

NEPOTISM (M)

0142.1

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The Board of Education adopts this Nepotism Policy as a condition of receiving State aid pursuant to N.J.A.C. 6A:23A-6.2(a).

For the purpose of this Policy, “relative” means an individual’s spouse, civil union partner as defined at N.J.S.A. 37:1-28 et seq., domestic partner as defined at N.J.S.A. 26:8A-3, or the parent, child, sibling, aunt, uncle, niece, nephew, grandparent, grandchild, son-in-law, daughter-in-law, stepparent, stepchild, stepbrother, stepsister, half-brother, or half-sister of the individual or of the individual’s spouse, civil union partner, or domestic partner, whether the relative is related to the individual or the individual’s spouse, civil union partner, or domestic partner by blood, marriage, or adoption pursuant to N.J.A.C. 6A:23A-1.2.

For the purpose of this Policy, “immediate family member” means the person’s spouse, partner in a civil union as defined at N.J.S.A. 37:1-28 et seq., domestic partner as defined at N.J.S.A. 26:8A-3, or dependent child, residing in the same household.

For the purpose of this Policy, “administrator” is defined as set forth in N.J.S.A. 18A:12-23.

No relative of a Board member or the Superintendent of Schools shall be employed in an office or position in this school district except:

1. A person employed by the district on or before October 1, 2008 or on or before the date an employee’s relative becomes a Board member or Superintendent shall not be prohibited from continuing to be employed or to be promoted in the district in accordance with the effective date as outlined in the initial version of N.J.A.C. 6A:23A-6.2 adopted on July 1, 2008. However, this shall not pertain to extending an employment contract to allow for an increase in annual pay directly related to an extension of the work year; and
2. The district may employ a relative of a Board member or the Superintendent provided the district has obtained approval from the Executive County Superintendent. Such approval shall be granted only upon demonstration by the district that it conducted a thorough search for candidates and the proposed candidate is the only qualified and available person for the position.

The Superintendent shall not recommend to the Board, pursuant to N.J.S.A. 18A:27-4.1, the relative of the Superintendent or a Board member, unless the relative is subject to an exception as outlined at N.J.A.C. 6A:23A-6.2(a)2. and at 1. and 2. above.

A district administrator shall not exercise direct or indirect authority, supervision, or control over the administrator's relative. If it is not feasible to eliminate such a direct or indirect supervisory relationship, appropriate screens and/or alternative supervision and reporting mechanisms shall be put in place.

A district administrator or Board member whose relative is a member of the bargaining unit shall not discuss or vote on the proposed collective bargaining agreement with that unit or from participating in any way in negotiations, including, but not limited to, being a member of the negotiating team; nor should that district administrator be present with the Board in closed session when negotiation strategies are being discussed; however, the administrator may serve as a technical resource to the negotiating team and may provide technical information necessary to the collective bargaining process when no one else in the district can provide such information.

A district administrator or Board member who has an immediate family member who is a member of the same Statewide union in another school district shall not participate in any way in negotiations, including, but not limited to, being a member of the negotiating team or being present with the Board in closed sessions when negotiation strategies are being discussed, prior to the Board attaining a tentative memorandum of agreement with the bargaining unit that includes a salary guide and total compensation package. Once the tentative memorandum of agreement is established, a district administrator with an immediate family member who is a member of the same Statewide union in another school district may fully participate in the process, absent other conflicts. However, a district administrator who has an immediate family member who is a member of the same Statewide union in another district may serve as a technical resource to the negotiating team and may provide technical information necessary to the collective bargaining process when no one else in the district can provide the information.

N.J.A.C. 6A:23A-6.2

Adopted:

EMPLOYMENT OF CHIEF SCHOOL ADMINISTRATOR (M)

1220

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The Board of Education vests the primary responsibility for the administration of this school district in a Superintendent of Schools and recognizes the appointment of a person to that office is one of the most important functions this Board can perform. The Superintendent shall have a seat on the Board employing the Superintendent and the right to speak on all matters at meetings of the Board, but shall have no vote pursuant to N.J.S.A. 18A:17-20.b.

Recruitment Procedures

The Board shall actively seek the best qualified and most capable candidate for the position of Superintendent. The Board may use a consultant service to assist in the recruitment process. Recruitment procedures may include, but are not limited to, the following activities:

1. The preparation of a new or a review of an existing written job description;
2. The preparation of informative material describing the district and its educational goals and objectives;
3. The opportunity for applicants to visit the district, where feasible;
4. An interview process that encourages the candidate and the Board members to have a meaningful discussion of the district's needs and expectations. The Board members shall review and discuss the candidate's credentials, qualifications, educational philosophy, and other qualities and expertise the candidate can offer to the district;
5. Solicitation of applications from a wide geographical area; and
6. Strict compliance with law and Policy 1530 on equal employment opportunity.

Qualifications

The candidate must possess or be eligible for a valid New Jersey administrative certificate endorsed for school administrator or a provisional school administrator's endorsement in accordance with N.J.A.C. 6A:9B-12.4 et seq. and must qualify for employment following a criminal history record check.

The candidate shall meet criteria established by the Board.

Employment Contract

A person appointed Superintendent must enter into an employment contract with the Board.

An employment contract for the Superintendent shall be reviewed and approved by the Executive County Superintendent in accordance with the provisions of N.J.A.C. 6A:23A-3.1 and Policy 1620. Any action(s) by the Executive County Superintendent undertaken pursuant to N.J.A.C. 6A:23A-3.1 may be appealed to the Commissioner pursuant to the procedures set forth in N.J.A.C. 6A:3 pursuant to N.J.A.C. 6A:23A-3.1(f).

The employment contract with the Superintendent must be approved with a recorded roll call majority vote of the full membership of the Board at a public Board meeting.

In the event there is a Superintendent vacancy at the expiration of the existing contract, only the Board seated at the time of the expiration of the current Superintendent's contract may appoint and approve an employment contract for the next Superintendent.

In the event there is a Superintendent vacancy prior to the expiration of the existing contract, the Board seated at the time the position becomes vacant may appoint and approve an employment contract for the next Superintendent.

The contract for the Superintendent who does not acquire tenure, but who holds tenure during the term of the Superintendent's employment contract will include: a term of not less than three nor more than five years and expiring July 1; a beginning and ending date; the salary to be paid and benefits to be received; a provision for termination of the contract by the Superintendent; an evaluation process pursuant to N.J.S.A. 18A:17-20.3; and other terms agreed to between the Board and the Superintendent.

During the term of the contract, the Superintendent shall not be dismissed or reduced in compensation except for inefficiency, incapacity, or conduct unbecoming a Superintendent or other just cause and then only in the manner prescribed by N.J.S.A. 18A:6 Article 2 Subarticle B pursuant to N.J.S.A. 18A:17-20.2.

At the conclusion of the term of the initial contract or of any subsequent contract, in accordance with N.J.S.A. 18A:17-20.1, the Superintendent shall be deemed reappointed for another contracted term of the same duration as the previous contract unless either: the Board by contract reappoints the Superintendent for a different term which shall be not less than three nor more than five years, in which event reappointments thereafter shall be deemed for the new term unless a different term is again specified; or the Board notifies the Superintendent in writing the Superintendent will not be reappointed at the end of the current term, in which event the Superintendent's employment shall cease at the expiration of that term. In the event the Board notifies the Superintendent they will

not be reappointed, the notification shall be given prior to the expiration of the first or any subsequent contract by a length of time equal to thirty days for each year in the term of the current contract.

Pursuant to N.J.S.A. 18A:17-20.2a, the Board shall submit to the Commissioner of Education for prior approval an early termination of employment agreement that includes the payment of compensation as a condition of separation. As used in N.J.S.A. 18A:17-20.2a, “compensation” includes, but is not limited to, salary, allowances, bonuses and stipends, payments for accumulated sick or vacation leave, contributions toward the costs of health, dental, life, and other types of insurance, medical reimbursement plans, retirement plans, and any in-kind or other form of remuneration.

An early termination of an employment agreement of the Superintendent shall be limited in its terms and conditions as outlined in N.J.A.C. 6A:23A-3.2. The Commissioner shall evaluate the agreement in accordance with the provisions of N.J.S.A. 18A:17-20.2a and N.J.A.C. 6A:23A-3.2 and shall have the authority to disapprove the agreement if the payment of compensation has a condition of separation from service is found to be excessive pursuant to N.J.S.A. 18A:17-20.2a. The agreement shall be submitted to the Commissioner by the district by certified mail, return receipt requested. The determination shall be made within thirty days of the Commissioner’s receipt of the agreement from the district.

Disqualification

Any candidate’s misstatement of fact material to qualifications for employment or the determination of salary will be considered by this Board to constitute grounds for dismissal.

Certificate Revocation

All Superintendent contracts shall include, pursuant to N.J.S.A. 18A:17-15.1, the required provision that states that the contract is null and void in the event the Superintendent’s certificate is revoked in accordance with N.J.A.C. 6A:23A-3.1(e)13.

N.J.S.A. 18A:16-1; 18A:17-15; 18A:17-20; 18A:17-20.1;

18A:17-20.2; 18A:17-20.2a; 18A:17-20.3

N.J.A.C. 6A:9B-12.3; 6A:9B-12.4; 6A:23A-3.1; 6A:23A-3.2

Adopted:

SEXUAL HARASSMENT – STAFF (M)

1552

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The Board of Education (employer) recognizes that an employee's right to freedom from employment discrimination includes the opportunity to work in an environment untainted by sexual harassment. Sexually offensive speech and conduct are wholly inappropriate to the harmonious employment relationships necessary to the operation of the school district and intolerable in a workplace to which the children of the district are exposed.

A. Title VII of the Civil Rights Act of 1964 – 29 CFR 1604

1. Sexual Harassment – 29 CFR 1604.11

a. Definition of Sexual Harassment – Title VII

- (1) Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:
 - (a) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment,
 - (b) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or
 - (c) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

b. With respect to conduct between fellow employees, an employer is responsible for acts of sexual harassment in the workplace where the employer (or its agents or supervisory employees) knows or should have known of the conduct, unless the employer can show that it took immediate and appropriate corrective action.

c. The employer may also be responsible for the acts of non-employees, with respect to sexual harassment of employees in the workplace, where the employer (or its agents or supervisory

employees) knows or should have known of the conduct and fails to take immediate and appropriate corrective action.

- d. The employer should take all steps necessary to prevent sexual harassment from occurring, such as affirmatively raising the subject, expressing strong disapproval, developing appropriate sanctions, informing employees of their right to raise and how to raise the issue of harassment under Title VII, and developing methods to sensitize all concerned.

- (1) The employee may submit a complaint, under 29 CFR 1604 to the Affirmative Action Officer.

- (2) Upon receipt of the complaint the employer shall initiate the grievance procedure in accordance with Regulation 1552.

- e. Where employment opportunities or benefits are granted because of an individual's submission to the employer's sexual advances or requests for sexual favors, the employer may be held liable for unlawful sex discrimination against other individuals who were qualified for but denied that employment opportunity or benefit.

2. Job Opportunities Advertising – 29 CFR 1604.5

It is a violation of Title VII for a help-wanted advertisement to indicate a preference, limitation, specification, or discrimination based on sex unless sex is a bona fide occupational qualification for the particular job involved. The placement of an advertisement in columns classified by publishers on the basis of sex, such as columns headed "Male" or "Female," will be considered an expression of a preference, limitation, specification, or discrimination based on sex.

3. Pre-Employment Inquiries as to Sex – 29 CFR 1604.7

A pre-employment inquiry may ask "Male....., Female....."; or "Mr. Mrs. Miss," provided that the inquiry is made in good faith for a nondiscriminatory purpose. Any pre-employment inquiry in connection with prospective employment which expresses directly or indirectly any limitation, specification, or discrimination as to sex shall be unlawful unless based upon a bona fide occupational qualification.

4. Fringe Benefits – 29 CFR 1604.9

- a. “Fringe benefits,” as used in 29 CFR 1604.9, Regulation 1552, and this Policy, includes medical, hospital, accident, life insurance and retirement benefits; profit-sharing and bonus plans; leave; and other terms, conditions, and privileges of employment.
 - b. It shall be an unlawful employment practice for the employer to discriminate between men and women with regard to fringe benefits.
 - c. Where the employer conditions benefits available to employees and their spouses and families on whether the employee is the “head of the household” or “principal wage earner” in the family unit, the benefits tend to be available only to male employees and their families. Due to the fact that such conditioning discriminatorily affects the rights of women employees, and that “head of household” or “principal wage earner” status bears no relationship to job performance, benefits which are so conditioned will be found a prima facie violation of the prohibitions against sex discrimination contained in Title VII of the Civil Rights Act of 1964 (Act).
 - d. It shall be an unlawful employment practice for the employer to make available benefits for the wives and families of male employees where the same benefits are not made available for the husbands and families of female employees; or to make available benefits for the wives of male employees which are not made available for female employees; or to make available benefits to the husbands of female employees which are not made available for male employees. An example of such an unlawful employment practice is a situation in which wives of male employees receive maternity benefits while female employees receive no such benefits.
 - e. It shall not be a defense under Title VII to a charge of sex discrimination in benefits that the cost of such benefits is greater with respect to one sex than the other.
 - f. It shall be an unlawful employment practice for the employer to have a pension or retirement plan which establishes different optional or compulsory retirement ages based on sex, or which differentiates in benefits on the basis of sex.
5. Employment Policies Relating to Pregnancy and Childbirth – 29 CFR 1604.10

- a. A written or unwritten employment policy or practice which excludes from employment applicants or employees because of pregnancy, childbirth or related medical conditions is in prima facie violation of Title VII.
- b. Disabilities caused or contributed to by pregnancy, childbirth, or related medical conditions, for all job-related purposes, shall be treated the same as disabilities caused or contributed to by other medical conditions, under any health or disability insurance or sick leave plan available in connection with employment. Written or unwritten employment policies and practices involving matters such as the commencement and duration of leave, the availability of extensions, the accrual of seniority and other benefits and privileges, reinstatement, and payment under any health or disability insurance or sick leave plan, formal or informal, shall be applied to disability due to pregnancy, childbirth or related medical conditions on the same terms and conditions as they are applied to other disabilities.
- c. Where the termination of an employee who is temporarily disabled is caused by an employment policy under which insufficient or no leave is available, such a termination violates the Act if it has a disparate impact on employees of one sex and is not justified by business necessity.
- d. Any fringe benefit program implemented after October 31, 1978, must comply with the provisions of 29 CFR 1604.10(b) upon implementation.

B. Title IX of the Education Amendments of 1972 – 34 CFR 106

1. Definitions – Title IX – 34 CFR 106.2 and 34 CFR 106.30

- a. “Sexual harassment” means conduct on the basis of sex that satisfies one or more of the following:
 - (1) An employee of the employer conditioning the provision of an aid, benefit, or service of the employer on an individual’s participation in unwelcome sexual conduct;
 - (2) Unwelcome conduct determined by a reasonable individual to be so severe, pervasive, and objectively offensive that it effectively denies an individual equal access to the employer's education program or activity; or

- (3) “Sexual assault” as defined in 20 USC 1092(f)(6)(A)(v), “dating violence” as defined in 34 USC 12291(a)(10), “domestic violence” as defined in 34 USC 12291(a)(8), or “stalking” as defined in 34 USC 12291(a)(30).
 - b. “Program or activity” and “program” means all of the operations of a local educational agency (as defined in 20 USC 8801), system of vocational education, or other school system.
 - c. “Title IX” means Title IX of the Education Amendments of 1972, Pub. L. 92-318, as amended by section 3 of Pub. L. 93-568, 88 Stat. 1855, except sections 904 and 906 thereof; 20 USC 1681, 1682, 1683, 1685, 1686.
- 2. Effect of Employment Opportunities – 34 CFR 106.7

The employer’s obligation to comply with 34 CFR 106, Regulation 1552, and this Policy is not obviated or alleviated because employment opportunities in any occupation or profession are or may be more limited for members of one sex than for members of the other sex.
- 3. Designation of Title IX Coordinator and Notice to Employees – 34 CFR 106.8
 - a. The employer must designate and authorize at least one employee to coordinate its efforts to comply with its responsibilities under 34 CFR 106, which employee must be referred to as the “Title IX Coordinator.”
 - b. The employer must notify applicants for employment, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the employer, of the name or title, office address, electronic mail address, and telephone number of the employee or employees designated as the Title IX Coordinator.
 - (1) Any individual may report sex discrimination, including sexual harassment (whether or not the individual reporting is the individual 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 individual’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.

- (2) Sexual harassment may take place electronically or on an online platform used by the school, including, but not limited to, computer and internet networks; digital platforms; and computer hardware or software owned or operated by, or used in the operations of the school.

c. Dissemination of Policy

(1) Notification of Policy

- (a) The employer must notify applicants for employment, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the employer, that the employer 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 34 CFR 106 not to discriminate in such a manner. Such notification must state that the requirement not to discriminate in the education program or activity extends to employment, and that inquiries about the application of Title IX and 34 CFR 106 to such employer may be referred to the employer's Title IX Coordinator, to the Assistant Secretary for Civil Rights of the United States Department of Education, or both.

(2) Publications

- (a) Each employer must prominently display the contact information required to be listed for the Title IX Coordinator and this Policy on its website, if any, and in each handbook or catalog that it makes available to applicants for employment, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the employer.
- (b) The employer must not use or distribute a publication stating that the employer treats applicants for employment or employees differently

on the basis of sex except as such treatment is permitted by Title IX or 34 CFR 106.

4. Discrimination on the Basis of Sex and Employment in Education Programs or Activities Prohibited – 34 CFR 106 Subpart E

a. Employment – 34 CFR 106.51

(1) General

- (a) No individual shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination in employment, or recruitment, consideration, or selection therefor, whether full-time or part-time, under any education program or activity operated by the employer which receives Federal financial assistance.
- (b) The employer shall make all employment decisions in any education program or activity operated by such employer in a nondiscriminatory manner and shall not limit, segregate, or classify applicants or employees in any way which could adversely affect any applicant's or employee's employment opportunities or status because of sex.
- (c) The employer shall not enter into any contractual or other relationship which directly or indirectly has the effect of subjecting employees or students to discrimination prohibited by 34 CFR 106 Subpart E, including relationships with employment and referral agencies, with labor unions, and with organizations providing or administering fringe benefits to employees of the employer.
- (d) The employer shall not grant preferences to applicants for employment on the basis of attendance at any educational institution or entity which admits as students only or predominantly members of one sex, if the giving of such preferences has the effect of discriminating on the basis of sex in violation of 34 CFR 106.

(2) 34 CFR 106 Subpart E applies to:

- (a) Recruitment, advertising, and the process of application for employment;
- (b) Hiring, upgrading, promotion, consideration for and award of tenure, demotion, transfer, layoff, termination, application of nepotism policies, right of return from layoff, and rehiring;
- (c) Rates of pay or any other form of compensation, and changes in compensation;
- (d) Job assignments, classifications and structure, including position descriptions, lines of progression, and seniority lists;
- (e) The terms of any collective bargaining agreement;
- (f) Granting and return from leaves of absence, leave for pregnancy, childbirth, false pregnancy, termination of pregnancy, leave for individuals of either sex to care for children or dependents, or any other leave;
- (g) Fringe benefits available by virtue of employment, whether or not administered by the employer;
- (h) Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, selection for tuition assistance, selection for sabbaticals and leaves of absence to pursue training;
- (i) Employer-sponsored activities, including those that are social or recreational; and
- (j) Any other term, condition, or privilege of employment.

b. Employment Criteria – 34 CFR 106.52

- (1) The employer shall not administer or operate any test or other criterion for any employment opportunity which has a disproportionately adverse effect on individuals on the basis of sex unless:

- (a) Use of such test or other criterion is shown to predict validly successful performance in the position in question; and
- (b) Alternative tests or criteria for such purpose, which do not have such disproportionately adverse effect, are shown to be unavailable.

c. Recruitment – 34 CFR 106.53

(1) Nondiscriminatory Recruitment and Hiring

The employer shall not discriminate on the basis of sex in the recruitment and hiring of employees. Where the employer has been found to be presently discriminating on the basis of sex in the recruitment or hiring of employees, or has been found to have in the past so discriminated, the employer shall recruit members of the sex so discriminated against so as to overcome the effects of such past or present discrimination.

(2) Recruitment Patterns

The employer shall not recruit primarily or exclusively at entities which furnish as applicants only or predominantly members of one sex if such actions have the effect of discriminating on the basis of sex in violation of 34 CFR 106.53.

d. Compensation – 34 CFR 106.54

- (1) The employer shall not make or enforce any policy or practice which, on the basis of sex:
 - (a) Makes distinctions in rates of pay or other compensation;
 - (b) Results in the payment of wages to employees of one sex at a rate less than that paid to employees of the opposite sex for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions.

e. Job Classification and Structure – 34 CFR 106.55

- (1) The employer shall not:
 - (a) Classify a job as being for males or for females;
 - (b) Maintain or establish separate lines of progression, seniority lists, career ladders, or tenure systems based on sex; or
 - (c) Maintain or establish separate lines of progression, seniority systems, career ladders, or tenure systems for similar jobs, position descriptions, or job requirements which classify individuals on the basis of sex, unless sex is a bona-fide occupational qualification for the positions in question as set forth in 34 CFR 106.61.

f. Fringe Benefits – 34 CFR 106.56

- (1) For the purpose of 34 CFR 106, “fringe benefits” means: Any medical, hospital, accident, life insurance or retirement benefit, service, policy or plan, any profit-sharing or bonus plan, leave, and any other benefit or service of employment not subject to the provision of 34 CFR 106.54.
- (2) The employer shall not:
 - (a) Discriminate on the basis of sex with regard to making fringe benefits available to employees or make fringe benefits available to spouses, families, or dependents of employees differently upon the basis of the employee’s sex;
 - (b) Administer, operate, offer, or participate in a fringe benefit plan which does not provide either for equal periodic benefits for members of each sex, or for equal contributions to the plan by the employer for members of each sex; or
 - (c) Administer, operate, offer, or participate in a pension or retirement plan which establishes different optional or compulsory retirement ages based on sex or which otherwise discriminates in benefits on the basis of sex.

g. Marital or Parental Status – 34 CFR 106.57

- (1) The employer shall not apply any policy or take any employment action:
 - (a) Concerning the potential marital, parental, or family status of an employee or applicant for employment which treats individuals differently on the basis of sex; or
 - (b) Which is based upon whether an employee or applicant for employment is the head of household or principal wage earner in such employee's or applicant's family unit.
- (2) The employer shall not discriminate against or exclude from employment any employee or applicant for employment on the basis of pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery therefrom.
- (3) The employer shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy, and recovery therefrom and any temporary disability resulting therefrom as any other temporary disability for all job-related purposes, including commencement, duration and extensions of leave, payment of disability income, accrual of seniority and any other benefit or service, and reinstatement, and under any fringe benefit offered to employees by virtue of employment.
- (4) In the case of the employer which does not maintain a leave policy for its employees, or in the case of an employee with insufficient leave or accrued employment time to qualify for leave under such a policy, the employer shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy, and recovery therefrom as a justification for a leave of absence without pay for a reasonable period of time, at the conclusion of which the employee shall be reinstated to the status which the employee held when the leave began or to a comparable position, without decrease in rate of compensation or loss of promotional opportunities, or any other right or privilege of employment.

h. Effect of State or Local Law or Other Requirements – 34 CFR 106.58

- (1) The obligation to comply with 34 CFR 106.58 is not obviated or alleviated by the existence of any State or local law or other requirement which imposes prohibitions or limits upon employment of members of one sex which are not imposed upon members of the other sex.
- (2) The employer which provides any compensation, service, or benefit to members of one sex pursuant to a State or local law or other requirement shall provide the same compensation, service, or benefit to members of the other sex.

i. Advertising – 34 CFR 106.59

The employer shall not in any advertising related to employment indicate preference, limitation, specification, or discrimination based on sex unless sex is a bona-fide occupational qualification for the particular job in question.

j. Pre-Employment Inquiries – 34 CFR 106.60

- (1) The employer shall not make pre-employment inquiry as to the marital status of an applicant for employment, including whether such applicant is “Miss or Mrs.”
- (2) The employer may make pre-employment inquiry as to the sex of an applicant for employment, but only if such inquiry is made equally of such applicants of both sexes and if the results of such inquiry are not used in connection with discrimination prohibited by 34 CFR 106.

k. Sex as a Bona-Fide Occupational Qualification – 34 CFR 106.61

The employer may take action otherwise prohibited by 34 CFR 106 Subpart E provided it is shown that sex is a bona-fide occupational qualification for that action, such that consideration of sex with regard to such action is essential to successful operation of the employment function concerned. The employer shall not take action pursuant to 34 CFR 106.61 which is based upon alleged comparative employment characteristics or stereotyped characterizations of one or the other sex, or upon preference based on sex of the employer, employees, students, or

other individuals, but nothing contained in 34 CFR 106.61 shall prevent the employer from considering an employee's sex in relation to employment in a locker room or toilet facility used only by members of one sex.

5. Effect of Other Federal Provisions – 34 CFR 106.6(a)

- a. The obligations imposed by 34 CFR 106 are independent of, and do not alter, obligations not to discriminate on the basis of sex imposed by Executive Order 11246, as amended; sections 704 and 855 of the Public Health Service Act (42 USC 292d and 298b-2); Title VII of the Civil Rights Act of 1964 (42 USC 2000e et seq.); the Equal Pay Act (29 USC 206 and 206(d)); and any other Act of Congress or Federal regulation.
- b. Nothing in 34 CFR 106 may be read in derogation of any individual's rights under Title VII of the Civil Rights Act of 1964, 42 USC 2000e et seq. or any regulations promulgated thereunder.

C. Grievance Procedures

1. Upon receiving a complaint alleging sexual harassment, the employer shall review the alleged conduct to determine whether to apply the grievance procedure for Title VII or Title IX outlined in Regulation 1552. When making this determination, the Superintendent or designee should consult with the Board Attorney to determine which definition of sexual harassment (Title VII, Title IX, or both), applies to the alleged conduct. If the alleged conduct is addressed by both definitions, the employer shall proceed with the grievance procedure outlined for Title IX in Section B. of Regulation 1552.
 - a. Title VII of the Civil Rights Act of 1964 – 29 CFR 1604
 - (1) Upon receipt of a complaint of sexual harassment under Title VII, the employer shall follow the grievance procedure outlined in Section A. of Regulation 1552.
 - b. Title IX of the Education Amendments of 1972 – 34 CFR 106
 - (1) Upon receipt of a complaint of sexual harassment under Title IX, the employer shall follow the grievance procedure outlined in Section B. of Regulation 1552.
 - (2) The employer must provide to applicants for employment, employees, and all unions or professional organizations

holding collective bargaining or professional agreements with the employer notice of the employer's Title IX 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 employer will respond.

29 CFR 1604
34 CFR 106

Adopted:

RESOURCE MATERIALS

2530

The Board of Education shall provide resource materials to implement the school district's educational goals and objectives to meet student needs as district resources permit. Resource materials include, but are not limited to, reference materials; fiction and nonfiction books; maps; audio and audio-visual materials; pamphlets; periodicals; pictures; online references; other supplementary titles; and other sources of information for use by students that are not designated as textbooks. Resource materials are not library material as defined in N.J.S.A. 18A:34A-3 and Policy and Regulation 2535.

The Superintendent will develop regulations for the selection of resource materials pursuant to Regulation 2530 that provide for the effective consultation of teaching staff members at all appropriate levels, ensure that the Board's budgetary allotment for resource materials is efficiently spent and appropriately distributed throughout the instructional program and the district, and ensure an inventory of resource materials that is well balanced.

The Superintendent will evaluate resource materials and recommend to the Board the removal of resource materials that no longer meet the standards set forth in Policy and Regulation 2530. Any request by an individual for the removal of resource materials will be governed by Policy and Regulation 9130.

Adopted:

LIBRARY MATERIAL (M)

2535

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The Board of Education believes the freedom to read is a human right, constitutionally protected by the First Amendment of the United States Constitution, and individuals have the right to free inquiry and the right to form their own opinions. The freedom to read does not require an individual to agree with topics or themes within a material, but instead allows a reader to explore and engage with differing perspectives to form and inform their own views pursuant to the “Freedom to Read Act” N.J.S.A. 18A:34A-1 through N.J.S.A. 18A:34A-7.

In accordance with N.J.S.A. 18A:34A-4, the purpose of Regulation 2535 and this Policy is to: provide standards for the curation of library material, establish criteria for the removal of existing school library material or library material selected for inclusion in the school library, and provide protection against attempts to censor library material.

A. Definitions – N.J.S.A. 18A:34A-3

1. For the purpose of Policy and Regulation 2535:
 - a. “Board of Education” means a Board of Education as defined in N.J.S.A. 18A:18A-2, the Board of Directors of an educational services commission, a Board of Trustees of a charter school, a Board of Trustees of a renaissance school project, or any other local education agency.
 - b. “Censorship” means to block, suppress, or remove library material based on disagreement with a viewpoint, idea, or concept or solely because an individual finds certain content offensive, but does not include limiting or restricting access to any library material deemed developmentally inappropriate for certain students.
 - c. “Diverse and inclusive material” means any material that reflects any protected class as enumerated in the “Law Against Discrimination,” N.J.S.A. 10:5-1 et seq.; material produced by an author who is a member of a protected class as enumerated in the “Law Against Discrimination,” N.J.S.A. 10:5-1 et seq.; and material that contains the author’s points of view concerning contemporary problems and issues, whether international, national, or local; but excludes content that is inappropriate for grades served by the school library.

- d. “Individual with a vested interest” means any teaching staff member employed by the Board of Education, any parent of a student enrolled in the school district at the time the removal form required pursuant to N.J.S.A. 18A:34A-5 is filed, and any student enrolled in the district at the time the removal form required pursuant to N.J.S.A. 18A:34A-5 is filed.
- e. “Library material” means any material including, but not limited to, nonfiction and fiction books, magazines, reference books, supplementary titles, multimedia and digital material, software and instructional material, and other material not required as part of classroom instruction belonging to, on loan to, or otherwise in the custody of a school library.
- f. “School library staff member” means a school library media specialist, school librarian, any certificated or non-certificated staff member assigned to duties in a school library, or any individual carrying out or assisting with the functions of a school library media specialist or school librarian.

B. Library Material Curation – N.J.S.A. 18A:34A-4

- 1. The Board of Education shall have control over the content of this Policy, except this Policy shall at a minimum:
 - a. Recognize that library material should be provided for the interest, information, and enlightenment of all students and should present diverse points of view in the collection as a whole;
 - b. Acknowledge that library material shall not be removed from a school library because of the origin, background, or views of the library material or those contributing to its creation;
 - c. Recognize the importance of school libraries as centers for voluntary inquiry and the dissemination of information and ideas;
 - d. Promote the free expression and free access to ideas by students by prohibiting the censorship of library material;
 - e. Acknowledge that a school library media specialist is professionally trained to curate and develop the school library collection that provides students with access to the widest array of developmentally appropriate library material available to schools; and

- f. Establish a procedure for a school library staff member to review library material within a school library on an ongoing basis, which shall include, but not be limited to:
 - (1) The library material's relevance;
 - (2) The condition of the library material;
 - (3) The availability of duplicates;
 - (4) The availability of more recent developmentally appropriate library material; and
 - (5) The continued demand for the library material.
- 2. The Board of Education, in consultation with school library staff members, shall have discretion in selecting, purchasing, or acquiring library material for inclusion in the school library. Nothing in N.J.S.A. 18A:34A-4 or this Policy shall be construed to require the Board of Education to purchase, or otherwise acquire, library material for a school library.
- 3. Nothing in N.J.S.A. 18A:34A-4 and this Policy shall be construed to restrict the Board of Education's authority to select textbooks and school supplies related to the curriculum.

C. Library Material Recommendation and Selection Process

- 1. The school library staff member in each school building will accept the written requests of teaching staff members for new and revised library material. Each request should include:
 - a. The name and originator of the library material;
 - b. The publisher or distributor;
 - c. A brief description of the library material; and
 - d. The reason for the request, including the relevance of the library material to the instructional program.
- 2. The school library staff member shall review each recommendation against the standards for selection in B.1.f. above and the amount budgeted for library material in the current or succeeding school year, as appropriate.

3. The school library staff member shall present to the Superintendent or designee a list of recommended purchases of library material. The list will include multiple copies of library material when a high level of interest and need is anticipated.
 4. Standards to be applied in the selection of library material shall relate to, support, and enrich the courses of study adopted by the Board of Education.
- D. Censorship of School Library Material Prohibited, Right to Reserve, Check Out – N.J.S.A. 18A:34A-6
1. The Board of Education shall not remove library material from a school library in the district because of the origin, background, or views of the library material or those contributing to its creation, and shall not engage in censorship of library material.
 2. The Board of Education shall allow a student to reserve or check out any developmentally appropriate library material, including diverse and inclusive material, regardless of the origin, background, or views of the library material or those contributing to its creation.
- E. Removal Request Procedure
- Any request by an individual with a vested interest to have library material removed from a school library in the district shall follow the grievance procedure outlined in Regulation 2535 in accordance with N.J.S.A. 18A:34A-5.
- F. Immunity, School Library Staff – N.J.S.A. 18A:34A-7
- A school library staff member who engages in activities as required by N.J.S.A. 18A:34A-4 through 18A:34A-6 and B. through E. above shall be immune from civil and criminal liability arising from good faith actions performed pursuant to the provisions of N.J.S.A. 18A:34A-4 through 18A:34A-6 and B. through E. above.

N.J.S.A. 18A:34A-1 through N.J.S.A. 18A:34A-7

Adopted:

PUBLIC COMPLAINTS

9130

The Board of Education shall establish procedures for the hearing and settlement of complaints concerning district staff members, the educational program, instructional or resource materials, or the operations of the district. Complaints regarding library material as defined in N.J.S.A. 18A:34A-3 shall be addressed in accordance with Policy and Regulation 2535. The procedures for the hearing and settlement of complaints shall provide a means for resolving complaints fairly and impartially and permit appropriate resolution.

The grievance procedure outlined in Regulation 9130 shall not be utilized by a district staff member or Board member unless the district staff member or Board member is doing so in their capacity as a parent of a student currently enrolled in the district.

When a Board member is confronted with a complaint concerning district staff members, the educational program, instructional or resource materials, or the operations of the district, the Board member will withhold comment and refer the complaint to the Superintendent in accordance with N.J.S.A. 18A:12-24.1.j., who shall review the complaint in accordance with Regulation 9130.

Any misunderstandings or disputes between the public and district staff members should, whenever possible, be settled by direct, informal discussions among the interested parties. It is only when such informal meetings fail to resolve differences that more formal procedures shall be employed.

Procedures for the resolution of complaints regarding district staff members, the educational program, instructional and resource materials, and the operations of the district shall be governed by Regulation 9130.

Adopted: