and the context in which the sexual harassment occurs. Title IX applies to all of a district's education programs or activities, whether such programs or activities occur on-campus or off-campus.

Did the incident occur during a school program or activity involving a person in the United States?

☐ Yes

☐ No

To meet the definition of Title IX sexual harassment, the conduct needs to satisfy one or more of the following (please check all that apply):

- ☐ A district employee conditioning the provision of an aid, benefit, or district service on an individual's participation in unwelcome sexual conduct, commonly referred to as quid pro quo sexual harassment.
- ☐ Unwelcome conduct determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to a district education program or activity.
- ☐ Sexual assault, dating violence, domestic violence or stalking.

**Dating violence** means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship is determined by the following factors:

- Length of relationship.
- Type of relationship.
- Frequency of interaction between the persons involved in the relationship.

**Domestic violence** includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving federal funding, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

DISCRIMINATION/SEXUAL HARASSMENT REPORT FORM (continued)

**Sexual assault** means a sexual offense under a state or federal law that is classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.

**Stalking** means stalking on the basis of sex, for example when the stalker desires to date a victim. Stalking means to engage in a course of conduct directed at a specific person that would cause a reasonable person to either:

1. Fear for their safety or the safety of others.
2. Suffer substantial emotional distress.

### **IX. Recommended Course of Action**

After consultation with the complainant and consideration of the reported information, the Title IX Coordinator directs the report to proceed under the provisions of (check all that apply):

- ☐ No further action at this time (*state the reason*):
- ☐ Policy 2224 Nondiscrimination/Affirmative Action
- ☐ Policy 2224.1 Title IX Sexual Harassment Affecting
- ☐ Policy 4111.1/4211.1 Nondiscrimination/Affirmative Action
- ☐ Policy 5131.1 Harassment, Intimidation and Bullying
- ☐ Policy 6121 Nondiscrimination/Affirmative Action
- ☐ Policy 6142.4 Physical Education and Health (Dating Violence)

### **X. Title IX Information to Complainant**

What supportive measures were discussed with the complainant, and what were the complainant's wishes with respect to supportive measures?

Upon designating a course of action under Title IX sexual harassment, the Title IX Coordinator will promptly:

1. Explain to the complainant the process for filing a formal complaint.
2. Inform the complainant of the continued availability of supportive measures with or without the filing of a formal complaint.
3. The Title IX Coordinator shall contact a student complainant's parents/guardians and provide them with information regarding the report and Title IX sexual harassment procedures and grievance process for formal complaints, in accordance with applicable law.

The Title IX coordinator shall contact the emancipated or adult student and provide them with information regarding the report and Title IX sexual harassment procedures and grievance process for formal complaints, in accordance with applicable law

If the complainant/reporter, school staff or others with professional knowledge relating to the complainant's health and well-being indicate that notifying the parents/guardians could cause serious harm to the health or well-being of the complainant or other person(s), the Title IX Coordinator will determine, in consultation with such individuals and upon advice of legal counsel, whether to withhold or delay notification of the report from the complainant's parents/guardians.

DISCRIMINATION/SEXUAL HARASSMENT REPORT FORM (continued)

4. Determine what supportive measures may be offered to the respondent.
5. Determine whether the complainant wishes this report to be treated as a formal complaint.

**XI. Title IX Coordinator Signature**

I recommend the above course of action based on my consultation with the complainant and the information available at this time.

Title IX Coordinator

Date: \_\_\_\_\_

**XII. Title IX Formal Complaint Action**

The Title IX Coordinator shall have the complainant check the appropriate box and sign and date below to indicate whether or not the complainant wishes to have this form serve as a formal complaint pursuant to Title IX.

I would like my report to be treated as a formal complaint pursuant to Title IX.

☐ Yes      ☐ No

Complainant's Signature: \_\_\_\_\_

Date: \_\_\_\_\_

If the complainant does not wish this report to be treated as a formal complaint pursuant to Title IX, the Title IX Coordinator is also authorized to initiate this process despite a complainant's wishes when actions limited to supportive measures are not a sufficient response to alleged behavior, or when a formal complaint process is necessary to investigate and address the situation adequately. For example, if the respondent is an employee, or if further investigation is needed to assess the extent of the behavior and impact on others, it may be reasonable to initiate the formal complaint process. The Title IX Coordinator may consult with the school attorney and other district officials in making this decision.

As Title IX Coordinator, I have determined that, notwithstanding the complainant's preference, it is necessary to proceed with the Grievance Process for Formal Complaints for the following reasons:

Therefore, I am signing this form for the purpose of serving as the formal complaint initiating that process:

Title IX Coordinator's Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Based on the Pennsylvania School Boards Association report form: *103-Attach 1 Report Form*

**Policy**

**TITLE IX – SEX-BASED DISCRIMINATION**

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.

**Title IX Coordinator, Grievance Procedures and Notifications**

The Estell Manor Board of Education in consultation with the superintendent shall appoint at least one employee to coordinate its efforts to comply with its responsibilities under Title IX. The appointed employee shall be referred to as the "Title IX Coordinator."

The superintendent or his or her designee shall notify applicants for employment, students, applicants to charter schools and other public schools accepting applications for attendance (i.e. vocational schools and specialty high schools), parents/guardians of elementary and secondary school students, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the district, of the name or title, office address, electronic mail address, and telephone number of the employee(s) designated as the Title IX Coordinator pursuant to this paragraph.

Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address, listed for the Title IX Coordinator.

The contact information required to be listed for the Title IX Coordinator and this board policy shall be prominently display on the district website and in the parent/student handbook, the employee handbooks and catalogs published by the district. The board shall not use or distribute any publication stating that the board treats applicants, students, or employees differently on the basis of sex except as such treatment is permitted by Title IX and its related regulations.

The superintendent or his or her designee shall notify applicants for employment, students, parents/guardians of elementary and secondary school students, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the district:

- A. Of this policy and the grievance procedures and grievance process; and
- B. That the district does not discriminate on the basis of sex in the education program or activity that it operates, and that it is required by Title IX and its related regulations not to discriminate in such a manner. Such notification shall state that the requirement not to discriminate in the education program or activity extends to admission and employment, and that inquiries about the application of Title IX may be referred to the Title IX Coordinator, to the Assistant Secretary for Civil Rights of the U.S. Department of Education (referred to as the "Assistant Secretary"), or both.

TITLE IX – SEX BASED DISCRIMINATION (continued)

The Title IX coordinator with the superintendent shall develop and the board shall adopt grievance procedures. The grievance procedures shall be published with the policy and shall provide for the prompt and equitable resolution of student and employee complaints alleging any action that would be prohibited by Title IX and its related regulations, and a grievance process for formal complaints.

The superintendent or his or her designee shall notify applicants for employment, students, applicants to charter schools and other public schools accepting applications for attendance (i.e. vocational schools and specialty high schools), parents/guardians of elementary and secondary school students, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the district, of the grievance procedures and grievance process, including how to report or file a complaint of sex discrimination, how to report or file a formal complaint of sexual harassment, and how the district will respond. This shall only apply to sex discrimination occurring against a person in the United States.

The Title IX coordinator(s) shall be responsible for coordinating the district's efforts to comply with its responsibilities under this part, which includes, but may not be limited to, the implementation of the grievance procedures, this policy and accompanying regulations for complying with Title IX. The superintendent or his or her designee shall notify all its applicants for admission and employment, students, parents/guardians of elementary and secondary school students, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the district of the name or title, office address electronic mail address, and telephone number of the employee or employees appointed to coordinate the implementation of this policy and accompanying regulations.

General

The board of education is committed to ensuring that no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity operated by the district, including but not limited to:

- A. Education programs or activities;
- B. Comparable facilities;
- C. Access to classes and schools;
- D. Classes and extracurricular activities;
- E. Schools;
- F. Access to institutions of vocational education;
- G. Counseling and use of appraisal and counseling materials;
- H. Financial assistance;
- I. Employment assistance to students;
- J. Health and insurance benefits and services;
- K. Athletics (any interscholastic, club or intramural athletics offered by the district, and the district shall not provide any such athletics separately on the basis of sex).

TITLE IX – SEX BASED DISCRIMINATION (continued)

Nothing in this board policy and regulation and Title IX shall be interpreted as requiring or prohibiting or abridging in any way the use of particular textbooks or curricular materials.

Education Programs or Activities – Specific Prohibitions

The board of education is committed to ensuring that no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity operated by the district.

In providing any aid, benefit, or service to a student, the school community including but not limited to district employees, officers, volunteers, students or contracted service provider, shall not, on the basis of sex:

- A. Treat one person differently from another in determining whether such person satisfies any requirement or condition for the provision of such aid, benefit, or service;
- B. Provide different aid, benefits, or services or provide aid, benefits, or services in a different manner;
- C. Deny any person any such aid, benefit, or service;
- D. Subject any person to separate or different rules of behavior, sanctions, or other treatment;
- E. Apply any rule concerning the domicile or residence of a student or applicant, including eligibility for in-state fees and tuition;
- F. Aid or perpetuate discrimination against any person by providing significant assistance to any agency, organization, or person which discriminates on the basis of sex in providing any aid, benefit or service to students or employees;
- G. Otherwise limit any person in the enjoyment of any right, privilege, advantage, or opportunity.

Comparable Facilities

The district may provide separate toilet, locker room, and shower facilities on the basis of sex, but such facilities provided for students of one sex shall be comparable to such facilities provided for students of the other sex.

Access to Classes and Schools

Except as may be permitted by Title IX and its related regulations, the district shall not provide or otherwise carry out any of its education programs or activities separately on the basis of sex, or require or refuse to let a student participate on the basis of sex including:

- A. Contact sports in physical education classes

Students may be separated by sex within physical education classes or activities during participation in wrestling, boxing, rugby, ice hockey, football, basketball, and other sports the purpose or major activity of which involves bodily contact.

- B. Ability grouping in physical education classes

Students may be separated in physical education classes and activities by ability as assessed by objective standards of individual performance developed and applied without regard to sex.

If use of a single standard of measuring skill or progress in physical education classes has an adverse

TITLE IX – SEX BASED DISCRIMINATION (continued)

effect on members of one sex, the recipient shall use appropriate standards that do not have that effect.

## C. Human sexuality classes

Classes or portions of classes at the elementary and secondary level that deal primarily with human sexuality may be conducted in separate sessions for boys and girls.

## D. Choruses

The superintendent or his or her designee may make requirements based on vocal range or quality that may result in a chorus or choruses of one or predominantly one sex.

Classes and Extracurricular Activities

## A. A nonvocational district may provide nonvocational single-sex classes or extracurricular activities, if:

1. Each single-sex class or extracurricular activity is based on the district's important objective:
  - a. To improve the educational achievement of its students by providing diverse educational opportunities. The board may approve each single-sex class or extracurricular activity only when the superintendent has demonstrated that the single-sex nature of the class or extracurricular activity is substantially related to achieving that objective; or
  - b. To meet the particular, identified educational needs of its students, provided that the single-sex nature of the class or extracurricular activity is substantially related to achieving that objective;
2. The objective is implemented in an evenhanded manner;
3. The student enrollment in a single-sex class or extracurricular activity is completely voluntary; and
4. The district provides to all other students, including students of the excluded sex, a substantially equal coeducational class or extracurricular activity in the same subject or activity.

## B. Single-sex class or extracurricular activity for the excluded sex

The district, when providing a single-sex class or extracurricular activity, may be required in compliance with law to provide a substantially equal single-sex class or extracurricular activity for students of the excluded sex.

## C. Substantially equal factors

Factors the United States Department of Education will consider, either individually or in the aggregate as appropriate, in determining whether classes or extracurricular activities are substantially equal include, but are not limited to, the following: the policies and criteria of admission, the educational benefits provided, including the quality, range, and content of curriculum and other services and the quality and availability of books, instructional materials, and technology, the qualifications of faculty and staff, geographic accessibility, the quality, accessibility, and availability of facilities and resources provided to the class, and intangible features, such as reputation of faculty.

## D. Periodic evaluations.

The superintendent or his/her/their designee shall conduct periodic evaluations to ensure that single-sex classes or extracurricular activities are based upon genuine justifications and do not rely on overly broad generalizations about the different talents, capacities, or preferences of either sex and that any single-sex classes or extracurricular activities are substantially related to the achievement of the important objective for the classes or extracurricular activities. Evaluations shall be conducted at least every two years.



TITLE IX – SEX BASED DISCRIMINATION (continued)

## E. Scope of coverage

The provisions of section, “Classes and Extracurricular Activities” (A through D) apply to classes and extracurricular activities provided by the district directly or through another entity. The provisions of this section, “Classes and Extracurricular Activities” (A through D), do not apply to interscholastic, club, or intramural athletics.

Schools

## A. Definition

For the purposes of this section, the term "school" includes a "school within a school," which means an administratively separate school located within another school.

B. As a general standard, a recipient that operates a public nonvocational elementary or secondary school that excludes any students from admission, on the basis of sex, must provide students of the excluded sex a substantially equal single-sex school or coeducational school;

C. A nonvocational public charter school that is a single-school local educational agency may be operated as a single-sex charter school without regard to the general standard requirements of this section;

## D. Substantially equal factors

Factors the United States Department of Education will consider, either individually or in the aggregate as appropriate, in determining whether schools are substantially equal include, but are not limited to, the following: The policies and criteria of admission, the educational benefits provided, including the quality, range, and content of curriculum and other services and the quality and availability of books, instructional materials, and technology, the quality and range of extracurricular offerings, the qualifications of faculty and staff, geographic accessibility, the quality, accessibility, and availability of facilities and resources, and intangible features, such as reputation of faculty.

Access to Institutions of Vocational Education

The district shall not, on the basis of sex, exclude any person from admission to any institution of vocational education operated by the district.

Counseling

The district shall not discriminate against any person on the basis of sex in the counseling or guidance of students or applicants for admission.

The district shall not use different testing or other materials for appraising or counseling students on the basis of their sex or use materials which permit or require different treatment of students on the basis of sex unless such different materials cover the same occupations and interest areas and the use of such different materials is shown to be essential to eliminate sex bias. The superintendent or his or her designee shall develop and use internal procedures for ensuring that such materials do not discriminate on the basis of sex.

Where the use of a counseling test or other instrument results in a substantially disproportionate number of members of one sex in any particular course of study or classification, the district shall take such action as is necessary to assure itself that such disproportion is not the result of discrimination in the instrument or its application.

TITLE IX – SEX BASED DISCRIMINATION (continued)

When the district finds that a particular class contains a substantially disproportionate number of individuals of one sex, the district shall take such action as is necessary to assure itself that such disproportion is not the result of discrimination on the basis of sex in counseling or appraisal materials or by counselors.

Financial Assistance

- A. Except as provided in paragraphs (B) and (C) of this section, in providing financial assistance to any of its students, a district shall not:
  - 1. On the basis of sex, provide different amount or types of financial assistance, limit eligibility for such assistance which is of any particular type or source, apply different criteria, or otherwise discriminate;
  - 2. Through solicitation, listing, approval, provision of facilities or other services, assist any foundation, trust, agency, organization, or person which provides assistance to any of the district students in a manner which discriminates on the basis of sex; or
  - 3. Apply any rule or assist in application of any rule concerning eligibility for such assistance, which treats persons of one sex differently from persons of the other sex with regard to marital or parental status.
  - 4. Financial aid established by certain legal instruments.
- B. When financial aid is established by certain legal instruments:
  - 1. The district may administer or assist in the administration of scholarships, fellowships, or other forms of financial assistance established pursuant to domestic or foreign wills, trusts, bequests, or similar legal instruments or by acts of a foreign government which requires that awards be made to members of a particular sex specified therein; provided, that the overall effect of the award of such sex-restricted scholarships, fellowships, and other forms of financial assistance does not discriminate on the basis of sex;
  - 2. To ensure nondiscriminatory awards of assistance as required in paragraph (B)(1) of this section, the district shall develop and use procedures under which:
    - a. Students are selected for award of financial assistance on the basis of nondiscriminatory criteria and not on the basis of availability of funds restricted to members of a particular sex;
    - b. An appropriate sex-restricted scholarship, fellowship, or other form of financial assistance is allocated to each student selected under paragraph (B)(2)(a) of this section; and
    - c. No student is denied the award for which he or she was selected under paragraph (B)(2)(a) of this section because of the absence of a scholarship, fellowship, or other form of financial assistance designated for a member of that student's sex.
- C. Athletic scholarships
  - 1. To the extent that the district awards athletic scholarships or grants-in-aid, it must provide reasonable opportunities for such awards for members of each sex in proportion to the number of students of each sex participating in interscholastic athletics;
  - 2. Separate athletic scholarships or grants-in-aid for members of each sex may be provided as part of separate athletic teams for members of each sex as permitted by law.

Marital or Parental Status and Pregnancy

The district shall not apply any rule concerning a student's actual or potential parental, family, or marital status which treats students differently on the basis of sex.

- A. The district shall not discriminate against any student, or exclude any student from its education program or activity, including any class or extracurricular activity, on the basis of such student's pregnancy,

TITLE IX – SEX BASED DISCRIMINATION (continued)

childbirth, false pregnancy, termination of pregnancy or recovery therefrom, unless the student requests voluntarily to participate in a separate portion of the program or activity of the recipient;

- B. The district may require such a student to obtain the certification of a physician that the student is physically and emotionally able to continue participation so long as such a certification is required of all students for other physical or emotional conditions requiring the attention of a physician;
- C. The district may operate a portion of its education program or activity separately for pregnant students. Admittance to this separate program shall be completely voluntary on the part of the student as provided and the district shall ensure that the separate portion is comparable to that offered to non-pregnant students;
- D. The district shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom in the same manner and under the same policies as any other temporary disability with respect to any medical or hospital benefit, service, plan or policy which the district administers, operates, offers, or participates in with respect to students admitted to the district educational programs or activities;
- E. The district shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom as a justification for a leave of absence for so long a period of time as is deemed medically necessary by the student's physician. At the conclusion of the leave, the student shall be reinstated to the status which she held when the leave began.

Sexual HarassmentDefinitions

"Education program or activity" includes locations, events, or circumstances over which the district exercised substantial control over both the respondent and the context in which the sexual harassment occurs.

"Complainant" means an individual who is alleged to be the victim of conduct that could constitute sexual harassment.

"Respondent" means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

"Actual knowledge" means notice of sexual harassment or allegations of sexual harassment to the district's Title IX Coordinator or any district official who has the authority to institute corrective measures on behalf of the district, or to any employee of an elementary and secondary school, other than the respondent. "Notice" as used in this paragraph includes, but is not limited to, a report of sexual harassment to the Title IX Coordinator as described in § 106.8(a).

"Exculpatory evidence" means evidence tending to exonerate the accused or helps to establish their innocence.

"Inculpatory" evidence means evidence tending to incriminate the accused or indicate their guilt.

"Formal complaint" means a document filed by a complainant or signed by the Title IX Coordinator alleging Title IX sexual harassment and requesting that the district investigate the allegation. The authority for the Title IX Coordinator to sign a formal complaint does not make the Title IX Coordinator the complainant or other party during the grievance process. The phrase "document filed by a complainant" refers to a document or electronic submission that contains the complainant's physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint.

TITLE IX – SEX BASED DISCRIMINATION (continued)

“Retaliation” shall mean actions including, but not limited to, intimidation, threats, coercion, or discrimination against any individual for the purpose of interfering with any right or privilege secured by Title IX or its related regulations, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under Title IX and its related regulations. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by title IX or this part, constitutes retaliation. The following actions shall not constitute retaliation:

- A. An individual exercising free speech under the rights protected by the First Amendment;
- B. Charging an individual under the district’s code of conduct for making a materially false statement in bad faith in the course of a grievance proceeding under this policy. The fact that the charges of discrimination were unfounded or unsubstantiated shall not be the sole reason to conclude that any party made a materially false statement in bad faith.

“Supportive measures” are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Supportive measures shall be designed to restore or preserve equal access to the education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the educational environment, or to deter sexual harassment. Supportive measures may include, but shall not be limited to:

- A. Counseling;
- B. Extensions of deadlines or other course-related adjustments;
- C. Modifications of work or class schedules;
- D. Campus escort services;
- E. Mutual restrictions on contact between the parties;
- F. Changes in work locations or school of attendance;
- G. Leaves of absence;
- H. Increased security, and;
- I. Monitoring of certain areas of the campus;
- J. Referral to domestic violence or rape crisis programs;
- K. Referral to community health resources including counseling resources.

Supportive measures may also include assessments or evaluations to determine eligibility for special education or related services, or the need to review an individualized education program (IEP) or Section 504 service agreement based on a student’s behavior. This could include, but is not limited to, a manifestation determination or functional behavioral assessment (FBA), in accordance with applicable law, regulations and board policy 6171.4 Special Education.

“Title IX sexual harassment” means conduct on the basis of sex that satisfies one or more of the following:

TITLE IX – SEX BASED DISCRIMINATION (continued)

- A. A district employee conditioning the provision of an aid, benefit, or district service on an individual's participation in unwelcome sexual conduct;
- B. Unwelcome conduct determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to a district education program or activity;
- C. Sexual assault, dating violence, domestic violence or stalking:
  - 1. Dating Violence means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship is determined by the following factors:
    - a. Length of relationship;
    - b. Type of relationship;
    - c. Frequency of interaction between the persons involved in the relationship.
  - 2. Domestic violence includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving federal funding, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction;
  - 3. Sexual assault means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation;
  - 4. Stalking under Title IX means stalking on the basis of sex, for example when the stalker desires to date a victim. Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to either:
    - a. Fear for their safety or the safety of others; or
    - b. Suffer substantial emotional distress.

Such conduct must have taken place during a district education program or activity and against a person in the United States to qualify as sexual harassment subject to Title IX regulations. An education program or activity includes the locations, events or circumstances over which the district exercises substantial control over both the respondent and the context in which the harassment occurs.

Response to Sexual Harassment

## A. General

Any person with actual knowledge of sexual harassment in an education program or activity of this district against a person in the United States, shall respond promptly in a manner that is not deliberately indifferent. A district is deliberately indifferent only if its response to sexual harassment is clearly unreasonable in light of the known circumstances.

The Title IX Coordinator shall treat complainants and respondents equitably by offering supportive measures to a complainant, and by following the grievance process (see 2224.1 Regulation) before the imposition of any disciplinary sanctions or other actions that are not supportive measures as defined in this policy against a respondent. The Title IX Coordinator shall promptly contact the complainant to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint.

TITLE IX – SEX BASED DISCRIMINATION (continued)

In responding to allegations of harassment, the district's response must not be deliberately indifferent to the allegations. Moreover, the response may not infringe on any Constitutional rights protected under the First, Fifth, or Fourteenth Amendments. Responses that do infringe Constitutional rights may themselves be deemed deliberately indifferent.

## B. Response to a formal complaint:

In response to a formal complaint, the district shall follow the grievance process (see 2224.1 Regulation). With or without a formal complaint, the district shall respond promptly in a manner that is not deliberately indifferent and according to all the provisions listed under (A) General above.

## C. Emergency removal

1. The district may remove a respondent from the education program or activity on an emergency basis, provided an individualized safety and risk analysis has been conducted, and it is determined that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal;
2. The respondent shall be notified and given an opportunity to challenge the decision immediately following the removal;
3. The rights of persons under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act shall be observed in accordance with the aforementioned Acts.

## D. Administrative leave:

The district may place a non-student employee respondent on administrative leave during the pendency of a grievance process. The rights of a non-student employee respondent under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act shall be observed in accordance with the aforementioned Acts.

Grievance Process for Formal Complaints of Sexual Harassment.

For the purpose of addressing formal complaints of sexual harassment, the district's grievance process must comply with the requirements of law as follows. Any provisions, rules, or practices other than those required by the federal regulations under Title IX (see 34 CFR § 106.45) adopted by the board as part of its grievance process for handling formal complaints of sexual harassment shall apply equally to both parties. The board requires that:

## A. The Title IX Coordinator shall treat complainants and respondents equitably:

1. By providing remedies to a complainant where a determination of responsibility for sexual harassment has been made against the respondent, and
2. By following the grievance process (see 2224.1 Regulation) before the imposition of any disciplinary sanctions or other actions that are not supportive measures as defined in this policy against a respondent.
3. Remedies shall be designed to restore or preserve equal access to the recipient's education program or activity. Such remedies may include the same individualized services described in law (see 34 CFR § 106.30) and district procedures 2224.1 Title IX – Sexual Harassment, Grievance, Regulation grievance as "supportive measures"; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the respondent;

TITLE IX – SEX BASED DISCRIMINATION (continued)

- B. An objective evaluation of all relevant evidence be conducted including both inculpatory and exculpatory evidence, and provides that credibility determinations may not be based on a person's status as a complainant, respondent, or witness;
- C. Any individual designated by the board as a Title IX Coordinator, investigator, decision-maker, or any person designated by the board or the superintendent to facilitate an informal resolution process, shall not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent;
- D. The Title IX coordinators, investigators, decision-makers, and any designated person who facilitates an informal resolution process, shall receive training. Any materials used to train Title IX Coordinators, investigators, decision-makers, and any designated person who facilitates an informal resolution process shall not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment. Training shall be provided on:
  - 1. The definition of sexual harassment (see 34 CFR § 106.30);
  - 2. The scope of the district's education program or activity;
  - 3. How to conduct an investigation: and
  - 4. The grievance process including hearings, appeals, and informal resolution processes, as applicable; and
  - 5. How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias;
  - 6. Technology to be used at a live hearing;
  - 7. Issues related to the relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant;
  - 8. Issues of relevance to create an investigative report that fairly summarizes relevant evidence;
- E. The grievance process shall include a presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process;
- F. The grievance process shall include reasonably prompt time frames for conclusion of the grievance process, including reasonably prompt time frames for filing and resolving appeals and informal resolution processes if the recipient offers informal resolution processes, and a process that allows for the temporary delay of the grievance process or the limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities;
- G. The grievance process shall include the range of possible disciplinary sanctions and remedies or list the possible disciplinary sanctions and remedies that the district may implement following any determination of responsibility;
- H. The standard of evidence that shall be used to determine responsibility is the preponderance of the evidence standard. The standard of evidence shall apply the same for formal complaints against students as for formal complaints against employees, including faculty, and the same standard of evidence shall apply to all formal complaints of sexual harassment;
- I. Procedures and permissible bases for the complainant and respondent to appeal the determination shall be detailed in the grievance procedures;
- J. The grievance process shall include the range of supportive measures available to complainants and respondents; and

TITLE IX – SEX BASED DISCRIMINATION (continued)

- K. The Title IX coordinator shall ensure that the grievance process will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

Notice of Allegations

Upon receipt of a formal complaint, Title IX coordinator shall provide the following written notice to the parties who are known:

- A. Notice of the grievance process, including any informal resolution process;
- B. Notice of the allegations of sexual harassment potentially constituting sexual harassment as defined in law (§ 106.30) and this policy, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview.
  - 1. Sufficient details include:
    - a. The identities of the parties involved in the incident, if known;
    - b. The conduct allegedly constituting sexual harassment under law (34 CFR § 106.30); and
    - c. The date and location of the alleged incident, if known;
  - 2. The written notice shall include a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility shall be made at the conclusion of the grievance process;
  - 3. The written notice must inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence;
  - 4. The written notice must inform the parties of any provision in the code of student conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.
- C. If, in the course of an investigation, the Title IX coordinator or his or her designee decides to investigate allegations about the complainant or respondent that are not included in the notice provided as described above, notice of the additional allegations to the parties whose identities are known shall be provided.

Dismissal of a Formal Complaint

The allegations in a formal complaint shall be investigated. If the conduct alleged in the formal complaint would not constitute sexual harassment as defined in law (34 CFR § 106.30) even if proved, did not occur in the district's education program or activity, or did not occur against a person in the United States, then the district shall dismiss the formal complaint with regard to that conduct for purposes of sexual harassment under Title IX, including related regulations. This dismissal does not preclude action under another provision of the code of student conduct for behavioral infractions that violate policy.

- A. The formal complaint or any allegations therein may be dismissed, if at any time during the investigation or hearing:
  - 1. A complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein;
  - 2. The respondent is no longer enrolled in the district or employed by the recipient; or
  - 3. Specific circumstances prevent gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein;
- B. Upon a dismissal required or permitted, the Title IX coordinator shall promptly send written notice of the dismissal and reason(s) therefor simultaneously to the parties.



TITLE IX – SEX BASED DISCRIMINATION (continued)Consolidation of Formal Complaints

- A. Formal complaints as to allegations of sexual harassment may be consolidated where the allegations of sexual harassment arise out of the same facts or circumstances. Formal complaints that may be consolidated where the allegations of sexual harassment arise out of the same facts or circumstances are:
  - 1. Against more than one respondent; or
  - 2. By more than one complainant against one or more respondents; or
  - 3. By one party against the other party.
- B. Where a grievance process involves more than one complainant or more than one respondent, references in this section to the singular "party," "complainant," or "respondent" include the plural, as applicable.

Investigation of a Formal Complaint

When investigating a formal complaint and throughout the grievance process, the following requirements shall be implemented:

- A. The Title IX coordinator shall ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility shall rest on the district and not on the parties. Records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, shall not be accessed, considered, disclosed, or otherwise used without that party's voluntary, written consent to do so for a grievance process (if a party is not an "eligible student," as defined in [34 CFR § 99.3](#), then the recipient must obtain the voluntary, written consent of a "parent," as defined in [34 CFR § 99.3](#));
- B. An equal opportunity for the parties to present witnesses shall be provided, including fact and expert witnesses, and other inculpatory and exculpatory evidence;
- C. The ability of either party to discuss the allegations under investigation or to gather and present relevant evidence shall not be restricted;
- D. The parties shall be provided with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the complainant or respondent in any meeting or grievance proceeding. The district may, however, establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties;
- E. A party whose participation is invited or expected shall be provided written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings. This notice shall be provided with sufficient time for the party to prepare to participate;
- F. Both parties shall be provided an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the recipient does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. Prior to completion of the investigative report, the Title IX coordinator must send to each party and the party's

TITLE IX – SEX BASED DISCRIMINATION (continued)

advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least 10 days to submit a written response, which the investigator will consider prior to completion of the investigative report. The recipient must make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination; and

- G. Create an investigative report that fairly summarizes relevant evidence and, at least 10 days prior to a hearing (when provided) or other time of determination regarding responsibility, send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response.

Hearings.

Elementary and secondary school districts may, but need not, provide for a hearing as part of the grievance process, though a hearing may be required under another federal or state law, other than Title IX, that may apply based on the nature of the specific allegations.

- A. With or without a hearing, after the investigative report has been sent to the parties and before reaching a determination regarding responsibility, the decision-maker(s) must afford each party:
  - 1. The opportunity to submit written, relevant questions that a party wants asked of any party or witness;
  - 2. Provide each party with the answers; and
  - 3. Allow for additional, limited follow-up questions from each party.
- B. With or without a hearing, questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. The decision maker(s) must explain to the party proposing the questions any decision to exclude a question as not relevant.

In the case of allegations of sexual harassment against employees, that are subject to criminal investigations district hearing proceedings may need to be delayed in order to protect the accused's 5<sup>th</sup> Amendment rights.

Determination Regarding Responsibility

- A. The decision-maker(s), who cannot be the same person(s) as the Title IX coordinator or the investigator(s), must issue a written determination regarding responsibility. To reach this determination, the recipient must apply the preponderance of the evidence standard. The standard of evidence shall apply the same for formal complaints against students as for formal complaints against employees, including faculty, and the same standard of evidence shall apply to all formal complaints of sexual harassment:
- B. The written determination shall include:
  - 1. Identification of the allegations potentially constituting sexual harassment as defined in law (§ 106.30) and this policy;
  - 2. A description of the procedural steps taken from the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
  - 3. Findings of fact supporting the determination;
  - 4. Conclusions regarding the application of the district code of student conduct to the facts;

TITLE IX – SEX BASED DISCRIMINATION (continued)

5. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions imposed on the respondent, and whether remedies designed to restore or preserve equal access to the education program or activity will be provided by the district to the complainant; and
  6. The procedures and permissible bases for the complainant and respondent to appeal the determination.
- C. The written determination shall be provided to the parties simultaneously. The determination regarding responsibility becomes final either:
1. On the date that the with the written determination of the result of the appeal is provided, if an appeal is filed; or
  2. If an appeal is not filed, the date on which an appeal would no longer be considered timely.
- D. The Title IX Coordinator shall be responsible for effective implementation of any remedies.

Appeals

The district shall offer both parties an appeal from a determination regarding responsibility, and from a dismissal of a formal complaint or any allegations therein, on the following bases:

- A. Procedural irregularity that affected the outcome of the matter;
- B. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
- C. The Title IX coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter:

The district may offer an appeal equally to both parties on additional bases. As to all appeals, the recipient must:

- A. Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
- B. Ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX coordinator;
- C. Ensure that the decision-maker(s) for the appeal complies with the standards in the section of this policy entitled, "Grievance Process for Formal Complaints of Sexual Harassment" (see C-D just above), regarding conflict of interest and training;
- D. Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
- E. Issue a written decision describing the result of the appeal and the rationale for the result; and
- F. Provide the written decision simultaneously to both parties.

Informal Resolution

TITLE IX – SEX BASED DISCRIMINATION (continued)

The district may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment consistent with law and this policy. Similarly, the district may not require the parties to participate in an informal resolution process and may not offer an informal resolution process unless a formal complaint is filed. However, at any time prior to reaching a determination regarding responsibility, an informal resolution process may be facilitated by the district, such as mediation, that does not involve a full investigation and adjudication provided that the district:

- A. Provides to the parties a written notice disclosing:
  - 1. The allegations;
  - 2. The requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint; and
  - 3. Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;
- B. Obtains the parties' voluntary, written consent to the informal resolution process; and
- C. Does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

Recordkeeping.

The district shall maintain for a period of seven years records of:

- A. Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to the recipient's education program or activity;
- B. Any appeal and the result therefrom;
- C. Any informal resolution and the result therefrom; and
- D. All materials used to train Title IX coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. The district shall make these training materials publicly available on its website (or if the district does not maintain a website these materials shall be available upon request for inspection by members of the public.);

The district shall create for each response required under the section of this policy entitled, "Response to Sexual Harassment" (see A-D, page 9 of this policy), and maintain for a period of seven years, records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment. In each instance, the superintendent or his or her designee shall document the basis for the conclusion that the response was not deliberately indifferent, and that the district has taken measures designed to restore or preserve equal access to the district education program or activity. If the complainant is not provided with supportive measures, then the district shall document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the district in the future from providing additional explanations or detailing additional measures taken.

Retaliation

TITLE IX – SEX BASED DISCRIMINATION (continued)

Retaliation is prohibited. No district employee, officer, or student, or other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX and its related regulations, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this part. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX or its related regulations, constitutes retaliation. The district shall keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted by the FERPA statute, 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of this policy and 34 CFR part 106 (the Title IX regulations), including the conduct of any investigation, hearing, or judicial proceeding arising thereunder. Complaints alleging retaliation may be filed according to the grievance procedures for sex discrimination as described above.

Dissemination of Policy

The superintendent or his or her designee must notify applicants for admission and employment, students, parents/guardians of elementary and secondary school students, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the district that the district does not discriminate on the basis of sex in the educational program or activity which it operates, and that it is required by Title IX and its related regulations not to discriminate in such a manner.

## A. The notification shall state at least:

1. That the requirement not to discriminate in the education program or activity extends to employment in the district, and to admission in the district (where applicable); and
2. That inquiries concerning the application of Title IX and its related regulations may be referred to the employee designated as the Title IX Coordinator or to the Assistant Secretary.

## B. Publications:

1. The district shall prominently display the name or title, office address, electronic mail address, and telephone number of the employee or employees designated as the district's Title IX coordinator, as well as the Title IX policy as described in this section ("Dissemination of Policy") on the district's website, if any, and in each handbook or catalog that it makes available to applicants for admission and employment, students, parents/guardians of elementary and secondary school students, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the district;
2. The district shall not use or distribute a publication stating that the district treats applicants, students, or employees differently on the basis of sex except as such treatment is permitted by Title IX;
3. As described in the above section, "Title IX Coordinator, Grievance Procedures and Notifications." the district must adopt and publish grievance procedures that provide for the prompt and equitable resolution of student and employee complaints alleging any action that would be prohibited by the Title IX regulations and a grievance process for formal complaints as previously described in this policy. The district must provide applicants for admission and employment, students, parents/guardians of elementary and secondary school students, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the district with notice of the district's grievance procedures and grievance process, including how to report or file a formal complaint of sexual harassment, and how the district will respond. The requirements of this paragraph only apply to sex discrimination occurring against a person in the United States.

TITLE IX – SEX BASED DISCRIMINATION (continued)

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Key Words

Sexual Harassment, Title IX, Title IX Coordinator, Grievance Procedures, Grievance Process, Access, Nondiscrimination, Harassment, Equal Educational Opportunity, Equal Employment Opportunity,

**Legal References:** N.J.S.A. 2C:16-1 Bias intimidation  
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:6-6 No sex discrimination  
N.J.S.A. 18A:29-2 Equality of compensation for male and female teachers  
N.J.S.A. 18A: 34:6B-20 Unlawful employment practice related to salary history; exceptions  
N.J.S.A. 18A:35-1 et seq. Curriculum and courses  
N.J.S.A. 18A:36-41 Development, distribution of guidelines concerning transgender students  
N.J.S.A. 18A:37-14 through -19 Harassment, intimidation, and bullying defined; definitions  
N.J.S.A. 18A:36-20 Discrimination; prohibition  
N.J.S.A. 18A:38-5.1 Attendance at school  
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

United States Constitution, Article XIV, Section 1.

New Jersey State Constitution, Article I, Paragraph 1

Executive Order 11246 as amended

29 U.S.C.A. § 201 et seq., see particularly § 206 - Fair Labor Standards 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

34 CFR 106.1 et seq. – Title IX regulations

Cannon v. Univ. of Chicago, 441 U.S. 677 (1979)

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

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

Franklin v. Ginnett County Public Schools, 503 U.S. 60 (1992)

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

TITLE IX – SEX BASED DISCRIMINATION (continued)

Gebser v. Lago Vista Indep. School District, 524 U.S. 274 (1998)

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

Jackson v. Birmingham Bd. of Educ., 544 U.S. 167 (2005)

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

Bostic v. Smyrna School District, 418 F. 3d 355 (3d Cir. 2005)

Doe v. Boyertown Area Sch. Dist., 897 F.3d 518 (3d Cir. 2018)

M.S. v. Susquehanna Twp. School District, 969 F. 3d 120 (3d Cir. 2020)

Peper v. Princeton University Bd. of Trustees, 77 N.J. 55 (1978)

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**

<b><u>Cross References:</u></b>	*2224	Nondiscrimination/Affirmative Action
	*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.

RESEARCH, EVALUATION AND PLANNING

As required by law, the superintendent shall annually direct development or review of Estell Manor district long- and short-range goals and the plan of action to attain them. Objectives shall be developed with community participation and approved by the board of education; the plan of action shall be prepared in consultation with teaching staff members. The district's plans shall be discussed at a public meeting before the date required by law.

Further, the superintendent shall coordinate continual research and evaluation of programs and facilities. The master plan shall be studied and revised periodically to keep it in accord with the changing circumstances and aspirations of the district.

State Monitoring

The superintendent shall ensure and coordinate the District Performance Review every three years, in compliance with New Jersey Quality Single Accountability Continuum (NJQSAC). Upon completion of the district's conduct of the District Performance Review, the board shall fix a date, place and time for the holding of a public meeting for approval by board resolution. The board shall comply with meeting procedures specified in N.J.A.C. 6A:30-3.2.

Planning at the School Level

The principal in the district shall coordinate development and implementation of a school-level plan based on school report card data. This plan shall include student performance objectives, a review of progress by teaching and administrative staff, and the involvement of parents. The performance objectives shall be based on student achievement and behavior standards as defined in the administrative code.

At least once per semester, the principal shall conduct meetings by grade level, department, team or similarly appropriate group to review each school plan. The review shall include:

- A. School report card data;
- B. Progress toward achieving student performance objectives;
- C. Progress toward student achievement of the New Jersey Student Learning Standards.

The superintendent will supervise the preparation and timely submission of accurate reports in order to ensure compliance with all federal, state, county and local laws and regulations, board policies, contract terms and conditions. The superintendent will promptly prepare and file updates and revisions to reports whenever new information becomes available that would require that an amended report be submitted. The superintendent may delegate the preparation and revision of reports to other employees of the board. However, the superintendent retains final responsibility for the action taken when tasks are delegated. If the revisions and corrections are so significant as to compromise the basic integrity of the report, the superintendent will inform the board president in order that appropriate corrective action may be taken by the board.

Adopted: October 27, 2010



RESEARCH, EVALUATION AND PLANNING (continued)

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Key Words

Research, Evaluation, Planning, Long-range Plan, Multi-year Maintenance, School Level Plan

<b><u>Legal References:</u></b>	<u>N.J.S.A. 10:4-6 et seq.</u>	<u>Open Public Meetings Act</u>
	<u>N.J.S.A. 18A:7A-10</u>	Evaluation of performance of each school
	<u>N.J.S.A. 18A:7A-11</u>	Annual report of local school district; contents; annual report of commissioner;
		report on improvement of basic skills
	<u>N.J.S.A. 18A:7A-14</u>	Review of evaluations of district performance ...
	<u>N.J.S.A. 18A:7F-6</u>	Approval of budget by Commissioner
	<u>N.J.S.A. 18A:7F-46</u>	Review, update of New Jersey Student Learning Standards; Educational Adequacy Report
	<u>N.J.A.C. 6A:8-1.1 et seq.</u>	Standards and Assessments
	<u>N.J.A.C. 6A:26-2.1 et seq.</u>	Long-Range Facilities Plans
	<u>N.J.A.C. 6A:30-1.1 et seq.</u>	Evaluation of the Performance of School Districts
	<u>N.J.A.C. 6A:32-2.1</u>	Definitions
	<u>N.J.A.C. 6A:32-12.1 et seq.</u>	Student Behavior

Every Student Succeeds Act of 2015, Pub. L. 114-95, 20 U.S.C.A. 6301 et seq.

**Possible**

<b><u>Cross References:</u></b>	*1120	Board of education meetings
	*1220	<u>Ad hoc</u> advisory committees
	*2255	Action planning for NJQSAC
	*3510	Operation and maintenance of plant
	*5020	Role of parents/guardians
	*6142.2	English as a second language; bilingual/bicultural
	*6171.4	Special education
	*7110	Long-range facilities planning
	*9130	Committees

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

ACTION PLANNING FOR STATE MONITORING NJQSAC  
NEW JERSEY QUALITY SINGLE ACCOUNTABILITY CONTINUUM

The Estell Manor Board of Education recognizes that it has important functions under the New Jersey state monitoring system: Quality Single Accountability Continuum (NJQSAC). The board shall comply with the requirements of the Department of Education's three year monitoring system by completing the District Performance Review (DPR). The district shall be assessed in the following five key areas:

- A. Operations;
- B. Instruction and Program;
- C. Governance;
- D. Fiscal Management;
- E. Personnel.

The superintendent shall take the following steps to oversee the efficient completion of the District Performance Review every three years as required by law:

- A. District Performance Review form shall be completed by the district committee. The superintendent shall determine the total number of people that will serve on the committee. The superintendent shall appoint the following persons to the committee, and, in his or her discretion, may include other persons on the committee with the approval of the board of education:
  - 1. Superintendent;
  - 2. One or more members of the administrative staff;
  - 3. One or more teaching personnel, representative of different grade levels and/or;
  - 4. The business administrator and assistant superintendent for curriculum and instruction, as well as other appropriate personnel;
  - 5. One or more member representatives of the local collective bargaining unit of the educational staff selected by the local collective bargaining unit; which may include the teaching personnel otherwise appointed in "3" above; and
  - 6. One or more members of the board selected by the board.
- B. The superintendent shall:
  - 1. Ensure that the process used by the committee in completing the District Performance Review provides for participation and input by all committee members;
  - 2. Consult with the committee in formulating a response to all weighted quality performance indicators of each component of school district effectiveness;
  - 3. Ensure that the responses in District Performance Review encompass and reflect the circumstances that exist in the school district; and
  - 4. Ensure that all responses to the District Performance Review can be verified by data and supporting documentation or otherwise and provide this verification to the department upon request. (N.J.A.C. 6A:30-3.2 District Performance Review)

Additionally, the superintendent shall ensure the district's compliance with all indicators when it is within his/her power to do so. He/she shall inform the board in a timely fashion of any areas in which board action is

ACTION PLANNING FOR NJQSAC (continued)

required to bring the district into compliance, and suggest to the board feasible plans of action.

Upon completion of the proposed responses to the District Performance Review, the board of education shall fix a date, place and time for the holding of a public meeting, which may be a regularly scheduled meeting of the district board of education. The proposed responses to the District Performance Review and statement of assurance shall be presented to the board for approval by resolution.

The board shall ensure that:

- A. The proposed responses to the District Performance Review and statement of assurance shall be posted on its internet site, if one exists, at least five working days prior to the date fixed for the meeting, and shall make it available for examination by the public at the district board offices or another reasonable location;
- B. Notice of the meeting shall be published as required by the Open Public Meetings Act and this notice shall inform the public that the District Performance Review and statement of assurance will be discussed at the meeting and the times and manner in which members of the public may view the proposed responses to the District Performance Review; and
- C. At the public meeting the public shall have the opportunity to comment and be heard with respect to the proposed responses to the District Performance Review. The public shall have the opportunity to submit written comments prior to the meeting, as well (N.J.A.C. 6A:30-3.2 District Performance Review).

If the school district fails to satisfy the evaluation criteria, the board of education shall cooperate in undertaking corrective action plans indicated by the executive county superintendent and pursuant to the New Jersey administrative code.

Certification requirements for teaching staff members shall not be violated.

Statement of Assurance

The district shall complete the Statement of Assurance annually and submit it the Department of Education electronically before the prescribed due date. The superintendent and the board shall determine that all items of the Statement of Assurance have been completed before its submission.

Equivalency and Waiver Procedures

The board may apply to the commissioner for a waiver of a specific rule or an equivalent means of implementing a rule through alternate procedures so long as the following criteria are met:

- A. The spirit and intent of New Jersey statutes, applicable federal laws and regulations, and the administrative code are served by granting the equivalency or waiver;
- B. The provision of a thorough and efficient education to the students in the district is not compromised as a result of the equivalency or waiver; and
- C. There will be no risk to student health, safety or civil rights by granting the equivalency or waiver.

All applications for equivalency and waivers shall be in accordance with N.J.A.C. 6A:5-1.5 and shall be signed by the superintendent and approved by the board of education.

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Key Words

ACTION PLANNING FOR NJQSAC (continued)

Action Planning, NJQSAC, Quality Single Accountability Continuum, Planning, Certification, Equivalency, Waivers

<b><u>Legal References:</u></b>	<u>N.J.S.A. 18A:7A-10</u>	Evaluation of performance of each school
	<u>N.J.S.A. 18A:7A-14</u>	Review of evaluation of district performance
	<u>N.J.S.A. 18A:7F-43 et al.</u>	<u>School Funding Reform Act of 2008</u>
	<u>N.J.S.A. 18A:26-2</u>	Certificates required; exception
	<u>N.J.A.C. 6A:5-1.1 et seq.</u>	Regulatory Equivalency and Waiver
	<u>N.J.A.C. 6A:8-1.1 et seq.</u>	Standards and Assessments
	<u>N.J.A.C. 6A:23A-9.5</u>	Commissioner to ensure achievement of the New Jersey Student Learning Standards
	<u>N.J.A.C. 6A:30-1.1 et seq.</u>	Evaluation of the Performance of School Districts
	<u>See Particularly:</u>	
	<u>N.J.A.C. 6A:30-2.1, -3.2, 5.2</u>	NJQSAC components of school district effectiveness and indicators

**Possible**

<b><u>Cross References:</u></b>	*1120	Board of education meetings
	*1220	<u>Ad hoc</u> advisory committees
	*2240	Research, evaluation and planning

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