

Policy

NONDISCRIMINATION/AFFIRMATIVE ACTION

No pupil enrolled in the school shall be excluded from participation in, denied the benefits of, or be subjected to discrimination in any educational program or activity of this school on the basis of race, color, creed, national origin, ancestry, age, marital status, domestic partnership status, affectional or sexual orientation, gender identity or expression, genetic information, sex, disability or atypical hereditary cellular or blood trait of any individual, or because of liability for service in the armed forces of the United States, nationality, place of residence in the school, social or economic condition, nonapplicable disability or because of genetic information or refusal to submit to or make available the results of a genetic test, or pregnancy. The affirmative action team as led by the affirmative action officer shall be responsible for planning, implementing and monitoring the school's affirmative action program with respect to school and classroom practices.

Reporting to the director, the affirmative action team shall monitor the following areas for compliance with State Department of Education regulations and make suggestions and/or recommendations when necessary.

A. Access

The school provides equal and bias-free access to all school facilities, courses, programs, activities, and services by:

1. Ensuring equal and barrier-free access to all school and classroom facilities;
2. Implementing a reasonable plan for achieving the greatest degree of racial balance that is feasible and consistent with sound educational values and procedures. The goal of the plan shall be to attain within each school, minority representation that approximates the school's overall minority representation. Exact apportionment is not required;
3. Utilizing on an annual basis a State-approved English language proficiency measure for determining the special needs of English language learners and their progress in learning English;
4. Utilizing bias-free multiple measures for determining the special needs of students with disabilities;
5. Ensuring support services, including intervention and referral services and school health services are available to all students;
6. Ensuring a student is not discriminated against because of a medical condition. A student shall not be excluded from any education program or activity because of a long-term medical condition unless a physician certifies such exclusion is necessary. If excluded, the student shall be provided with equivalent and timely instruction that may include home instruction, without prejudice or penalty (see board policy 6173 Home instruction); and
7. Ensuring that pregnant students are not excluded from the access to the educational programs, activities and services.

B. Curriculum

The school's curriculum and instruction shall be aligned to the New Jersey Student Learning Standards. The curriculum and instruction shall address the elimination of discrimination by narrowing the achievement gap, by providing equity in educational programs, and by providing opportunities for students to interact positively with others regardless of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, religion, disability, or socioeconomic status. The school shall:

1. Ensure there are no differential requirements for completion of course offerings or programs of study solely on the basis of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, religion, disability, or socioeconomic status;

NONDISCRIMINATION/AFFIRMATIVE ACTION (continued)

2. Ensure courses shall not be offered separately on the basis of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, religion, disability, or socioeconomic status. Portions of classes that deal exclusively with human sexuality may be conducted in separate developmentally appropriate sessions for male and female students, provided the course content for such separately conducted sessions is the same;
3. Reduce or prevent the underrepresentation of minority, female, and male students in all classes and programs, including gifted and talented, accelerated, and advanced classes;
4. Ensure schools demonstrate the inclusion of a multicultural curriculum in its instructional content, materials, and methods, and ensuring students understand the basic tenets of multiculturalism;
5. Ensure African-American history, as well as the history of other cultures, is infused into the curriculum and taught as part of U.S. history;
6. Ensure instruction on the Holocaust and other acts of genocide is included in the curriculum of all elementary and secondary schools, as developmentally appropriate.

C. Counseling Services

Students shall have access to adequate and appropriate counseling services:

1. When informing students about possible careers or professional or vocational opportunities options presented shall not be restricted or limited on the basis race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, gender identity or expression, religion, disability, or socioeconomic status;
2. Tests or guidance or counseling materials that are biased or stereotyped shall not be used.

D. Physical Education, Athletic Programs, Extracurricular Activities

The school's physical education and athletic programs shall be equitable and co-educational and shall not discriminate on the basis of protected class status including:

1. Separate restroom, locker room, and shower facilities on the basis of gender, but such facilities provided for students of each gender shall be provided and shall be comparable;
2. Separate teams for the two sexes may be operated in one or more sports or single teams open competitively to members of both sexes, as long as the athletic program as a whole provides equal opportunities for students of both sexes to participate in sports at comparable levels of difficulty and competency; and
3. The activities comprising the school athletic programs shall receive equitable treatment, including, but not limited to, staff salaries, purchase and maintenance of equipment, quality and availability of facilities, scheduling of practice and game time, length of season, and all other related areas or matters.

E. Staff training

The affirmative action officer shall suggest a program of inservice training for school personnel designed to identify and solve problems of bias in all aspects of the school program. An equity inservice program shall be held on a continuing basis for all staff and for parents and community members as needed to facilitate participation and support.

Appeals

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

Adopted: May 2010
NJSBA Review/Update: March 2020

NONDISCRIMINATION/AFFIRMATIVE ACTION (continued)

Readopted:

Key Words

Affirmative Action, Nondiscrimination, Curriculum, Instructional Materials, Textbooks

Legal References: N.J.S.A. 10:5-1 et seq. Law Against Discrimination
N.J.S.A. 18A:4A-1 et seq. New Jersey Commission on Holocaust Education
N.J.S.A. 18A:18A-17 Facilities for handicapped persons
N.J.S.A. 18A:35-1 Course in history of the United States in high school
N.J.S.A. 18A:36-20 Discrimination; prohibition
N.J.S.A. 18A:37-14-19 Harassment, Intimidation, Bullying
N.J.A.C. 6A:7-1.1 et seq. Managing for Equality and Equity in Education
 See particularly:
N.J.A.C. 6A:7-1.1,-1.4,-1.7,-1.9
N.J.A.C. 6A:30-1.1 et seq. Evaluation of the Performance of School Districts

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

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

Every Student Succeeds Act, Pub. L. 114-95, 20 U.S.C.A. 6301 et seq.

Gebser v. Lago Vista Indep. School Dist. 524 U.S. 274 (1998)

Davis v. Monroe County Bd. of Ed. 526 U.S. 629 (1999)

L.W. v. Toms River Regional Schools Board of Education, N.J., No. A-111-05 (Feb. 22, 2007), 2007 N.J. LEXIS 184. The New Jersey Supreme Court ruled that a school district may be held liable under the New Jersey Law Against Discrimination (LAD), N.J.S.A. 10:5-1 to -49, when students harass another student because of his perceived sexual orientation. A district school will be liable for such harassment if it knew or should have known of the harassment but failed to take reasonable remedial actions. The matter was remanded to the Director of the Division on Civil Rights.

The Comprehensive Equity Plan, New Jersey State Department of Education

Possible

Cross References: *2224 Nondiscrimination/affirmative action
 *4111.1 Nondiscrimination/affirmative action
 *4131/4131.1 Staff development; inservice education/visitations/conferences
 *4211.1 Nondiscrimination/affirmative action
 *4231/4231.1 Staff development; inservice education/visitations/conferences
 *5134 Married/pregnant pupils
 *5145.4 Equal educational opportunity
 *6140 Curriculum adoption
 *6141 Curriculum design/development
 *6142.4 Physical education and health
 *6145 Extracurricular activities
 *6161.1 Guidelines for evaluation and selection of instructional materials

NONDISCRIMINATION/AFFIRMATIVE ACTION (continued)

- *6163.1 Media center/library
- *6164.2 Guidance services
- *6171.4 Special education

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