Merchantville Board of Education 130 South Centre Street Merchantville, NJ 08109	File Code : 4111.1/4211.1 Adopted : 09/23/2008 Revised : 05/26/2020 Reviewed : 05/06/2024

Nondiscrimination/Affirmative Action

The board of education guarantees to all persons equal access to all categories of employment, assignment to a position, transfer, and promotion in this district. The board shall not assign, transfer, promote, or retain staff, or fail to assign, transfer, promote, or retain staff, on the sole basis of race, creed, color, national origin, ancestry, age, sex, affectional or sexual orientation, gender identity or expression, marital status, domestic partnership status, familial status, pregnancy, liability for service in the Armed Forces of the United States, disability, nationality, atypical hereditary cellular or blood trait of any individual, nonapplicable disability or because of genetic information or refusal to submit to or make available the results of a genetic test.
An affirmative action/equity program shall be a part of every aspect of employment not limited to but including upgrading; demotion or transfer; recruitment or recruitment advertising; renewal or non-renewal; layoff or termination; rates of pay or other forms of compensation including fringe benefits; employment selection or selection for training and apprenticeships; promotion; or tenure.

The board-designated affirmative action officer shall identify and recommend correction of any existing inequities, and any that occur in the future.

Affirmative Action Officer and Team

The board designated affirmative action officer shall:

A. In collaboration with the affirmative action team coordinate the required professional development training for certificated and non-certificated staff;

B. Notify all 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 (see board policy 2224 Nondiscrimination/Affirmative Action).

Harassment and Favoritism

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

Administrators and supervisors shall be familiarized with the actions that constitute harassment and favoritism. This material shall be included in the legally mandated affirmative action

inservice training for all employees, and shall be clear and specific (see policy 2224). When harassment has been determined to have taken place, appropriate disciplinary action will follow. All such determinations shall be reported to the board.

Sexual Harassment

The board of education shall maintain a working environment that is free from sexual harassment. Administrators and supervisors will make it clear to all staff that sexual harassment is prohibited. No supervisory employee shall threaten or insinuate, either directly or indirectly, that an employee's refusal to submit to sexual advances will adversely affect the employee's continued employment, evaluation, compensation, assignment or advancement. No supervisory employee shall promise or suggest, either directly or indirectly, that an employee's submission to sexual advances will result in any improvement in any term or condition of employment of an employee. Sexually harassing conduct committed by nonsupervisory personnel is also prohibited.

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 school(s). 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 chief school administrator 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 chief school administrator/board. Law enforcement shall be summoned when appropriate. This policy statement on sexual harassment shall be distributed to all staff members.

Staff or pupils may file a formal grievance related to harassment on any of the grounds addressed in this policy. The affirmative action officer will receive all complaints and carry out a prompt and thorough investigation, and will protect the rights of both the person making the complaint and the alleged harasser.

Findings of discrimination or harassment will result in appropriate disciplinary action.

Staff may file a formal grievance related to sexual harassment. The Chief School Administrator 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 in the form of sexual harassment will result in appropriate disciplinary action.

Pregnancy

The board prohibits discrimination against pregnant women and those who suffer medical conditions related to pregnancy and childbirth. The chief school administrator or his or her designee shall ensure that reasonable accommodation are made that will allow them to maintain a healthy pregnancy or recovery from childbirth, without being removed from their positions, placed on unpaid leave, or fired.

The district shall provide reasonable accommodations to pregnant women and those who suffer medical conditions related to pregnancy and childbirth, such as bathroom breaks, breaks for increased water intake, periodic rest, assistance with manual labor, job restructuring or modified work schedules, and temporary transfers to less strenuous or hazardous work.

Requested accommodations that cause the district an undue hardship are not required by law and shall not be provided.

Lactation Provisions

Employees hired or returning to work following a pregnancy leave who choose to continue providing their milk for their infants shall receive the accommodations required by law that support their choice to breast feed. Accommodations shall include but shall not be limited to:

A. Milk expression breaks for breastfeeding

   The employees shall be allowed to breastfeed or express milk during work hours using their normal breaks and meal times. For time that may be needed beyond the usual break times, employees may use personal leave or may make up the time as negotiated with their supervisors.

B. A place to express milk

   A private room (not a toilet stall or restroom) shall be made available for the employee(s) to breastfeed or express milk. The room will be private and sanitary, located near a sink with running water for washing hands and rinsing out breast pump parts, and have an electrical outlet. If employees prefer, they may also breastfeed or express milk in their own private offices, or in other comfortable locations agreed upon in consultation with the principal. Expressed milk can be stored in general refrigerators; in designated refrigerators provided in the lactation room or other location; or in employee’s personal cooler.

C. Staff Support

The principal shall notify pregnant and breastfeeding employees about the district's worksite lactation support policies and procedures. The principal shall be responsible for negotiating policies and practices that will help facilitate each employee's infant feeding goals. It is expected that all employees will assist in providing a positive atmosphere of support for breastfeeding employees.

The building principal shall ensure that the New Jersey Department of Education signage shall be displayed in a clear and conspicuous manner in the school's waiting area, as well as in any lactation room that is made available. The New Jersey Department of Education signage shall contain information about breast feeding; affirm a mother's right to nurse in public; and indicate that lactation rooms are being made available for the privacy and comfort of nursing mothers.

The building principal shall ensure board policy and regulations on provisions for milk expression breaks, for breastfeeding and the designated lactation room(s) are distributed to staff and students who are pregnant and nursing mothers returning from maternity leave.

Employment and Contract Practices

The board shall ensure all persons, regardless of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, religion, disability, or socioeconomic status, have equal and bias-free access to all categories of employment and equal pay for equal work among members of the school district's staff.

The board shall not enter into any contract with a person, agency, or organization that discriminates on the basis of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, religion, disability, or socioeconomic status, either in employment practices or in the provision of benefits or services to students or employees.

The board directs the chief school administrator to ensure that appropriate administrators implement the district's affirmative action policies by:

A. Adhering to the administrative code in selection of vendors and suppliers; informing vendors and suppliers that their employees are bound by the district's affirmative action policies in their contacts with district staff and pupils (see board policy 3327 Relations with Vendors);

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.

"Whistleblower" Protection

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

A. Discloses or threatens to disclose to a supervisor or to a public body an activity, policy or practice of the board that the employee reasonably believes is in violation of a law, or a rule or regulation established pursuant to law or is fraudulent or criminal, including any activity, policy or practice of deception or misrepresentation which the employee reasonably believes may defraud any shareholder, investor, client, patient, customer, employee, former employee, retiree or pensioner of the employer or any governmental entity;

B. Provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into any violation of law, or a rule or regulation established pursuant to law by the board including any violation involving deception of, or misrepresentation; or

C. Objects to, or refuses to participate in any activity, policy or practice which the employee reasonably believes is in violation of law, rule or regulation; is fraudulent or criminal; or is incompatible with public health, safety or welfare or protection of the environment.

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

Appeals

Grievances related to equity in employment practices shall be submitted to the affirmative action officer. Any individual may petition the Commissioner in writing to resolve a dispute arising related to equity in employment practices.

Report on Implementation

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

Key Words

Affirmative Action, Nondiscrimination, Employee Nondiscrimination/Affirmative Action, Domestic Partnership Act

Legal References:

N.J.S.A. 10:5-1 et seq.	Law Against Discrimination
See particularly: N.J.S.A. 10:5-3, -3.1, -4.1, -12, -27	
N.J.S.A. 18A:6-5	Inquiry as to religion and religious tests prohibited
N.J.S.A. 18A:6-6	No sex discrimination
N.J.S.A. 18A:18A-17	Facilities for handicapped persons
N.J.S.A. 18A:26-1	Citizenship of teachers, etc.
N.J.S.A. 18A:26-1.1	Residence requirements prohibited
N.J.S.A. 18A:29-2	Equality of compensation for male and female teachers
N.J.S.A. 18A:36-20	Discrimination Prohibition
N.J.S.A. 26:4B-4	Right to breastfeed in public
N.J.S.A. 26:4C-1 through -3	Lactation rooms
N.J.S.A. 26:8A-1 et seq.	Domestic Partnership Act
N.J.S.A. 34:19-1 et seq.	Conscientious Employee Protection Act
See particularly: N.J.S.A. 34:19-3	
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, -1.8	
N.J.A.C. 6A:30-1.1 et seq.	Evaluation of the Performance of School Districts

Executive Order 11246 as amended

P.L.1997, c.101 (C.26:4B-4). Right to Breastfeed in Public

P.L.2019, c.242. Requirements regarding the provision of lactation rooms for nursing mothers.

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

20 U.S.C.A. 1681 et seq. - Title IX of the Education Amendments of 1972

42 U.S.C.A. 2000e et seq. - Title VII of the Civil Rights Act of 1964 as amended by the Equal Employment Opportunities Act of 1972

29 U.S.C.A. 794 et seq. - Section 504 of the Rehabilitation Act of 1973

20 U.S.C.A. 1401 et seq. - Individuals with Disabilities Education Act

42 U.S.C.A. 12101 et seq. - Americans with Disabilities Act (ADA)

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

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

Vinson v. Superior Court of Alameda County, 740 P.2d 404 (Cal. Sup. Ct. 1987)

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

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

The Comprehensive Equity Plan, New Jersey State Department of Education

Possible

Cross References:

*2224	Nondiscrimination/affirmative action
*3320	Purchasing procedures
*4111	Recruitment, selection and hiring
*4112.8	Nepotism
*4147	Employee safety
*5145.4	Equal educational opportunity
*6121	Nondiscrimination/affirmative action