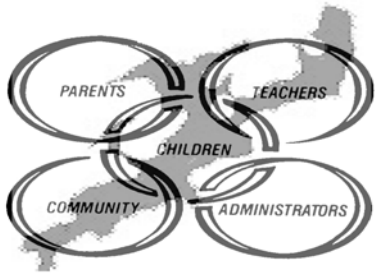


# **HOPATCONG BOROUGH SCHOOLS**



## **EMPLOYEE HANDBOOK FOR AFFIRMATIVE ACTION AND EQUAL OPPORTUNITY**



## HOPATCONG BOROUGH SCHOOLS

*Every Child Succeeds  
When We Join Hands!*

This handbook will provide you with the Hopatcong Borough School District's policies regarding fair and equitable treatment in the workplace. Fair and equitable treatment of all employees creates a work environment that is supportive and comfortable and leads to higher rates of employee satisfaction and productivity. Since the work of the school district is to educate our students it is even more important that our employees feel valued and respected so that the environment in which our students work and learn is one in which they are also valued and respected.

The District's mission statement is:

*To empower each student with the skills necessary to become a successful, contributing participant in a rapidly changing global society" is the mission of the Hopatcong Public Schools. Through active collaboration among children, parents, community, teachers and administrators, the district fosters the development of strong self-esteem, a love for learning, the ability to work cooperatively, sound ethical values, respect and appreciation for diversity, effective communication skills and the ability to use technology.*

**HOPATCONG BOROUGH SCHOOL DISTRICT**

**AFFIRMATIVE ACTION/EQUAL OPPORTUNITY  
CONTACT INFORMATION**

**Affirmative Action Officer/Title IX Coordinator**

**Theresa A. Sierchio  
Business Administrator/Board Secretary  
Hopatcong Schools Administration Building  
2 Windsor Avenue  
P.O. Box 1029  
Hopatcong, N.J. 07843  
973-770-8844**

**§504 Coordinator**

**Tammy Miller  
Director of Special Services  
Hopatcong Schools Administration Building  
2 Windsor Avenue  
P.O. Box 1029  
Hopatcong, N.J. 07843  
973-770-8820**

## EDUCATIONAL EQUITY POLICIES

The Hopatcong Borough School District has adopted and implemented written educational equity policies that:

1. Recognize and value the diversity of persons and groups within the society and promote the acceptance of persons of diverse backgrounds regardless of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, religion, disability or socioeconomic status; and
2. Promote equal educational opportunity and foster a learning environment that is free from all forms of prejudice, discrimination and harassment based upon race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, religion, disability or socioeconomic status in the policies, programs and practices of the district board of education.

The Hopatcong Borough Public School District complies with all applicable laws, codes, regulations, and guidelines governing equity in education including, but not limited to: N.J.S.A.18A:36-20; N.J.S.A.10:5; N.J.A.C. 6A:7; Guidelines for the Desegregation of Public Schools in New Jersey (1989); Titles VI and VII of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; The Americans with Disabilities Act of 1990; Individuals with Disabilities Education Act (I.D.E.A.) of 1997.

The Hopatcong Board of Education's policies prohibiting bias, harassment, discrimination, segregation and ensuring equality in educational programs and the Hopatcong School District's Comprehensive Equity Plan, grievance procedure and annual reports are available to members of the community, the staff and students at:

Hopatcong Schools Administration Building  
2 Windsor Avenue  
Business Office  
P.O. Box 1029  
Hopatcong, NJ 07843  
Telephone # (973) 770-8844

The **Business Administrator/Board Secretary, Theresa A. Sierchio**, serves as the Hopatcong School District's **Affirmative Action Officer** and coordinator for matters dealing with **Title IX**.

The **Director of Student Services, Tammy Miller**, serves as the Hopatcong School District's coordinator for matters concerning **§504**. Mrs. Miller can be reached at:

Hopatcong Schools Administration Building  
2 Windsor Avenue  
The Child Study Team Office  
P.O. Box 1029  
Hopatcong, NJ 07843  
Telephone # (973) 770-8820

The Hopatcong School District's Comprehensive Equity Plan, grievance procedure and annual reports are also available through the Office of the Superintendent.



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## ***HOPATCONG BOROUGH SCHOOL DISTRICT***

### ***Hopatcong Board of Education Policies and Regulations***

- Policy 1530 Equal Employment Opportunity
- Regulation 1530 Equal Employment Opportunity Complaint Procedure
  
- Policy 1550 Affirmative Action Program for Employment and Contract Practices
- Regulation 1550 Affirmative Action Program for Employment and Contract Practices/Employment Practices Plan Complaint Procedure
  
- Policy 2260 Affirmative Action Program for School and Classroom Practices
- Regulation 2260 Affirmative Action Program for School and Classroom Practices Complaint Procedure
  
- Policy 3362 Sexual Harassment Teaching staff Members\*\*\*
  
- Policy 4352 Sexual Harassment Support Staff Members\*\*\*
  
- Policy 5751 Sexual Harassment Pupils
- Regulation 5751 Sexual Harassment of Pupils

**\*\*\*Please refer to grievance procedure in regulation #1530/Equal Employment Opportunity Complaint Procedure**

# POLICY

## BOARD OF EDUCATION HOPATCONG

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### 1530 EQUAL EMPLOYMENT OPPORTUNITIES

The Board of Education shall, in accordance with law, guarantee equal employment opportunity in the schools of this district.

Each otherwise qualified person shall be offered equal access to all categories of employment and equal pay for equal work in this district without regard to the candidate's race, color, creed, religion, national origin, ancestry, age, marital status, affectional or sexual orientation or sex, social or economic status, or disability. The school district's employment applications and pre-employment inquiries conform to the guidelines of the New Jersey Division of Civil Rights.

The Board will use equitable practices that prevent imbalance and isolation based on race, national origin, and gender among the district's certificated and non-certificated staff and within every category of employment, including administration. Promotions and transfers will be monitored to ensure non-discrimination.

The Board will target-underutilized groups, so that the district's employment of females and minorities in every category of employment equals or exceeds their representation within the county workforce. The Board will provide among the faculty of each school role models of diverse racial and cultural backgrounds.

For the purpose of this policy, "disability" means suffering from physical disability; from any mental, psychological, or developmental disability; or from AIDS or HIV infection.

The Board shall not enter into, or maintain, any contracts with a person, agency, or organization if it has knowledge that such person, agency, or organization discriminates on the basis of race, color, creed, religion, national origin, ancestry, age, marital status, affectional or sexual orientation or sex, social or economic status, or disability, either in employment practices or in the provision of benefits or services to pupils or employees.

The Superintendent shall promulgate a complaint procedure for the adjudication of disputes alleging violation of the law prohibiting discrimination in employment or this policy.

The Board shall not discriminate against any person for that person's exercise of rights under the laws prohibiting discrimination in employment or this policy.



# POLICY

## BOARD OF EDUCATION HOPATCONG

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42 U.S.C.A. 12101 et seq.  
N.J.S.A. 10:5-1 et seq.  
N.J.S.A. 18A:6-5, 6-6; 18A:28-10; 18A:29-2  
N.J.A.C. 6A:7-1.1 et seq

Adopted: 26 September 1996

1<sup>st</sup> Reading: 29 March 2004  
2<sup>nd</sup> Reading & Adoption: 26 April 2004



# REGULATION BOARD OF EDUCATION HOPATCONG

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## 1530 EQUAL EMPLOYMENT OPPORTUNITY COMPLAINT PROCEDURE

### A. Purpose and application

1. The purpose of this procedure is to give any district employee or candidate for employment the opportunity to appeal an alleged denial of equal employment opportunity in violation of state and federal laws and Policy No. 1530, guaranteeing "equal access to all categories of employment without regard to the candidate's race, color, creed, religion, national origin, ancestry, age, marital status, affectional or sexual orientation or sex, social or economic status, or disability."
2. This procedure is intended to facilitate an equitable and just resolution of a dispute at the most immediate level and should be implemented in an informal manner.
3. Every reasonable effort will be made to expedite the process in the interest of a prompt resolution. Time limits may, however, be extended with the consent of all parties.
4. All participants in the procedure will respect the confidentiality that this district accords to information about individual employees.

### B. Definitions

1. "Board of Education" means the Board of Education of the Hopatcong Borough School District.
2. "Complaint" means an alleged discriminatory act or practice.
3. "Complainant" means a teaching staff member who alleges a discriminatory act or practice.
4. "Day" means a calendar day.
5. "Discriminatory act or practice" means denial of equal employment opportunity in violation of state and federal laws and Policy No. 3125, guaranteeing "equal employment opportunities without regard to the applicant's race, color, national origin, religion, age, gender, or disability."





# REGULATION BOARD OF EDUCATION HOPATCONG

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6. "School district" means the Hopatcong Borough School District.

## C. Procedure

1. A complainant who believes that he or she has been harmed or adversely affected by a discriminatory practice or act prohibited by law and/or policy shall discuss the matter with his or her immediate supervisor, within ten days of the occurrence, in an attempt to resolve the matter informally.
2. If the matter is not resolved to the satisfaction of the complainant within ten days, the complainant may submit a written complaint to the Business Administrator/Board Secretary. The complaint will include
  - a. The complainant's name and address;
  - b. The specific act or practice that the complainant complains of;
  - c. The school employee, if any, responsible for the allegedly discriminatory act;
  - d. The results of discussions conducted in accordance with ¶C1; and
  - e. The reasons why those results are not satisfactory.
3. The Business Administrator/Board Secretary will investigate the matter informally and will respond to the complaint in writing no later than ten days after receipt of the written complaint. A copy of the complaint and the response will be forwarded to the Superintendent.
4. The response of the Business Administrator/Board Secretary may be appealed to the Superintendent in writing within ten days after it has been received by the complainant. The appeal will include the original complaint, the response to the complaint, and the complainant's reason for rejecting the response. A copy of the appeal must be given to the staff member alleged to have acted discriminatorily.



# REGULATION BOARD OF EDUCATION HOPATCONG

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5. On his or her timely request (that is, submitted before the expiration of the time within which the Superintendent must render a decision), the complainant will be given an informal hearing before the Superintendent, at a time and place convenient to the parties, but no later than ten days after the request for a hearing has been submitted. The Superintendent may also require the presence at the hearing of the staff member charged with a discriminatory act and any other person with knowledge of the act complained of.
6. The Superintendent will render a written decision in the matter no later than ten days after the appeal was filed or the hearing was held, whichever occurred later. Copies of the decision will be given to all parties.
7. The complainant may appeal the Superintendent's decision to the Board by filing a written appeal with the Business Administrator/Board Secretary no later than ten days after receipt of the Superintendent's decision. The appeal shall include
  - a. The original complaint;
  - b. The response to the complaint;
  - c. The Superintendent's decision;
  - d. A transcript of the hearing, if one has been made, or a summary of the hearing to which all parties have consented; and
  - e. The complainant's reason for believing the Superintendent's decision should be changed.
8. A copy of the appeal to the Board must be given to the staff member, if any, charged with a discriminatory act.
9. The Board will review all papers submitted and may render a decision on the basis of the proceedings below. If the complainant so requests, the Board may convene a hearing, at which all parties may be represented by counsel and may present and examine witnesses, who will testify under oath.
10. The Board will render a written decision no later than 30 days after the appeal was filed or the hearing held, whichever occurred later. Copies of the decision will be given to all parties.



# REGULATION

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11. The complainant will be informed of his or her right to appeal the Board's decision to the
  - a. Commissioner of Education  
Division of Controversies and Disputes  
New Jersey State Department of Education  
225 West State Street  
Trenton, New Jersey 08625  
Telephone: (609) 292-5705 or the
  - b. New Jersey Division on Civil Rights  
1100 Raymond Boulevard  
Newark, New Jersey 07102  
Telephone: (201) 648-2700

#### D. Record

1. The records of any complaint processed in accordance with this procedure shall be maintained in a file kept by the Business Administrator/Board Secretary.
2. A copy of the decision rendered at the highest level to which the matter was appealed will be kept in the teaching staff member's personnel file.

Issued: 24 October 1994



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# POLICY

## BOARD OF EDUCATION HOPATCONG

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### 1550 AFFIRMATIVE ACTION PROGRAM FOR EMPLOYMENT AND CONTRACT PRACTICES/EMPLOYMENT PRACTICES PLAN

The Board of Education shall, in accordance with law, strive to overcome the effects of any previous patterns of discrimination in district employment practices and shall systematically monitor district procedures to insure continuing compliance with anti-discrimination laws and regulations.

No qualified handicapped person, shall, on the basis of handicap, be subjected to discrimination in employment and the Board will take positive steps to employ and advance in employment qualified handicapped persons in programs and activities.

The Business Administrator/Board Secretary shall serve as Affirmative Action Officer and shall coordinate all activities designed to implement this policy. It will be the responsibility of the Affirmative Action Officer to:

1. Study job descriptions, job qualifications, and salary guides for discriminatory practices;
2. Compare the characteristics of persons in the district's hiring region who possess skills required by the district to the characteristics of district employees;
3. Develop methods to search out sources of candidates for employment;
4. Recommend methods of recruitment that will encourage minority and female applicants;
5. Review recruiting advertisements and applications forms;
6. Compare data on the promotion and discharge of women and minorities to district-wide data on promotion and discharge of employees; and
7. Recommend programs that will encourage greater job opportunities for women and members of minority groups.

The Affirmative Action Officer shall report as required to the Board on progress made in the affirmative action program for employment and contract practices. The Board will annually review district progress toward objectives of any state-approved affirmative action plan.



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# POLICY

## BOARD OF EDUCATION HOPATCONG

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

N.J.S.A. 10:5-1 et seq.

N.J.S.A. 18A:6-5 et seq.

N.J.A.C. 6A:7-1.8

Cross Reference: Policy Nos. 1510, 1530

1<sup>st</sup> Reading: 26 November 2001

2<sup>nd</sup> Reading & Adoption: 10 December 2001

Revised: December 2003

1<sup>st</sup> Reading: 26 January 2004

2<sup>nd</sup> Reading and Adoption: 24 February 2004

Citation Revision: July 2005



# REGULATION BOARD OF EDUCATION HOPATCONG

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And Contract Practices/Employment Practices Plan  
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## 1550 AFFIRMATIVE ACTION PROGRAM FOR EMPLOYMENT AND CONTRACT PRACTICES/EMPLOYMENT PRACTICES PLAN COMPLAINT PROCEDURE

### A. Purpose and application

1. The purpose of this procedure is to give any district employee or candidate for district employment the opportunity to appeal an alleged violation of the district's affirmative action plan for employment and contract practices, as set forth in Policy No. 1550 or in a plan formally adopted by the Board of Education and approved by the Commissioner.
2. This procedure is intended to facilitate an equitable and just resolution of a dispute at the most immediate level and should be implemented in an informal manner.
3. No qualified handicapped person, shall, on the basis of handicap, be subjected to discrimination in employment and the Board will take positive steps to employ and advance in employment qualified handicapped persons in programs and activities.
4. Every reasonable effort will be made to expedite the process in the interest of a prompt resolution. Time limits may, however, be extended with the consent of all parties.
5. All participants in the procedure will respect the confidentiality that this district accords to information about individual teaching staff members.

### B. Definitions

1. "Board of Education" means the Board of Education of the Hopatcong Borough School District.
2. "Complaint" means an alleged violation of the district's affirmative action plan or policy.
3. "Complainant" means a teaching staff member who alleges a violation of the district's affirmative action plan or Policy No. 1550.



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4. "Day" means a calendar day.
5. "School district" means the Hopatcong Borough School District.
6. "Violation" means the failure of a district official or employee to take the positive steps outlined in Policy No. 1550 or the duly approved affirmative action plan to remove impermissible bias or preference from all aspects of district employment practices and/or to correct the results of past discrimination.

## C. Procedure

1. A teaching staff member who believes that he or she has been harmed or adversely affected by a failure to enforce the district's affirmative action plan for employment and contract practices shall discuss the matter with his or her immediate supervisor in an attempt to resolve the matter informally.
2. If the matter is not resolved to the satisfaction of the complainant within ten days, the complainant may submit a written complaint to the affirmative action officer. The complaint will include
  - a. The complainant's name and address;
  - b. The specific failure to act that the complainant complains of;
  - c. The school officer or employee, if any, responsible for the alleged violation of the affirmative action plan;
  - d. The results of discussions conducted in accordance with ¶C1; and
  - e. The reasons why those results are not satisfactory.
3. The affirmative action officer will investigate the matter informally and will respond to the complaint in writing no later than ten days after receipt of the written complaint. A copy of the complaint and the response will be forwarded to the Superintendent.
4. The response of the affirmative action officer may be appealed to the Superintendent in writing within ten days after it has been received by the complainant. The appeal will include the original complaint, the response to the



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And Contract Practices/Employment Practices Plan  
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complaint, and the complainant's reason for rejecting the response. A copy of the appeal must be given to the staff member alleged to have violated the affirmative action plan.

5. On his or her timely request (that is, submitted before the expiration of the time within which the Superintendent must render a decision), the complainant will be given an informal hearing before the Superintendent, at a time and place convenient to the parties, but no later than ten days after the request for a hearing has been submitted. The Superintendent may also require the presence at the hearing of the staff member charged with violation of the affirmative action plan and any other person with knowledge of the violation complained of.
6. The Superintendent will render a written decision in the matter no later than ten days after the appeal was filed or the hearing was held, whichever occurred later. Copies of the decision will be given to all parties and to the Board of Education.
7. The complainant may appeal the Superintendent's decision to the Board by filing a written appeal with the Business Administrator/Board Secretary no later than ten days after receipt of the Superintendent's decision. The appeal will include
  - a. The original complaint;
  - b. The response to the complaint;
  - c. The Superintendent's decision;
  - d. A transcript of the hearing, if one has been made, or a summary of the hearing to which all parties have consented; and
  - e. The complainant's reason for believing the Superintendent's decision should be changed.
8. A copy of the appeal to the Board must be given to the staff member, if any, charged with a violation of the affirmative action plan.
9. The Board will review all papers submitted and may render a decision on the basis of the proceedings below. If the complainant so requests, the Board may convene a hearing, at which all parties may be represented by counsel and may present and examine witnesses, who will testify under oath.





# REGULATION BOARD OF EDUCATION HOPATCONG

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10. The Board will render a written decision no later than ten days after the appeal was filed or the hearing held, whichever occurred later. Copies of the decision will be given to all parties.
11. The complainant will be informed of his or her right to appeal the Board's decision to the
  - a. Commissioner of Education  
Division of Controversies and Disputes  
New Jersey State Department of Education  
225 West State Street  
Trenton, New Jersey 08625-0500  
Telephone: (609) 292-5705 or the
  - b. New Jersey Division on Civil Rights  
1100 Raymond Boulevard  
Newark, New Jersey 07102  
Telephone: (201) 648-2700

#### D. Record

1. The records of any complaint processed in accordance with this procedure shall be kept in a file maintained by the affirmative action officer.
2. A copy of the decision rendered at its highest level of appeal will be kept in the complainant's personnel file.

Issued: 24 October 1994

1<sup>st</sup> Reading and Adoption: 26 January 2004



# POLICY

## BOARD OF EDUCATION HOPATCONG

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Affirmative Action Program For School  
And Classroom Practices

### 2260 AFFIRMATIVE ACTION PROGRAM FOR SCHOOL AND CLASSROOM PRACTICES

The Board of Education declares it to be the policy of this district that each child resident in the district shall be provided an equal opportunity to achieve his or her maximum potential through the programs offered in these schools unhindered by discriminatory attitudes or practices based on distinctions of race, color, creed, religion, gender, affectional or sexual orientation, ancestry, national origin, place of residence, handicap, or social or economic background.

The Business Administration/Board Secretary shall serve as affirmative action officer and shall coordinate all activities designed to implement this policy. It will be the responsibility of the affirmative action officer to

1. Review current and proposed curriculum guides, textbooks, and supplemental materials to detect any bias based upon race, gender, affectional or sexual orientation, religion, national origin, ancestry or culture and determine whether such materials fairly depict the contribution of both genders and the various racial and ethnic groups in the development of human society;
2. Develop an ongoing program of inservice training for school personnel designed to identify and solve problems of racial, gender, affectional or sexual orientation, religious, national, or cultural bias in all aspects of the school program;
3. Review current and proposed programs, activities, and practices to insure that all pupils have equal access to them and are not segregated on the basis of race, color, creed, gender, or national origin in any duty, work, play, classroom, or school practice except as may be permitted under regulations of the State Board of Education;
4. Insure that similar aspects of the school program receive commensurate support as to staff size and compensation, purchase and maintenance of facilities and equipment, and access to such facilities and equipment;
5. Insure that tests, procedures, and guidance and counseling materials that are designed to evaluate pupil progress or rate aptitudes, or analyze personality or in any manner establish or tend to establish a category by which a pupil may be judged are not differentiated or stereotyped on the basis of race, color, creed, gender, affectional or sexual orientation, or national origin.



# POLICY

## BOARD OF EDUCATION HOPATCONG

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Affirmative Action Program For School  
And Classroom Practices

Parents, pupils, staff members, and members of the public shall be informed annually about the district's affirmative action plan for school and classroom practices, the designation of the affirmative action officer, and the procedure by which an affirmative action grievance may be filed and processed.

The affirmative action officer shall report as required to the Board on progress made in the affirmative action program for school and classroom practices. The Board will annually review district progress toward the objectives of any state-approved affirmative action plan.

20 U.S.C.A. 1701  
N.J.S.A. 18A:36-20  
N.J.A.C. 6:4-1 et seq., 6:8-4.3(a)9

Adopted: 29 June 1992

Revised: November 2001

1<sup>st</sup> Reading: 26 November 2001  
2<sup>nd</sup> Reading & Adoption: 10 December 2001



# REGULATION BOARD OF EDUCATION HOPATCONG

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## 2260 AFFIRMATIVE ACTION PROGRAM FOR SCHOOL AND CLASSROOM PRACTICES COMPLAINT PROCEDURE

### A. Purpose and application

1. The purpose of this procedure is to give any pupil or the parent of a pupil the opportunity to appeal an alleged violation of the district's affirmative action plan for school and classroom practices, as set forth in Policy No. 2260.
2. This procedure is intended to facilitate an equitable and just resolution of a dispute at the most immediate level and will be implemented in an informal manner.
3. Every reasonable effort will be made to expedite the process in the interest of a prompt resolution. Time limits may, however, be extended with the consent of all parties.
4. All participants in the procedure will respect the confidentiality that this district accords to information about individual pupils.

### B. Definitions

1. "Affirmative Action Officer" means the district official responsible for the coordination of activities relating to compliance with the affirmative action plan.
2. "Affirmative action plan" means the affirmative action plan for school and classroom practices adopted by the Board.
3. "Board of Education" means the Board of Education of the Hopatcong Borough School District.
4. "Complainant" means a pupil or parent who believes that he or she has been harmed or adversely affected by a failure to enforce the district's affirmative action plan.
5. "Complaint" means an unresolved problem concerning the interpretation or application by an officer or employee of this school district of law and regulations regarding the affirmative action plan.



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6. "Day" means calendar day.
7. "Pupil" means an individual enrolled in any formal educational program provided by the school district.
8. "School district" means the Hopatcong Borough School District.
9. "Violation" means the failure of a district official or employee to take the positive steps outlined in Policy No. 2260 and/or included in the affirmative action plan.

## C. Procedure

1. A complainant shall discuss his or her complaint with the staff member most closely involved, within ten days of its occurrence, in an attempt to resolve the matter informally.
2. If the matter is not resolved to the satisfaction of the complainant within ten days, the complainant may submit a written complaint to the Affirmative Action Officer. The complaint will include
  - a. The pupil's name and, in the complaint of a person acting on behalf of the pupil, the name and address of the complainant;
  - b. The specific failure to act that the complainant complains of;
  - c. The school employee, if any, responsible for the alleged violation of the affirmative action plan;
  - d. The results of discussions conducted in accordance with ¶B1; and
  - e. The reasons why those results are not satisfactory.
3. The Affirmative Action Officer will investigate the matter informally and will respond to the complaint in writing no later than ten days after receipt of the written complaint. A copy of the complaint and the response will be forwarded to the Superintendent.



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4. The response of the Affirmative Action Officer may be appealed to the Superintendent in writing within ten days after it has been received by the complainant. The appeal will include the original complaint, the response to the complaint, the complainant's reason for rejecting the response. A copy of the appeal must be given to the staff member alleged to have violated the affirmative action plan.
5. On his or her timely request (that is, submitted before the expiration of the time within which the Superintendent must render a decision), the complainant will be given an informal hearing before the Superintendent, at a time and place convenient to the parties, but no later than ten days after the request for a hearing has been submitted. The Superintendent may also require the presence at the hearing of the staff member charged with violation of the affirmative action plan and any other person with knowledge of the violation complained of.
6. The Superintendent will render a written decision in the matter no later than ten days after the appeal was filed or the hearing was held, whichever occurred later. Copies of the decision will be given to all parties and to the Board.
7. The complainant may appeal the Superintendent's decision to the Board by filing a written appeal with the Affirmative Action Officer no later than ten days after receipt of the Superintendent's decision. The appeal shall include
  - a. The original complaint;
  - b. The response to the complaint;
  - c. The Superintendent's decision;
  - d. A transcript of the hearing, if one has been made, or a summary of the hearing to which all parties have consented; and
  - e. The complainant's reason for believing the Superintendent's decision should be changed.
8. A copy of the appeal to the Board must be given to the staff member, if any, charged with a violation of the affirmative action plan.



# REGULATION BOARD OF EDUCATION HOPATCONG

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9. The Board will review all papers submitted and may render a decision on the basis of the proceedings below. If the complainant so requests, the Board may convene a hearing, at which all parties may be represented by counsel and may present and examine witnesses, who will testify under oath.
10. The Board will render a written decision no later than 30 days after the appeal was filed or the hearing held, whichever occurred later. Copies of the decision will be given to all parties.
11. The complainant will be informed of his or her right to appeal the Board's decision to the Commissioner of Education or to the New Jersey Division on Civil Rights.

#### D. Record

The records of any complaint processed in accordance with this procedure shall be maintained in a file separate from the pupil's cumulative file. A notation shall be made in the pupil's file of the presence of the record in the separate file.

Issued: 24 October 1994



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# POLICY

## BOARD OF EDUCATION HOPATCONG

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### 3362 SEXUAL HARASSMENT

The Board of Education 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 this district are exposed.

Sexual harassment includes all unwelcome sexual advances, requests for sexual favors, and verbal or physical contacts of a sexual nature that would not have happened but for the employee's gender. Whenever submission to such conduct is made a condition of employment or a basis for an employment decision, or when such conduct is severe and pervasive and has the purpose or effect of unreasonably altering or interfering with work performance or creating an intimidating, hostile, or offensive working environment, the employee shall have cause for complaint.

The sexual harassment of any employee of this district is strictly forbidden. Any employee or agent of this Board who is found to have sexually harassed an employee of this district will be subject to discipline which may include termination of employment. Any employee who has been exposed to sexual harassment by any employee or agent of this Board is encouraged to report the harassment to an appropriate supervisor. An employee may complain of any failure of the Board to take corrective action by recourse to the procedure by which a discrimination complaint is processed. The employee may appeal the Board's action or inaction to the United States Equal Employment Opportunity Commission or the New Jersey Division of Civil Rights.

The Superintendent shall instruct all employees and agents of this Board to recognize and correct speech and behavior patterns that may be sexually offensive with or without the intent to offend.

29 C.F.R. 1604.11

Adopted: 29 June 1992  
Revised: 26 September 1996





# POLICY

## BOARD OF EDUCATION HOPATCONG

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### 4352 SEXUAL HARASSMENT

The Board of Education 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 this district are exposed.

Sexual harassment includes all unwelcome sexual advances, requests for sexual favors, and verbal or physical contacts of a sexual nature that would not have happened but for the employee's gender. Whenever submission to such conduct is made a condition of employment or a basis for an employment decision, or when such conduct is severe and pervasive and has the purpose or effect of unreasonably altering or interfering with work performance or creating an intimidating, hostile, or offensive working environment, the employee shall have cause for complaint.

The sexual harassment of any employee of this district is strictly forbidden. Any employee or agent of this Board who is found to have sexually harassed an employee of this district will be subject to discipline, which may include termination of employment. Any employee who has been exposed to sexual harassment by any employee or agent of this Board is encouraged to report the harassment to an appropriate supervisor. An employee may complain of any failure of the Board to take corrective action by recourse to the procedure by which a discrimination complaint is processed. The employee may appeal the Board's action or inaction to the New Jersey Division on Civil Rights or to the United States Equal Employment Opportunity Commission.

The Affirmative Action Officer shall instruct all employees of this Board to recognize and correct speech and behavior patterns that may be sexually offensive with or without the intent to offend.

29 C.F.R. 1604.11

Adopted: 29 June 1992

Revised: 26 September 1996



# POLICY

## BOARD OF EDUCATION HOPATCONG

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### 5751 SEXUAL HARASSMENT

The Board of Education will not tolerate sexual harassment of pupils by school employees, other pupils, or third parties. Sexual harassment of pupils is a form of prohibited sex discrimination. School district staff will investigate and resolve allegations of sexual harassment of pupils engaged in by school employees, other pupils (peers), or third parties.

The Board shall establish a grievance procedure through which school district staff and/or pupils can report alleged sexual discrimination, including sexual harassment which may include quid pro quo harassment and hostile environment.

#### Definitions:

1. Quid pro quo harassment occurs when a school employee explicitly or implicitly conditions a pupil's participation in an educational program or activity or bases an educational decision on the pupil's submission to unwelcomed sexual advances, requests for sexual favors, or other favors, or other verbal, nonverbal, or physical conduct of a sexual nature. Quid Pro Quo Harassment is equally unlawful whether the pupil resists and suffers the threatened harm or submits and thus avoids the threatened harm.
2. Hostile environment sexual harassment is sexually harassing conduct (which can include unwelcomed sexual advances, requests for sexual favors, or other favors, or other verbal, nonverbal, or physical conduct of a sexual nature) by an employee, by another pupil, or by a third party that is sufficiently severe, persistent, or pervasive to limit a pupil's ability to participate in or benefit from an educational program or activity, or to create a hostile or abusive educational environment.

This Policy protects any "person" from sex discrimination; accordingly both male and female pupils are protected from sexual harassment engaged in by school district employees, other pupils, or third parties. Sexual harassment, regardless of the gender of the harasser, even if the harasser and the pupil being harassed are members of the same gender is prohibited. Harassing conduct of a sexual nature directed toward any pupil, regardless of the pupil's sexual orientation, may create a sexually hostile environment and therefore constitute sexual harassment. Nonsexual touching or other nonsexual conduct does not constitute sexual harassment.

The regulation and grievance procedure shall provide a mechanism for discovering sexual harassment as early as possible and for effectively correcting problems.



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# POLICY

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The Superintendent, or designee, will take steps to avoid any further sexual harassment and to prevent any retaliation against the pupil who made the complaint, was the subject of the harassment, or against those who provided the information or were witnesses. The school district staff can learn of sexual harassment through notice and any other means such as from a witness to an incident, an anonymous letter or telephone call.

This policy and regulation on sexual harassment of pupils shall be published and distributed to pupils and employees to ensure all pupils and employees understand the nature of sexual harassment and that the Board will not tolerate it. The Board shall provide training for all staff and age-appropriate classroom information for pupils to ensure the staff and the pupils understand what type of conduct can cause sexual harassment and that the staff know the school district policy and regulation on how to respond.

In cases of alleged harassment, the protections of the First Amendment must be considered if issues of speech or expression are involved. Free speech rights apply in the classroom and in all other programs in the public schools. The Superintendent, or designee, will formulate, interpret, and apply the policy so as to protect free speech rights of staff, pupils and third parties.

In addition, if the Board accepts federal funds, the Board shall be bound by Title IX of the Education Amendments of 1972 prohibiting sexual harassment of pupils. Title IX applies to all public school districts that receive federal funds and protects pupils in connection with all the academic, educational, extra-curricular, athletic, and other programs of the school district, whether they take place in the school facilities, on the school bus, at a class or training program sponsored by the school in a school building or at another location.

United States Department of Education - Office of Civil Rights Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties (1997)

Cross reference: Policy Guide No. 8462

Adopted:	29 June 1992
Revised:	26 September 1996
Revised:	October 2000
1 <sup>st</sup> Reading:	23 October 2000
2 <sup>nd</sup> Reading and Adoption:	18 December 2000



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## R5751 SEXUAL HARASSMENT OF PUPILS

Sexual harassment of pupils is prohibited by the Board of Education. The Superintendent and school district staff will use the following methods to investigate and resolve allegations of sexual harassment of pupils engaged in by school employees, other pupils (peers), or third parties.

### A. Definitions

1. Quid Pro Quo Harassment - When a school employee explicitly or implicitly conditions a pupil's participation in an educational program or activity or bases an educational decision on the pupil's submission to unwelcomed sexual advances, requests for sexual favors, or other favors, or other verbal, nonverbal, or physical conduct of a sexual nature. Quid Pro Quo Harassment is equally unlawful whether the pupil resists and suffers the threatened harm or submits and thus avoids the threatened harm.
2. Hostile Environment Sexual Harassment - Sexual harassing conduct (which can include unwelcomed sexual advances, requests for sexual favors, or other favors, or other verbal, nonverbal, or physical conduct of a sexual nature) by an employee, by another pupil, or by a third party that is sufficiently severe, persistent, or pervasive to limit a pupil's ability to participate in or benefit from an educational program or activity, or to create a hostile or abusive educational environment.
3. Notice - The school district has notice if it actually "knew, or in the exercise of reasonable care, should have known" about the harassment. If an agent or responsible employee of the school district received notice, the school district is deemed to have notice. The school district may receive notice in many different ways:
  - a. A pupil may have filed a grievance or complained to a teacher about fellow pupils harassing him/her.
  - b. A pupil, parent, or other pupil may have contacted other appropriate school personnel.
  - c. An agent or a responsible employee of the school district may have witnessed the harassment.



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- d. The school district may obtain information in an indirect manner such as staff, community members, newspapers, etc.
4. Constructive Notice - A school district will be in violation if the school district has “constructive notice” of a sexually hostile environment and fails to take immediate and appropriate corrective action. Constructive notice exists if the school district “should have” known about the harassment and if the school district would have found out about the harassment through a “reasonable diligent inquiry.”
5. Gender-based Harassment - Gender-based harassment that includes acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on gender, but not involving conduct of a sexual nature, may be a form of sex discrimination if it is sufficiently severe, persistent, or pervasive and directed at individuals because of their gender.
6. Title IX of the Education Amendments of 1972 - Title IX applies to all public school districts that receive federal funds and protects pupils in connection with all the academic, educational, extra-curricular, athletic, and other programs of the school district, whether they take place in the school facilities, on the school bus, at a class or training program sponsored by the school at another location, or elsewhere. Title IX protects any “person” from sex discrimination; accordingly both male and female pupils are protected from sexual harassment engaged in by school district employees, other pupils, or third parties. Title IX prohibits sexual harassment regardless of the gender of the harasser even if the harasser and the pupil being harassed are members of the same gender. Although Title IX does not specifically prohibit discrimination on the basis of sexual orientation, sexual harassment directed at gay or lesbian pupils may constitute sexual harassment as prohibited by Title IX. Harassing conduct of a sexual nature directed toward gay or lesbian pupils may create a sexually hostile environment and therefore be prohibited under Title IX.
7. Grievance Procedure - The grievance procedure provides for prompt and equitable resolution of discrimination complaints, including complaints of sexual harassment. The grievance procedure provides the school district with a mechanism for discovering sexual harassment as early as possible and for effectively correcting problems.
8. Office Of Civil Rights (OCR) - The OCR of the United States Department of Education has federal government’s enforcement authority of Title IX.



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9. Unwelcomeness - In order to be actionable as harassment, sexual conduct must be unwelcomed. Conduct is unwelcomed if the pupil did not request or invite it and “regarded the conduct as undesirable or offensive.” The school district will be concerned about the issue of welcomeness if the harasser is in a position of authority.
10. Acquiescence - Acquiescence in the conduct or the failure to complain does not always mean the conduct was welcome. The fact that a pupil may have accepted the conduct does not mean that he/she welcomed it. The fact that a pupil willingly participated in conduct on one occasion does not prevent him/her from indicating that the same conduct has become unwelcome on a subsequent occasion. On the other hand, if a pupil actively participates in sexual banter and discussions and gives no indication he/she objects, then the evidence generally will not support a conclusion that the conduct was unwelcomed.
11. Sufficiently Severe, Persistent, or Pervasive Conduct - In determining whether conduct is sufficiently severe, persistent, or pervasive, the conduct should be considered from a subjective and objective perspective. In making this determination, all relevant circumstances should be considered:
  - a. The degree to which the conduct affected one or more pupils’ behavior. The conduct must have limited a pupil’s ability to participate in or benefit from his/her education or altered the conditions of the pupils educational environment.
  - b. The type, frequency, and duration of the conduct.
  - c. The identity of and relationship between the alleged harasser and the subject or subjects of the harassment.
  - d. The number of individuals involved.
  - e. The age and gender of the alleged harasser and the subject or subjects of the harassment.
  - f. The size of the school, location of the incidents, and context in which they occurred.
  - g. Other incidents at the school.



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h. Incidents of gender-based, but non-sexual harassment.

## B. Grievance Procedure

The following Grievance Procedure shall be used for an allegation(s) of Harassment of Pupils by School Employees, Other Pupils, or Third Parties:

### 1. Reporting of Sexual Harassment Conduct

- a. Any person with any information regarding actual and/or potential sexual harassment of a pupil by any school employee, other pupils, or third parties must report the information to the school building principal, their immediate supervisor or the Affirmative Action Officer.
  - (1) If the building principal deems it appropriate, he/she may immediately notify the parent(s) or legal guardian(s) of the alleged harasser(s) or alleged victim(s) upon receipt of any information prior to notifying the Affirmative Action Officer.
  - (2) The building principal will not disclose the name(s) of the alleged harasser(s) or alleged victim(s) to the other party.
- b. The school district can learn of sexual harassment through other means such as from a witness to an incident, an anonymous letter or telephone call.
- c. Nothing in the Policy and Regulation on Pupil Sexual Harassment shall preclude the building principal, or designee, from complying with the provisions of Policy No. 5600 - Pupil Discipline in order to maintain the health, safety and welfare of staff and/or pupils.
- d. A report from the school building principal or an immediate supervisor will be forwarded to the school district Affirmative Action Officer within one working day, even if the school building principal or immediate supervisor feels sexual harassment conduct was not present.
- e. Upon receipt of an allegation and/or report, the Affirmative Action Officer shall immediately notify the parent(s) or legal guardian(s) of any alleged harasser(s) and victim(s) for which a report has been filed even if the building principal has previously notified the parent(s) or legal guardian(s).



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- f. The Affirmative Action Officer shall notify the parent(s) or legal guardian(s) of all involved pupils and any other involved individuals of the process to be followed in investigating a report or complaint.
2. Affirmative Action Officer's Investigation
    - a. Upon receipt of any report of potential sexual harassment conduct, the Affirmative Action Officer will begin an immediate investigation. The Affirmative Action Officer will promptly investigate all alleged complaints of sexual harassment, whether or not a formal grievance is filed and steps will be taken to resolve the situation, if needed. This investigation will be prompt, thorough, and impartial. The investigation will be completed no more than ten working days after receiving notice.
    - b. When a pupil or the parent(s) or legal guardian(s) of a pupil provides information or complains about sexual harassment of the pupil, the Affirmative Action Officer will initially discuss what actions the pupil or parent(s) or legal guardian(s) is seeking in response to the harassment.
    - c. The Affirmative Action Officer's investigation may include, but is not limited to, interviews with all persons with potential knowledge of the alleged conduct, interviews with any pupils who may have been sexually harassed by any school employee, other pupils, or third parties and any other reasonable methods to determine if sexual harassment conduct existed.
    - d. The Affirmative Action Officer will request, if relevant to an investigation, the parent(s) or legal guardian(s) of any pupil involved in the investigation to assist in the investigation to determine if sexual harassment conduct exist(ed).
    - e. The Affirmative Action Officer will provide a copy of the Board Policy and Regulation to all persons who are interviewed with potential knowledge and to any other person the Affirmative Action Officer feels would be served by a copy of such documents.
    - f. The Affirmative Action Officer will explain the avenues for formal and informal action, including a description of the grievance procedure that is available for sexual harassment complaints and an explanation on how the procedure works.





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- g. Any person interviewed by the Affirmative Action Officer may be provided an opportunity to present witnesses and other evidence.
- h. The Affirmative Action Officer and/or Superintendent may contact law enforcement agencies if there is potential criminal conduct by any party.
- i. The school district administrators may take interim measures during an Affirmative Action Officer's investigation of a complaint in order to alleviate any conditions which prohibits the pupil from assisting in the investigation.
- j. If elementary or middle school pupils are involved, it may become necessary to determine the degree to which they are able to recognize that certain sexual conduct is conduct to which they can or should reasonably object and the degree to which they can articulate an objection. The Affirmative Action Officer will consider the age of the pupil, the nature of the conduct involved, and other relevant factors in determining whether a pupil had the capacity to welcome sexual conduct.
- k. The Affirmative Action Officer will consider particular issues of welcomeness if the alleged harassment relates to alleged "consensual" sexual relationships between a school employee and a pupil.
  - (1) If elementary or middle school (grades K-8) pupils are involved, welcomeness will not be an issue. Sexual conduct between a school employee and an elementary pupil will not be viewed as consensual.
  - (2) If secondary (grades 9-12) pupils are involved, there is a strong presumption that sexual conduct between a school employee and a secondary pupil is not consensual.
  - (3) In cases involving older secondary and post-secondary pupils and older secondary and post-secondary special education pupils, the Affirmative Action Officer will consider the following to determine whether a school employee's sexual advances or other sexual conduct could be considered welcome:



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- (a) The nature of the conduct and the relationship of the school employee to the pupil, including the degree of influence, authority, or control the employee has over the pupil.
  - (b) Whether the pupil was legally or practically unable to consent to the sexual conduct in question.
- l. If there is a dispute about whether harassment occurred or whether it was welcome (in a case which it is appropriate to consider whether the conduct could be welcome) determinations should be based on the totality of the circumstances. The following types of information may be helpful in resolving the dispute:
- (1) Statements made by any witnesses to the alleged incident.
  - (2) Evidence about the relative credibility of the alleged harassed pupil and the alleged harasser.
  - (3) Evidence that the alleged harasser has been found to have harassed others may support the credibility of the pupil claiming harassment.
  - (4) Evidence of the allegedly harassed pupil's reaction or behavior after the alleged harassment.
  - (5) Evidence about whether the pupil claiming harassment filed a complaint or took other action to protest the conduct soon after the alleged incident occurred.
  - (6) Other contemporaneous evidence such as did the pupil write about the conduct and his/her reaction to it soon after it happened in diary or letter and/or tell friends or relatives.
- m. The scope of a reasonable response also may depend upon whether a pupil, or parent(s) or legal guardian(s) reporting harassment asks that the pupil's name not be disclosed to the harasser or that nothing be done about the harassment. The Affirmative Action Officer:
- (1) Will provide an overview of harassment policy [and Title IX if applicable] to the pupil, parent(s) or legal guardian(s) guardian which shall include the prohibition of retaliation. In the event the pupil, parent(s) or legal guardian(s) request the pupil's name remain



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confidential, the Affirmative Action Officer will inform the pupil, parent(s) or legal guardian(s) that the request may limit the school district's ability to respond.

- (2) Will evaluate the confidentiality request in the context of its responsibility to provide a safe and nondiscriminatory environment for all pupils. The factors to be considered shall be the seriousness of the alleged harassment, the age of the pupil harassed, whether there have been any other complaints or reports against the alleged harasser. And the rights of the accused individual to receive information about the accuser and the allegations if a formal proceeding with sanctions may result.
- (3) May use other means available to address the harassment. Steps that may be taken to limit the effects of the alleged harassment and prevent its reoccurrence without initiating a formal complaint and revealing the identity of the complainant. These steps may require sexual harassment training at the site where the problem occurred, taking a pupil survey concerning any harassment problems that may exist, or other systematic measures where the alleged harassment occurred.
- (4) By conducting a limited investigation without revealing the name of the pupil sexually harassed, may be able to learn about or confirm a pattern of harassment based on claims of different pupils that were harassed by the same individual. The Affirmative Action Officer may place an individual on notice of allegation of harassing behavior and counsel appropriately without revealing, even indirectly, the identity of the pupil who notified the school district.

### 3. Investigation Results

- a. Upon the conclusion of the investigation, but not later than ten working days after reported, the Affirmative Action Officer will prepare a summary of findings to the parties. At the least this shall include the person(s) providing notice to the school district and the pupil(s) who were alleged to be sexually harassed.
- b. The Affirmative Action Officer shall make a determination whether sexual harassment conduct was present.



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- c. If the Affirmative Action Officer concludes sexual harassment conduct was not, or is not present, the investigation is concluded.
- d. If the Affirmative Action Officer determines that sexual harassment has occurred, the school district administrators and staff shall take reasonable, age-appropriate, and effective corrective action, including steps tailored to the specific situation. Appropriate steps will be taken to end the harassment such as counseling, warning, and/or disciplinary action, as specified in pupil and/or staff discipline policies and regulations. The steps will be based on the severity of the harassment or any record of prior incidents or both. A series of escalating consequences may be necessary if the initial steps are ineffective in stopping the harassment.
- e. In the event the Affirmative Action Officer determines a hostile environment exists, the school district administrators and staff shall take steps to eliminate the hostile environment. The school district administrators may need to deliver special training or other interventions to repair the educational environment. Other measures may include directing the harasser to apologize to the harassed pupil, dissemination of information, distribution of new policy statements or other steps to communicate the message that the Board does not tolerate harassment and will be responsive to any pupil that reports such conduct.
- f. In some situations, the school district administrators may need to provide other services to the pupil that was harassed if necessary to address the effects of the harassment on that pupil. Depending on the type of harassment found, these additional services may include an independent re-assessment of the harassed pupil's work, re-taking a course with a different instructor, tutoring and/or other measures that are appropriate to the situation.
- g. The school district administrators will take steps to avoid any further sexual harassment and to prevent any retaliation against the pupil who made the complaint, was the subject of the harassment, or against those who provided the information or were witnesses. The Affirmative Action Officer will inform the sexually harassed pupil and his/her parent how to report any subsequent problems and make follow-up inquiries to see if there has been any new incidents or retaliation.



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- h. All sexual harassment grievances and accompanied investigation notes will be maintained in a confidential file by the Affirmative Action Officer.

#### 4. Affirmative Action Officer's Investigation Appeal Process

- a. Any person found by the Affirmative Action Officer's investigation to be guilty of sexual harassment conduct, or any pupil who believes they were sexually harassed but not supported by the Affirmative Action Officer's investigation, may appeal to the Superintendent. The Superintendent will make his/her determination within ten working days of receiving the appeal.
- b. Any person who is not satisfied with the Superintendent's determination may appeal to the Board. The Board will make its determination within forty-five calendar days of receiving an appeal from the Superintendent's determination.

#### C. Office Of Civil Rights (OCR) Case Resolution

Parents or pupils not satisfied with the resolution of an allegation of sexual harassment by the school district officials or the Board may request the Office of Civil Rights (OCR) of the United States Department of Education to investigate the allegations.

- 1. Any alleged victim of sexual harassment may appeal a decision of the Affirmative Action Officer, Superintendent, or the Board to the Office of Civil Rights (OCR).
- 2. Any person may report an allegation of sexual harassment to the OCR at any time. If the OCR is asked to investigate or otherwise resolve incidents of sexual harassment of pupils, including incidents caused by employees, other pupils, or third parties, OCR will consider whether:
  - a. The school district has a policy prohibiting sex discrimination under Title IX and an effective Title IX grievance procedure;
  - b. The school district appropriately investigated or otherwise responded to allegations of sexual harassment; and
  - c. The school district has taken immediate and appropriate corrective action responsive to Quid Pro Quo or Hostile Environment Harassment.



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# REGULATION

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3. If the school district officials have taken the steps described in 2 above, the OCR will consider the case against the school district resolved and take no further action other than monitoring compliance with any agreement between the school district and the OCR. This shall apply in cases in which the school district was in violation of Title IX, as well as those in which there has been no violation of Title IX.

1<sup>st</sup> Reading and Adoption: 18 December 2000

