Merchantville Board of Education
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Domestic violence

The Merchantville Board of Education is committed to ensuring that all staff are supported in the event that they experience domestic violence as defined by law (N.J.S.A. 2C:25-19). Victims of domestic violence can suffer devastating physical, emotional and psychological effects and economic disruption. The board encourages employees who are victims of domestic violence to contact the Chief School Administrator. Employees disclosing their experiences with domestic violence shall be supported in the work environment to an extent that is feasible and practical for the employee to maintain and perform their job and for the effective operation of the educational program.

The board adopts as its own the following State of New Jersey Domestic Violence Policy for Public Employers.

Definitions

"Domestic violence" means acts or threatened acts, that are used by a perpetrator to gain power and control over a current or former spouse, family member, household member, intimate partner, someone the perpetrator dated, or person with whom the perpetrator shares a child in common or anticipates having a child in common if one of the parties is pregnant. Domestic violence includes, but is not limited to the following: physical violence; injury; intimidation; sexual violence or abuse; emotional and/or psychological intimidation; verbal abuse; threats; harassment; cyber harassment; stalking; economic abuse or control; damaging property to intimidate or attempt to control the behavior of a person in a relationship with the perpetrator; strangulation; or abuse of animals or pets.

An "abuser/perpetrator" is an individual who commits or threatens to commit an act of domestic violence, including unwarranted violence against individuals and animals. Other abusive behaviors and forms of violence can include the following: bullying, humiliating, isolating, intimidating, harassing, stalking, or threatening the victim, disturbing someone's peace, or destroying someone's property.

The "human resources officer" or "HRO" is an employee of district with a human resources job title, or its equivalent, who is responsible for orienting, training, counseling, and appraising staff. The HRO is designated by the chief school administrator with board approval and is the primary or secondary contact to assist employees in reporting domestic violence incidents.

"Intimate partners" are partners of any sexual orientation or preference who have been legally married or formerly married to one another, have a child or children in common, or anticipate having a child in common if one party is pregnant. Intimate partner also includes those who live together or have lived together, as well as persons who are dating or have dated in the past.

A "temporary restraining order" or "TRO" is a civil court order issued by a judge to protect the life, health or well-being of a victim. TROs can prohibit domestic violence offenders from having contact with victims, either in person or through any means of communication, including third parties. TROs also can prohibit offenders from a victim's home and workplace. A violation of a TRO may be a criminal offense. A TRO will last approximately 10 business days, or until a court holds a hearing to determine if a Final Restraining Order (FRO) is needed. In New Jersey, there is no expiration of a FRO.

A "victim" is a person who is 18 years of age or older or who is an emancipated minor and who has been subjected to domestic violence by a spouse, former spouse, or any other person who is a present household member or was at any time a household member. A victim of domestic violence is also any person, regardless of age, who has been subjected to domestic violence by one of the following actors: a person with whom the victim has a child in common; a person with whom the victim anticipates having a child in common, if one of the parties is pregnant; and a person with whom the victim has had a dating relationship.

"Workplace-related incidents" are incidents of domestic violence, sexual violence, dating violence, and stalking, including acts, attempted acts, or threatened acts by or against employees, the families of employees, and/or their property, that imperil the safety, well-being, or productivity of any person associated with a public employee in the State of New Jersey, regardless of whether the act occurred in or outside the organization's physical workplace. An employee is considered to be in the workplace while in or using the resources of the employer. This includes, but is not limited to, facilities, work sites, equipment, vehicles, or while on work-related travel.

Designated Human Resources Officer

The chief school administrator shall designate, and the board approve, a human resource officer (HRO) to assist employees who are victims of domestic violence.

The designated HRO shall receive training on responding to and assisting employees who are domestic violence victims in accordance with this policy. Should the HRO be unavailable at any time, the chief school administrator shall designate a secondary HRO, who shall also be appropriately trained to respond and assist domestic violence victims pursuant to this policy.

Managers and supervisors are often aware of circumstances involving an employee who is experiencing domestic violence. Managers and supervisors are required to refer any employee who is experiencing domestic violence or who report witnessing domestic violence to the designated HRO. Managers and supervisors shall maintain confidentiality, to the extent possible, and be sensitive, compassionate, and respectful to the needs of persons who are victims of domestic violence. The name and contact information of the designated HRO must be provided to all employees.

This policy does not supersede applicable laws, guidelines, standard operating procedures, internal affairs policies, or New Jersey Attorney General directives and guidelines that impose a duty to report. For example, if there is any indication a child may also be a victim, reporting is

mandatory to the Department of Children and Families, Child Protection and Permanency, under N.J.S.A. 9:6-8.13.

Reporting Domestic Violence

Any disclosure of domestic violence by an employee shall be taken seriously and according to the following guidelines:

A. Employees who are victims of domestic violence are encouraged to seek immediate assistance from their HRO. Requests to meet may be made by cell phone or telephone. Email may not be confidential and should not be used when private information is being discussed or disclosed unless this is the only safe method of communication available;

B. Employees who have information about or witness an act of domestic violence against an employee, are encouraged to report that information to the designated HRO. When the employee is required to report the domestic violence pursuant to applicable laws, guidelines, standard operating procedures, internal affairs policies, or New Jersey Attorney General directives and guidelines that impose a duty to report, the employee shall so report to the appropriate authority in addition to reporting to the designated HRO. Nothing in this policy shall preclude an employee from contacting 911 in emergency situations. The HROs shall remind employees to contact 911 if they feel they are in immediate danger.

Responsibilities of the Human Resource Officer (HRO)

Each designated HRO shall:

A. Immediately respond to an employee upon request and provide a safe and confidential location to allow the employee to discuss the circumstances surrounding the domestic violence incident and the request for assistance;

B. Determine whether there is an imminent and emergent need to contact 911 and/or local law enforcement;

C. Provide the employee with resource information and a confidential telephone line to make necessary calls for services for emergent intervention and supportive services, when appropriate. The HRO or the employee can contact the appropriate Employee Assistance Program to assist with securing resources and confidential services;

D. Refer the employee to the provisions and protections of The New Jersey Security and Financial Empowerment Act, N.J.S.A. 34:11C-1 et seq. (NJ SAFE Act), referenced below;

E. In cases where domestic violence involved a sexual touching or sexual assault between state employees, the HRO is also required to report the incident to their agency's EEO Officer or Title IX Officer, as appropriate;

F. If there is a report of sexual assault or abuse, the victim should be offered the services of the Sexual Assault Response Team;

G. Maintain the confidentiality of the employee and all parties involved, to the extent practical and appropriate under the circumstances, pursuant to this policy (see section titled *Confidentiality* below);

H. Upon the employee's consent, the employee may provide the HRO with copies of any temporary restraining orders (TROs), final restraining orders (FROs), and/or civil restraint agreements that pertain to restraints in the work place and ensure that security personnel are aware of the names of individuals who are prohibited from appearing at the work location while the employee who sought the restraining order is present. All copies of TROs and FROs must be kept in a separate confidential personnel file.

Confidentiality

In responding to reports of domestic violence, the HRO shall seek to maintain confidentiality to protect an employee making a report of, witnessing, or experiencing domestic violence, to the extent practical and appropriate under the circumstances and allowed by law. Thus, this policy does not supersede applicable laws, guidelines, standard operating procedures, internal affairs policies, or New Jersey Attorney General directives and guidelines that impose a duty to report.

This confidentiality policy shall not prevent disclosure where to do so would result in physical harm to any person or jeopardize safety within the workplace. When information must be disclosed to protect the safety of individuals in the workplace, the HRO shall limit the breadth and content of such disclosure to information reasonably necessary to protect the safety of the disclosing employee and others and comply with the law.

The HRO shall provide advance notice to the employee who disclosed information, to the extent possible, if the disclosure must be shared with other parties in order to maintain safety in the workplace or elsewhere. The HRO shall also provide the employee with the name and title of the person to whom they intend to provide the employee's statement and shall explain the necessity and purpose regarding the disclosure. For example, if the substance of the disclosure presents a threat to employees, then law enforcement will be alerted immediately.

This policy does not supersede applicable laws, guidelines, standard operating procedures, internal affairs policies, or New Jersey Attorney General directives and guidelines where mandatory reporting is required by the appointing authority or a specific class of employees.

Confidentiality of Employee Records

To ensure confidentiality and accuracy of information, the HRO is required to keep all documents and reports of domestic violence in a confidential personnel file separate from the employee's other personnel records (see board policy 4112.6 Personnel Records). These records shall be considered personnel records and shall not be government records available for public access under the Open Public Records Act (N.J.S.A. 47: 1A-10).

The New Jersey Security and Financial Empowerment Act

The New Jersey Security and Financial Empowerment Act, N.J.S.A. 34:11C-1, et seq. (NJ SAFE Act), is a law that provides employment protection for victims of domestic or sexual violence.

The NJ SAFE Act allows a maximum of 20 days of unpaid leave in one 12-month period, to be used within 12 months following any act of domestic or sexual violence. To be eligible, the employee must have worked at least 1,000 hours during the 12-month period immediately before the act of domestic or sexual violence. Further, the employee must have worked for an employer in the State that employs 25 or more employees for each working day during 20 or more calendar weeks in the current or immediately preceding calendar year. This leave can be taken intermittently in days, but not hours.

Leave under the NJ SAFE Act may be taken by an employee who is a victim of domestic violence, as that term is defined in N.J.S.A. 2C:25-19 and N.J.S.A. 30:4-27.6, respectively. Leave may also be taken by an employee whose child, parent, spouse, domestic partner, civil union partner, or other relationships as defined in applicable statutes is a victim of domestic or sexual violence.

Leave under the NJ SAFE Act may be taken for the purpose of engaging in any of the following activities, for themselves, or a child, parent, spouse, domestic partner, or civil union partner, as they relate to an incident of domestic or sexual violence:

A. Seeking medical attention;

B. Obtaining services from a victim services organization;

C. Obtaining psychological or other counseling;

D. Participating in safety planning, temporarily or permanently relocating, or taking other actions to increase safety;

E. Seeking legal assistance or remedies to ensure health and safety of the victim; or

F. Attending, participating in, or preparing for a criminal or civil court proceeding relating to an incident of domestic or sexual violence.

Domestic Violence Action Plan

The board directs the chief school administrator to develop an action plan to identify, respond to, and correct employee performance issues that are caused by domestic violence, pursuant to law (N.J.S.A. 11A:2-6a), and in accordance with the following guidelines:

A. Designate an HRO with responsibilities detailed in this policy;

B. Recognize that an employee may need an accommodation as the employee may experience temporary difficulty fulfilling job responsibilities;

C. Provide reasonable accommodations to ensure the employee's safety. Reasonable accommodations may include, but are not limited to, the following: implementation of safety measures; transfer or reassignment; modified work schedule; change in work telephone number or work-station location; assistance in documenting the violence occurring in the workplace; an implemented safety procedure, or other accommodation approved by the employer;

D. Advise the employee of information concerning the NJ SAFE Act; Family and Medical Leave Act (FMLA); or Family Leave Act (FLA); Temporary Disability Insurance (TDI); or Americans with Disabilities Act (ADA); or other reasonable flexible leave options when an employee, or his or her child, parent, spouse, domestic partner, civil union partner, or other relationships as defined in applicable statutes is a victim of domestic violence;

E. Commit to adherence to the provisions of the NJ SAFE Act, including that the employer will not retaliate against, terminate, or discipline any employee for reporting information about incidents of domestic violence, as defined in this policy, if the victim provides notice to their Human Resources Office of the status or if the Human Resources Office has reason to believe an employee is a victim of domestic violence;

F. Advise any employee, who believes he or she has been subjected to adverse action as a result of making a report pursuant to this policy, of the civil right of action under the NJ SAFE ACT, and advise any employee to contact their designated Labor Relations Officer, Conscientious Employees Protection Act (CEPA) Officer and/or Equal Employment Opportunity Officer in the event they believe the adverse action is a violation of their collective bargaining agreement, the Conscientious Employees Protection Act or the New Jersey Law Against Discrimination and corresponding policies.

Implementation

Members of the board, district administrators, the designated HRO, and employees should familiarize themselves with this policy. This policy shall be provided to all employees upon execution and to all new employees upon hiring. Information and resources about domestic violence are encouraged to be placed in visible areas, such as restrooms, cafeterias, breakrooms, and where other resource information is located.

In addition to this policy, the board, school administration and the HRO shall follow all applicable laws, guidelines, standard operating procedures, internal affairs policies, and New Jersey Attorney General directives and guidelines that impose a duty to report. To the extent that the rules set forth in this policy conflict with collective negotiated agreements or with the Family Educational Rights and Privacy Act (FERPA), the provisions of the negotiated agreements and the provisions of FERPA control.

Date:

Legal References: Use legal reference sheet.

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

Key Words

Domestic Violence, Abuse, Leave

Legal References

N.J.S.A. 11A 2-6a Civil Service, domestic violence policies
N.J.S.A. 2C 25-19 Definition of Domestic Violence and Victim of Domestic Violence
N.J.S.A. 34 11B-1 Family Leave Act
N.J.S.A. 34 11C-1 et seq. New Jersey Security and Financial Empowerment Act
N.J.S.A. 34 19-1 et seq: Conscientious Employee Protection Act
N.J.A.C. 6A 7.1-1 et seq. Managing for Equality and Equity in Education
N.J.A.C. 6A 7-1.8 Equality in employment and contract practices
N.J.A.C. 6A 16-11.1 Reporting Allegations of Child Abuse and Neglect
29 CFR 825.200 et seq The Family and Medical Leave Act of 1993
P.L. 2008, c. 17, Family Temporary Disability Leave

Cross References

2224 - Sample Policy: Nondiscrimination, Affirmative Action
3320 - Sample Policy: Purchasing Procedures
4111 - Sample Policy: Recruitment, Selection and Hiring
4112.8 - Sample Policy: Nepotism
4147 - Sample Policy: Employee Safety
5145. 4 - Sample Policy: Equal Educational Opportunity
6121 - Sample Policy: Nondiscrimination, Affirmative Action

Resources:

NJSBA Legally Speaking Article https://www.njsba.org/news-publications/school-leader/may-june-2018-vol-48-no-6/legally-speaking-domestic-violence-victims-are-focus-of-new-law/

Local Finance Notice https://www.nj.gov/dca/divisions/dlgs/lfns/18/2018-17.pdf

Fox Rothchild LLP, The New Jersey Security and Financial Empowerment Act, Eileen Oakes Muskett, 2013. https://www.foxrothschild.com/publications/the-new-jersey-security-and-financial-empowerment-act/

https://uhr.rutgers.edu/sites/default/files/userfiles/New%20Jersey%20SAFE%20Act%20Poster_10-1-13.pdf

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

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