

AFFIRMATIVE ACTION

New Milford Public Schools
(Updated: August 2021)

OVERVIEW

- Policies - Federal & State Laws
- Harassment
- Cases
- AAO Responsibilities
- AA Complaint Procedures

WHAT IS AFFIRMATIVE ACTION?

- ◉ Seeks to remedy past discrimination against women, minorities and others by increasing recruitment, promotion, retention, and on the job training opportunities in employment by removing barriers to admission to educational institutions.
- ◉ Affirmative action programs have been directed towards improving employment and education opportunities for women and minorities.

BOARD AFFIRMATIVE ACTION POLICY #1140

- ◉ Implement educational equality and equity policies (N.J.A.C. 6A:7) Managing for Equality and Equity in Education.
- ◉ **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.**
- ◉ **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 Board of Education.**

COMPLIANCE OF FEDERAL LAWS:

- 1) Titles VI and VII of the Civil Rights Act, 1964***
- 2) Title IX of the Education Amendments, 1972***
- 3) Section 504 of the Rehabilitation Act, 1973***
- 4) The Americans with Disabilities Act, 1990***
- 5) Individuals with Disabilities Education Act (I.D.E.A.) of 1997***
- 6) Equal Pay Act of 1973***

STATE LAWS:

- 1) Article I, Paragraph 5 of the NJ State Constitution***
- 2) N.J.S.A. 18A:36-20, Equality in Educational Programs, Prohibition of Discrimination***
- 3) N.J.S.A. 10:5 NJ Law Against Discrimination***
- 4) NJ Administrative Code (N.J.A.C.) 6A:7***
- 5) N.J.S.A. 18A:35-1, History of the United States***

NEW MILFORD BOARD POLICIES RELATED TO AFFIRMATIVE ACTION

#1510- Rights of Persons with Disabilities

#1523- Multi-Year Equity Plan

#1530- Equal Employment Opportunity

#1550- Affirmative Action Program for
Employment and Contract Practices

#2260- Affirmative Action Program for School
and Classroom Practices

#2411- Guidance Counseling

NEW MILFORD BOARD POLICIES RELATED TO AFFIRMATIVE ACTION

#5700- Pupil Rights

#5750- Equal Education Opportunity

#5751- Sexual Harassment (Pupils)

#5752- Marital Status and Pregnancy

#5755- Equity in Educational Programs
and Services

#5770- Pupil Rights of Privacy

#5810- Pupil Participation in School
Governance

NEW MILFORD BOARD POLICIES RELATED TO AFFIRMATIVE ACTION

#2416- Programs for Pregnant Pupils

#2431- Athletic Competition

#2460- Special Education

#3362- Sexual Harassment (Teaching Staff)

#4352- Sexual Harassment (Support Staff)

#5512- Harassment and Hazing

#5512.1- Harassment, Intimidation, and
Bullying

NEW MILFORD BOARD POLICIES RELATED TO AFFIRMATIVE ACTION

#5841- Secret Societies

#5842- Equal Access of Pupil Organizations

#8465- Hate Crimes and Bias Incidents in
Schools

#9110- Quality Assurance Annual Report

NEW MILFORD BOE POLICIES

#1530: Equal Employment Opportunity

“...guarantee equal employment opportunity in the schools of 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.”

#1550: Affirmative Action Program for Employment Practices

“...strive to overcome the effects of any previous patterns of discrimination in district employment practices and shall systematically monitor district procedures.”

NEW MILFORD BOE POLICIES

#5750: Equal Educational Opportunity

“No pupil shall be denied access to or benefit from any educational program or activity or from a co-curricular or athletic activity on the basis of a pupil’s race, color, creed, religion, national origin, ancestry, age, marital status, affectional or sexual orientation or sex, social or economic status, or disability.”

SEXUAL HARASSMENT

#3362 (TEACHING STAFF MEMBERS)

#4352 (SUPPORT STAFF MEMBERS)

“freedom from employment discrimination includes the opportunity to work in an environment untainted by sexual harassment..”

“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.”

“unreasonably altering or interfering with work performance or creating an intimidating, hostile, or offensive working environment, the employee shall have cause for complaint.”

SEXUAL HARASSMENT

#5751 (PUPILS)

“The Board of Education explicitly forbids any conduct or expression that may be construed as the sexual harassment of a pupil, by an employee of the district or by another pupil.”

HARASSMENT

Two Types:

1) “Quid Pro Quo” Harassment (trading this for that)

-choice between acceding to sexual demands and forfeiting job benefits, continued employment or promotion or otherwise suffering tangible job detriments.

2) “Hostile Environment”

-an employee or child feel fear, anxiety, shame or embarrassment.

SEXUAL HARASSMENT CAN BE...

- ◉ Touching or grabbing
- ◉ Sexual assault (attempted or actual)
- ◉ Spreading sexual rumors
- ◉ Seductive behavior
- ◉ Sexual comments about your body
- ◉ Sexual bribery
- ◉ Comments about your gender
- ◉ Sexual coercion
- ◉ Being brushed up against in a sexual way
- ◉ Sexual innuendos and comments
- ◉ Sexual assault
- ◉ Invitations to sex
- ◉ Attempted kissing
- ◉ Nude or suggestive picture/objects
- ◉ Offensive gestures
- ◉ Sexual jokes or cartoons
- ◉ Verbal disrespect
- ◉ Mooning or flashing
- ◉ Staring in a way that is too personal
- ◉ Unequal facilities
- ◉ Sexually suggestive sounds or gestures

FOUR CRITERIA FOR HOSTILE ENVIRONMENT HARASSMENT

- Unwelcome
- Pervasive
- Related to gender
- Interferes with the work/school environment

EXAMPLES of HOSTILE ENVIRONMENT:

- Making lewd comments
- Creating false rumors about relationships
- Unwelcome physical contact
- Displaying sexually offensive materials

LEHMAN V. TOYS 'R' US, INC. (1993)

- Harassment must be severe and pervasive, having the effect of unreasonably creating an intimidating, hostile or offensive work environment.
- Offensive sexual comments and touching by a female's supervisor.
- Hostile work environment.
- Standard - "an ordinary, reasonable, prudent person in like or similar circumstances would have been similarly offended."

BLAKELY V. CONTINENTAL AIRLINES (2000)

- Plaintiff was a female pilot for Continental. She was one of five who qualified to captain an airbus.
- Thereafter, she was sexually harassed with vulgar comments and posting of pornographic photography.
- Co-workers also posted derogatory remarks on computer bulletin for pilots.
- Pattern of harassment in a setting related to workplace.

WHAT IS AN AFFIRMATIVE ACTION OFFICER (AAO)?

- A member of the professional staff.
- Coordinate and implement the district's efforts to comply with the regulations of N.J.A.C. 6A:7.
- An environment **free of discrimination on the basis of race, color, national origin, religion, gender, sexual orientation, age or disability.**

AAO'S RESPONSIBILITIES

- Oversees the implementation of the district's affirmative action plan.
- Oversees development and implementation of the district's Comprehensive Equity Plan as defined in N.J.A.C. 6A:7.
- Strategies for improvement.
- In-service training for all staff.
- Point person for students and staff filing grievance procedures.
- Maintains confidential records and reports data as required.
- Fair and impartial hiring practices.
- Performs other duties as deemed necessary.

6A:7-1.5

AFFIRMATIVE ACTION OFFICER

(a) Each district board of education shall assure that all stakeholders know who the affirmative action officer is and how to access him or her.

The affirmative action officer shall:

- i. Coordinate the professional development training (N.J.A.C. 6A:7-1.6).
- ii. Notify all students and employees of district grievance procedures for handling discrimination complaints.
- iii. Ensure that the district grievance procedures, which include investigative responsibilities and reporting information, are followed.
- iv. Comply with regulations governing the Equity in Education programs.

DISTRICT AAO CONTACT INFORMATION

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WHERE YOU CAN LOCATE AA INFORMATION:

BOE Policies

AAO

Superintendent's Office

Each School

District Website

(This Presentation)

HANDLING AA COMPLAINTS AND GRIEVANCES

Under Title IX:

- Written procedure for handling complaints alleging sex discrimination.
- Allow for complaints on the basis of race, color, creed, religion, national origin, affectional or sexual orientation, ancestry, socioeconomic status, as well as sex.
- “prompt and equitable resolution of student and employee complaints.”
- Maintain records documenting the process.
- Implement corrective actions when discrimination is identified.
- Monitor corrective actions.

HANDLING A.A. COMPLAINTS AND GRIEVANCES

Any person who believes that he/she has been discriminated against may also file a complaint with:

- Office for Civil Rights
- Department of Education
- New Jersey Division on Civil Rights

AA COMPLAINT PROCEDURE R 1550

“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.”

AA PROCEDURE

Review BOE Policies/Regs. for further detailed procedures and descriptions.

- I. Discuss the matter with immediate supervisor in an attempt to resolve the matter informally.

- II. If not resolved within 10 working days:
may submit written complaint to Affirmative Action Officer.

AA PROCEDURE

- III. AAO will investigate informally - respond in writing within 10 working days after written complaint.

- IV. AAO response may be appealed to Superintendent within 10 working days after receipt by the complainant.

AA PROCEDURE

- V. Informal hearing before the Superintendent no later than 10 working days after the request for a hearing is submitted.

- VI. Superintendent will render a written decision in the matter no later than 10 working days after the appeal was filed or hearing was held (whichever occurred later).

AA PROCEDURE

- VII. Complainant may appeal Superintendent's decision to the Board by filing a written appeal to the Board Secretary no later than 10 working days after the receipt of Superintendent's decision.

AA PROCEDURE

- VIII. Copy of appeal must be given to the staff member charged with violation of AA Plan.
- IX. Board will review all papers submitted and may render decision based on proceedings.
- X. Board render a written decision no later than the next regularly scheduled Board meeting after appeal was filed or the hearing was held, whichever occurred later.

AA PROCEDURE

XI. Complainant has right to appeal Board's decision to:

Commissioner of Education
Division of Controversies and Disputes
New Jersey State Department of Education
225 East State Street
Trenton, NJ 08625-0500
Telephone: (609) 292-5705

Or to the:

New Jersey Division on Civil Rights
31 Clinton Street
Newark, NJ 07102
Telephone: (973) 648-2700

CREDITS

- ◉ New Jersey Department of Education
- ◉ New Jersey Division on Civil Rights
- ◉ New Jersey Principals & Supervisors Association
- ◉ New Milford Board of Education
- ◉ U.S. Department of Education, Office of Civil Rights