

NON-DISCRIMINATION/AFFIRMATIVE ACTION

State and federal statutes and regulations prohibit school districts from discriminatory practices in employment or educational opportunity against any person by reason of race, color, national origin, ancestry, age, sex, affect ional or sexual orientation, marital status, liability for service in the Armed Forces of the United States, atypical hereditary cellular or blood trait of any individual, genetic information, or refusal to submit to a genetic test or make the results of a genetic test known, in employment or in educational opportunities. Further state and federal protection is extended on account of disabilities, social or economic status, pregnancy, childbirth, pregnancy-related disabilities, actual or potential parenthood, or family status.

The Demarest Board of Education will continue to support its Affirmative Action Resolution of initially adopted on January 18, 1983, and to implement the district's equal educational opportunity policy, school and classroom practices plan and contract/employment practices plan in accordance with law and regulation.

The board authorizes the chief school administrator to develop and implement a multi-year equity plan to ensure that the district provides equality in educational programs and to identify and correct, or assess and prevent, all bias, discrimination and impermissible isolation in policies, practices and facilities of the district. Upon approval of this plan by the state department of education, the board shall adopt it by resolution. The chief school administrator shall report to the board annually on progress toward goals established in the plan. A copy of the district's affirmative action/equity plans and self-evaluation of their achievement shall be available in the district office.

Affirmative Action Officer(s)

The board shall appoint a certified member or members of the staff as affirmative action officer(s), who shall serve as affirmative action/504 officer and/or desegregation coordinator(s). The board shall adopt the job description of the affirmative action officer(s), granting to him/her the responsibility to facilitate, oversee and ensure the development and implementation of school and classroom practices plans, employment and contract practices plan, school desegregation plan and section 504 plans, as well as related inter-program coordination. The affirmative action officer(s) shall ensure that the district upholds all regulations, codes and laws related to equity in the schools.

The affirmative action officer(s) shall monitor compliance with this policy. The name, work location and telephone number of the district affirmative action officer(s) shall annually be made known to staff, pupils and members of the community.

Harassment

The board of education shall maintain an instructional and working environment that is free from harassment of any kind. Administrators and supervisors will make it clear to all staff, pupils and vendors that harassment is prohibited. Sexual harassment shall be specifically addressed in the affirmative action inservice programs required by law for all staff.

NON-DISCRIMINATION/AFFIRMATIVE ACTION (continued)Harassment (continued)

Sexual harassment shall include, but not be limited to, unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when:

- A. Submission to the conduct or communication is made a term or condition of employment or education;
- B. Submission to, or rejection of, the conduct or communication is the basis for decisions affecting employment and assignment or education;
- C. The conduct or communication has the purpose or effect of substantially interfering with an individual's work performance or education;
- D. The conduct or communication has the effect of creating an intimidating, hostile or offensive working or educational environment.

Sexual harassment of staff or children interferes with the learning process and will not be tolerated in the Demarest schools. Harassment by board members, employees, parents, students, vendors and others doing business with the district is prohibited. Any child or staff member who has knowledge of or feels victimized by sexual harassment should immediately report his/her allegation to the affirmative action officer or building principal. Anyone else who has knowledge of or feels victimized by sexual harassment should immediately report his/her allegation to the chief school administrator or board president. Employees whose behavior is found to be in violation of this policy will be subject to the investigation procedure which may result in discipline, up to and including dismissal. Other individuals whose behavior is found to be in violation of this policy will be subject to appropriate sanctions as determined and imposed by the chief school administrator/board. Law enforcement shall be summoned when appropriate. This policy statement on sexual harassment shall be distributed to all staff members.

Staff or pupils may file a formal grievance related to harassment on any of the grounds addressed in this policy. 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 or harassment will result in appropriate disciplinary action.

School and Classroom Practices

In implementing affirmative action, the district shall:

- A. Identify and correct the denial of equality of educational opportunities for pupils solely on the basis of any classification protected by law;
- B. Continually reexamine and modify, as may be necessary, its school and classroom programs; location and use of facilities; its curriculum development program and its instructional materials; availability of programs for children; and equal access of all eligible pupils to all extracurricular programs.

These topics are included in the pupil and instruction policies of the district at #5145.4 Equal educational opportunity, #6121 Nondiscrimination/affirmative action, and #6145 extracurricular activities.

NON-DISCRIMINATION/AFFIRMATIVE ACTION (continued)**Contract/Employment Practices**

The district directs the chief school administrator to ensure that appropriate administrators implement the district's affirmative action policies by:

- A. Adhering to the administrative code in selection of vendors and suppliers; informing vendors and suppliers that their employees are bound by the district's affirmative action policies in their contacts with district staff and pupils;
- B. 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 are structured and administered in a manner that furthers equal employment opportunity principles and eliminates discrimination on any basis protected by law, holding inservice programs on affirmative action for all staff in accordance with law.

These topics are included in the business and non-instructional operations, and the personnel policies of the district at #3320, #3327, #4111.1 and #4211.1.

Disabled

In addition to prohibiting educational and employment decisions based on non-applicable disabling conditions, the district shall, as much as feasible, make facilities accessible to disabled pupils, employees and members of the community as intended by Section 504 and as specified in the administrative code.

Report on Implementation

The chief school administrator shall devise regulations, including grievance forms and procedures to implement the district's affirmative action policies. He/she shall report to the board annually on the effectiveness of this policy and the implementing procedures.

<u>Legal References:</u>	<u>N.J.S.A.</u> 2C:33-4	Harassment
	<u>N.J.S.A.</u> 10:5-1 <u>et seq.</u>	Law Against Discrimination
	<u>N.J.S.A.</u> 18A:6-5	Inquiry as to religion and religious tests prohibited
	<u>N.J.S.A.</u> 18A:6-6	No sex discrimination
	<u>N.J.S.A.</u> 18A:18A-17	Facilities for handicapped persons
	<u>N.J.S.A.</u> 18A:26-1	Citizenship of teachers
	<u>N.J.S.A.</u> 18A:26-1.1	Residence requirements prohibited
	<u>N.J.S.A.</u> 18A:29-2	Equality of compensation for male and female teachers
	<u>N.J.S.A.</u> 18A:36-20	Discrimination; prohibition
	<u>N.J.A.C.</u> 5:23-7.1 <u>et seq.</u>	Barrier free sub-code of the uniform construction code
	<u>N.J.A.C.</u> 6:4-1.1 <u>et seq.</u>	Equality in Educational Programs
	See particularly:	
	<u>N.J.A.C.</u> 6:4-1.3,	
	-1.5, -1.6	
	<u>N.J.A.C.</u> 6:8-2.1	Reporting requirements
	<u>N.J.A.C.</u> 6:8-4.1	Review of mandated programs and services
	<u>N.J.A.C.</u> 6A:30-1.1 <u>et seq.</u>	Evaluation of the Performance of School Districts
	Executive Order 11246 as amended	
	29 <u>U.S.C.A.</u> 201 - Equal Pay Act of 1963 as amended	

NON-DISCRIMINATION/AFFIRMATIVE ACTION (continued)**Legal References:** (continued)

20 U.S.C.A. 1681 - NON-DISCRIMINATION/AFFIRMATIVE ACTION IX of the Education Amendments of 1972

42 U.S.C.A. 2000e et seq. - NON-DISCRIMINATION/AFFIRMATIVE ACTION 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)

State v. Mortimer, 135 N.J. 517 (1994)

Taxman v. Piscataway Bd. of Ed. 91 F. 3d 1547 (3d Cir. 1996)

Davis v. Monroe County Board of Education, 526 U.S. 629 (1999)

Saxe v. State College Area School Dist., 240 F. 3d 200 (3d Cir. 2001)

Manual for the Evaluation of Local School Districts (August 2000)

Multi-year Equity Plan for the Academic Years 2000-2001 through 2002-2003, New Jersey State Department of Education Division of Student Services Office of Bilingual Education and Equity Issues

<u>Cross References:</u>	*3320	Purchasing procedures
	*4111	Recruitment, selection and hiring
	*4111.1	Nondiscrimination/affirmative action
	*4131/4131.1	Staff development; inservice education/visitations/conferences
	*4211	Recruitment, selection and hiring
	*4211.1	Nondiscrimination/affirmative action
	*4231/4231.1	Staff development; inservice education/visitations/conferences
	*5145.4	Equal educational opportunity
	*6121	Nondiscrimination/affirmative action
	*6145	Extracurricular activities

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

Key Words

Affirmative Action, Discrimination, Americans With Disabilities Act, Access, Nondiscrimination, Sexual Harassment, Harassment, Equal Educational Opportunity

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Revised: