

Policy

NONDISCRIMINATION/AFFIRMATIVE ACTION

The Jersey City Board of Education guarantees to all persons equal access to all categories of employment, retention and advancement in this district, regardless 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.

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.

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

Pregnancy

NONDISCRIMINATION/AFFIRMATIVE ACTION (continued)

The board prohibits discrimination against pregnant women and those who suffer medical conditions related to pregnancy and childbirth. The superintendent 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.

"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;
- 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; 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.

Report on Implementation

The superintendent 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.

Adopted: March 13, 2008
 NJSBA Review/Update: March 2013
 Readopted: October 17, 2013, May 22, 2014

Key Words

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

Legal References:	<u>N.J.S.A. 10:5-1 et seq.</u>	Law Against Discrimination
	See particularly:	
	<u>N.J.S.A. 10:5-3, -4.1, -12, -27</u>	
	<u>N.J.S.A. 18A:6-5</u>	Inquiry as to religion and religious tests prohibited
	<u>N.J.S.A. 18A:6-6</u>	No sex discrimination
	<u>N.J.S.A. 18A:18A-17</u>	Facilities for handicapped persons
	<u>N.J.S.A. 18A:26-1</u>	Citizenship of teachers, etc.
	<u>N.J.S.A. 18A:26-1.1</u>	Residence requirements prohibited

NONDISCRIMINATION/AFFIRMATIVE ACTION (continued)

N.J.S.A. 18A:29-2 Equality of compensation for male and female teachers
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
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, -1.8
N.J.A.C. 6A:30-1.1 et seq. Evaluation of the Performance of School Districts
N.J.A.C. 6A:32-14.1 Review of mandated programs and services

Executive Order 11246 as amended

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
 *4112.8/4212.8 Nepotism
 *4147/4247 Employee safety
 *4211 Recruitment, selection and hiring
 *5145.4 Equal educational opportunity
 *6121 Nondiscrimination/affirmative action

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