

# POLICY

## Monroe Township Board of Education

Section: Support Staff

4352. EQUAL OPPORTUNITY / NON-DISCRIMINATION / SEXUAL HARASSMENT POLICY

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4352 EQUAL OPPORTUNITY / NON-DISCRIMINATION / SEXUAL HARASSMENT POLICY

One of the goals of the Monroe Township Board of Education (“Board”) is to provide a competent staff and a system that maintains high levels of skills and performance, as well as to offer programs and resources equally to male and female pupils.

Therefore, the Board affirms its commitment to offer equal opportunities for employment without regard to sex, race, creed (religion), national origin, ancestry, nationality, color, marital status, domestic partnership status, civil union status, gender identity or expression, affectional or sexual orientation, age, handicap (and/or disability), service in the armed forces, atypical hereditary cellular or blood trait, genetic information, refusal to submit to genetic tests, refusal to make available results of genetic tests, or any other unlawful category of discrimination (hereinafter “unlawful category of discrimination”) except where bona fide employment conditions require the same, to the extent permitted by law.

The Board also affirms its responsibility to provide its pupils equal access to all educational programs and activities without regard to any unlawful category of discrimination.

The Board affirms its commitment to an instructional and working environment that is free from unlawful harassment or discrimination. Administrators and supervisors will make clear to all staff, pupils, and vendors that unlawful harassment and discrimination are prohibited.

Unlawful harassment or discrimination shall be specifically addressed in the Board’s in-service programs, as required by law. The Board will also provide periodic mandatory information and training sessions in order to deter and avoid any incidents of unlawful harassment or discrimination. These sessions will typically review the prohibition against unlawful harassment and discrimination, give concrete examples of the types of conduct which constitute unlawful harassment or discrimination, and provide time for questions and discussion. Any employee who fails to attend any mandatory training session will be subject to appropriate discipline.

The Board will take appropriate action to publicize this policy to all employees, pupils, vendors, and volunteers, and will enforce the policy with respect to these persons. This policy will be disseminated to all employees and placed in the Monroe Township Board of Education Policy Manual, which is accessible to all employees. The Policy Manual is available in the Superintendent’s Office. All new employees will be provided with a copy of this policy upon employment.

All parents will be advised of the existence of this policy and provided with a copy of the policy upon request. Additionally, the Superintendent of Schools shall direct that all teachers and principals inform pupils of this policy in age-appropriate terms, and advise pupils of the prohibition against unlawful harassment and discrimination, the consequences of engaging in such inappropriate conduct and their right to be free from unlawful harassment and discrimination. Pupils shall also be encouraged to report any incident of harassment or discrimination to any teaching staff member.

Staff or pupils may file a formal grievance regarding unlawful harassment or discrimination based on any unlawful category of discrimination. As discussed further below in Section E, "Complaint Procedure," and in Board Regulation No. 4352, the Board's Affirmative Action Officer will receive all complaints and carry out a thorough investigation, and will protect the rights of both the person making the complaint and the alleged harasser. Findings of discrimination or harassment will result in appropriate disciplinary action.

#### A) AFFIRMATIVE ACTION

In implementing affirmative action, the Board shall carry on:

1. a process of identification and correction of any denial of equality of educational opportunities for pupils solely on the basis of any unlawful category of discrimination;
2. a continuing reexamination and modification, as may be necessary, of its school and classroom programs; location and use of facilities; curriculum development program and instructional materials; the availability of programs for pupils; and equal access of all eligible pupils to extracurricular programs.

The Board directs the Superintendent to ensure that appropriate administrators implement the Board's affirmative action policies by:

1. adhering to the New Jersey Administrative Code in the selection of vendors and suppliers;
2. informing vendors and suppliers that their employees are bound by the Board's policies in their contacts with staff and pupils;
3. 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 avoid discrimination on the basis of any unlawful category of discrimination.

#### B) EQUAL OPPORTUNITY/NON-DISCRIMINATION

It is the policy of the Board to actively seek and employ the best person qualified to perform the duties of each position, without regard to any unlawful category of discrimination. It is also the policy of the Board not to bar, discharge or require to retire from employment or to discriminate against any individual in compensation or in terms, conditions or privileges of employment, based upon any unlawful category of discrimination.

#### C) ANTI-HARASSMENT/DISCRIMINATION

The Board wishes to emphasize its commitment to the belief that all individuals who work in the Monroe Township School District ("District") or attend school in the District have the right to enjoy an environment, whether within the District or outside of it, free of inappropriate conduct and communications. The Board opposes harassment or discrimination in any form on the basis of any unlawful category of discrimination, whether by any employee of the Board, a pupil in the District, or by any other party having school or business-related interaction with the Board.

Any individual who has been subjected to harassment or discrimination based upon any unlawful category of discrimination, or who has witnessed any incident of such harassment or discrimination, should report the matter without delay in accordance with the complaint procedures described in Section E, "Complaint Procedure," set forth below and in Board Regulation No. 4352. Such conduct will not be tolerated, and this anti-harassment/discrimination policy will be vigorously enforced.

#### D) SEXUAL HARASSMENT

## 1. Statement of Policy.

Sexual harassment in any form directed at staff or pupils is against the law and will not be tolerated by the Board. The Board is committed to the belief that all of its employees and pupils have the right to enjoy an environment free of inappropriate conduct and communications based on employees' or pupils' gender. The Board thus opposes sexual harassment in any form, whether by any members or employees of the Board, by any vendor doing business with the Board, by any parent, by any pupil, by any other party having school or business-related interaction with a representative of the Board, or by any person acting in a voluntary capacity, and regardless of whether the victim is male or female. Such conduct will not be tolerated. The provisions of this policy will be vigorously enforced.

## 2. What Are the Consequences of Sexual Harassment?

Sexual harassment is not only offensive and degrading to the employees and/or pupils subjected to it, and detrimental to the morale of co-workers and/or pupils, but it is also illegal, being contrary to both state and federal laws against discrimination. Any employee found to have engaged in, or participated with another in, sexual harassment may be subject to disciplinary action including, but not limited to, the following: oral reprimand, written reprimand, suspension, and termination from employment. Any pupil who engages in the sexual harassment of an employee or of another pupil may be subject to disciplinary action.

Pending the investigation of any complaint of sexual harassment, as described in Section E, "Complaint Procedure," below and in Board Regulation No. 4352, the Board retains discretion to impose a temporary reassignment of any of the parties involved if the circumstances disclosed so warrant.

## 3. What Conduct is Prohibited?

Sexual harassment occurs when one employee, typically a supervising employee, attempts to make another employee's submission to unwelcome sexual demands or overtures a condition of: his/her continued employment; the terms, conditions or the benefits thereof; or an employment decision of any kind affecting that employee. This type of sexual harassment typically involves a promise of favorable employment action in exchange for sexual favors, or an implicit or explicit threat that if the employee does not give in to the sexual demands or overtures, the employee will lose his/her job, receive unfavorable performance reviews, be passed over for promotion, or suffer other adverse employment consequences. Sexual harassment of any form potentially interferes with an individual's work performance and may create an intimidating, hostile or offensive work environment.

Additionally, sexual harassment occurs if a teacher attempts to make a pupil submit to such unwelcome sexual demands or overtures as a condition of a pupil's grades, promotion, opportunities, privileges and/or other benefits of education.

Sexual harassment also occurs when one person harasses another solely because of the victim's gender. This type of sexual harassment may involve unwelcome sexual demands or overtures, but it may also take the form of other harassing conduct not necessarily sexual in nature. If a "reasonable person" of the victim's gender would consider the conduct intimidating, hostile, or as creating an offensive working environment for an employee, then sexual harassment may be found to have occurred. Such conduct often consists of unwelcome sexual touching and comments. For example, such conduct may include:

- contact such as hugging another or placing one's arm around the other;
- sexual flirtations, advances, and propositions;
- sexually degrading words used in reference to an individual;
- comments on the speaker's own sexual abilities or those of co-workers or pupils;

- display of offensive pictures or objects such as posters or calendars which are of a sexual nature;
- obscene teasing, jokes and remarks of a sexual nature;
- comments of a sexual nature on, or staring at, an individual's physical attributes;
- questions about sexual conduct;
- repeated requests for a date after prior requests have been refused, or the proposed invitee has stated that he or she is not interested in such social contact;
- pressure for sexual favors;
- e-mails or electronic bulletin boards and/or web sites containing offensive or sexual language or pictures; and
- other harassment of a non-sexual nature that is engaged in due to the gender of the individual.

In order to constitute sexual harassment, the conduct need not be sexual in nature, provided that it is occurring solely because of the victim's sex. This would include comments about the lesser abilities, capacities, or the "proper role" of members of a particular sex. Sexual harassment is prohibited whether the harasser is male or female, and whether the harassment is opposite-sex or same-sex harassment.

The conduct described above may constitute prohibited sexual harassment even if the actor did not intend to injure or harass the victim. It is no excuse or justification for the conduct that the actor was only "joking." The conduct would still constitute sexual harassment even if the victim is strong enough to endure it without any emotional or psychological impact, harm, or damage. The types of conduct described above need not even be directed at a particular individual for that individual to be the victim of sexual harassment; this is because the environment in which an employee or pupil exists is directly affected by the treatment of co-workers or fellow pupils who are the subject of sexual harassment.

#### 4. What Will The Board Do Upon Being Advised Of Any Claim of Sexual Harassment?

Upon being advised of any claim of sexual harassment, the Board will appoint an investigator (usually the School Affirmative Action Officer and/or the District Affirmative Action Officer) who will promptly and thoroughly investigate the matter as described below. If the investigation confirms that sexual harassment has, in fact, occurred, appropriate and swift remedial action will be taken.

In order to further the investigation of any claim of sexual harassment as noted above, all employees and pupils are encouraged to report any incident of sexual harassment to which they are subject, or which they may have witnessed, pursuant to the complaint procedures described in Section E, "Complaint Procedure," below and in Board Regulation No. 4352. The matter will then be investigated by communicating not only with the parties involved, but also with those who have witnessed it or otherwise have knowledge of it.

#### E) COMPLAINT PROCEDURE

##### 1. Purpose

The following procedures are designed to provide for an orderly and complete response to alleged unlawful discrimination.

## 2. Confidentiality

It is the goal of the Board, both during an investigation and thereafter, to maintain confidentiality to the fullest extent possible, revealing only those particulars of the matter to the extent necessary for a thorough investigation. Any individual who unnecessarily compromises the confidentiality of an investigation will be subject to appropriate discipline.

## 3. No Retaliation

All employees and pupils should be aware that no retaliation whatsoever will be permitted against one who complains of any incident of unlawful harassment or discrimination, or who assists in the investigation thereof. Any individual who is found to have committed a retaliatory act against an employee or pupil who has complained of harassment or participated in an investigation of harassment will be subject to appropriate discipline.

After the matter is concluded, and if a determination is made that unlawful harassment or discrimination has occurred, the investigator will make a recommendation to the Superintendent of Schools regarding the appropriate discipline of the actor involved and/or will implement any other resolution of the matter. The investigator will also follow up with the person who was subject to the harassment to determine whether the inappropriate conduct at issue has ended, and to ensure that there has been no new occurrence of unlawful harassment or discrimination by the original actor, or by anyone else in retaliation for the complaint made.

## 4. Definitions

- (a) Complainant: Any person alleging discrimination under the law or Board policies.
- (b) School Affirmative Action Officer: The individual at the school building level who has been assigned by the Board of Education to be the Affirmative Action Officer for the building or school.
- (c) District Affirmative Action Officer: The individual appointed by the Board of Education to be the District's Affirmative Action Officer and who is identified to the New Jersey Department of Education as being responsible for affirmative action activities within the District.

## 5. Initiation

Complaints of discrimination may be initiated by people in the following categories:

- (a) Employees of the Board.
- (b) Pupils in attendance in Board programs.
- (c) Parents or guardians of pupils in attendance in Board programs.
- (d) Other individuals as required by law.

## 6. Complaints

Any employee who believes he or she has been subjected to unlawful harassment or discrimination, or who has witnessed any incident of unlawful harassment or discrimination (hereinafter the "complainant"), should report the matter without delay to any of the following: the School Affirmative Action Officer, the District Affirmative Action Officer, the School Principal, an Assistant Superintendent, or the

Superintendent of Schools. Any supervisory employee who receives a complaint of unlawful harassment or discrimination must promptly refer the matter to the Superintendent of Schools, and in his/her absence, to the District Affirmative Action Officer.

Any pupil who has knowledge of, or feels victimized by, unlawful harassment or discrimination should immediately report his/her allegations to any teaching staff member or the School Affirmative Action Officer. The School Affirmative Action Officer shall immediately refer the matter to the Superintendent of Schools, and in his/her absence, to the District Affirmative Action Officer.

Any employee who receives a report of unlawful harassment or discrimination of a pupil, or who has independent cause to suspect that a pupil has been subjected to unlawful harassment or discrimination, shall promptly notify the School Principal, who shall immediately refer the matter to the Superintendent of Schools, and in his/her absence, to the District Affirmative Action Officer.

The complaint may be filed in single copy. If the complainant does not file additional copies, the complainant shall be provided with a copy of the complaint. The complaint shall be filed on the printed form provided for such complaint, or may be typewritten or clearly printed on paper no less than 8" x 11". The complaint shall include:

- (a) the full name of all complainants;
- (b) a statement of what unlawful category of discrimination is alleged;
- (c) a statement setting forth the facts deemed to demonstrate the alleged discrimination;
- (d) a statement describing whether or not any action has been instituted;
- (e) signature of the complainant(s); and
- (f) the date the complaint is filed

#### 7. Investigation Process

The Board will investigate the matter by communicating not only with the parties involved, but also with those who have witnessed it or otherwise have knowledge of it, if appropriate. The complainant should be prepared to provide full and complete information regarding the incident.

A similar investigation will be undertaken with the actor alleged to have engaged in the conduct at issue. If appropriate, the investigator will then discuss with each of the parties the information and responses obtained from each of them, as well as other evidence compiled, if necessary, in order to obtain any further pertinent information from the complainant and from the alleged actor.

Thereafter, and based on all of the information obtained in the investigation, the investigator will decide as to whether or not a determination that unlawful harassment or discrimination has occurred is warranted. If discipline is warranted, the investigator may make a recommendation as to the appropriate discipline. In the event that a determination that unlawful harassment or discrimination occurred is warranted, the determination will be based upon the investigation performed by the investigator, supplemented by further investigation, if deemed necessary. When the investigation has concluded, the investigator shall report his/her determination to the Superintendent of Schools, who will subsequently advise the Board of said determination. Any discipline or other action which may then be found appropriate will be promptly implemented in accordance with law. If a complaint is filed against a member of the Central Office Administrative staff, the Board President will authorize the Board's attorney to investigate such complaint.

#### F) REPORTING CHILD ABUSE

An act of unlawful harassment or discrimination that appears to constitute institutional child abuse (which is abuse alleged to have taken place in a school or other institutional setting by school personnel, compensated and uncompensated (volunteer)) shall be *immediately* reported to the New Jersey Institutional Abuse Investigation Unit (IAIU) weekdays between 9:00 a.m. and 5:00 p.m. at (609) 292-0617, weekends, holidays or after hours at 1-800-792-8610 in accordance with Child Abuse Policy No. 8462. A report to law enforcement will be made when the circumstances so warrant.

Individuals are urged to become thoroughly familiar with this policy, and place it into practice on a daily basis. Violation of this policy is a serious matter, and will be dealt with accordingly.

20 U.S.C.A. 1681; 20 U.S.C.A. 1701, U.S.C.A. 1703(d)

42 U.S.C.A. 12101 et seq.

N.J.S.A. 10:5-1 et seq.; 10:5-3, 4.1, 12., 27

N.J.S.A. 18A:6-5; 18A:6-6; 18A:-17; 18A: 26-1.1; 18A:28-10; 18A:29-2; 34:19-1;

N.J.A.C. 6:4-1.1 et seq,

N.J.A.C. 6-4-1.3(b), 1.6; 6:8-4.1; 6A:30-1.1 et seq.

29 C.F.R. 1604.11

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