

Regulation

AFFIRMATIVE ACTION/NONDISCRIMINATION

Grievance Procedure

- A. Any person with information regarding actual and/or potential sexual harassment or a discriminatory practice or an act prohibited by law shall report the matter with his or her immediate supervisor, the building principal or the affirmative action officer;
- B. If the matter is reported the principal or the supervisor, the principal or supervisor shall forward a report to the affirmative action officer within one (1) work day even if the principal or supervisor believes no sexual harassment or discrimination occurred;
- C. In the event that the report is against the principal or the affirmative action officer, the superintendent shall designate a school official to assume the responsibilities of the conflicted principal or supervisor;
- D. The affirmative action officer will begin an immediate investigation after receiving the report. The affirmative action officer shall investigate and take steps to resolve the matter whether or not a formal grievance is filed. The investigation shall be completed within ten (10) working days after the receipt of the report;
- E. The affirmative action officer shall initially discuss what actions the staff member is seeking in response to the complaint with the staff member;
- F. The investigation may include but is not limited to:
 - 1. Interviews with all persons with potential knowledge of the alleged conduct;
 - 2. Interviews with any staff member(s) who may have been sexually harassed or discriminated against in the past by the school staff member;
 - 3. Involve the complainant in the investigation; and
 - 4. Any other reasonable methods to determine if sexual harassment conduct or discrimination existed;
- G. The affirmative action officer will provide a copy of board policies and regulations 2224 and 4111.1/4211.1 Affirmative Action and Nondiscrimination upon request to all persons who are interviewed with potential knowledge and to any other person the affirmative action officer deems appropriate;
- H. Any person interviewed by the affirmative action officer may be provided an opportunity to present witnesses and other evidence;
- I. The affirmative action officer and/or superintendent will contact law enforcement agencies if there is potential criminal conduct by any party;
- J. The school district administration may consult the affirmative action officer regarding interim measures that may be implemented to prevent a reoccurrence of the alleged conduct during an affirmative action officer's investigation of a complaint;
- K. Within ten (10) working days after reported to the affirmative action officer, the affirmative action officer will complete the investigation and prepare a summary of findings to the parties. At a minimum, this summary shall include:
 - 1. The name of the person reporting the incident;
 - 2. The name of the staff member who was allegedly sexually harassed of discriminated against;

AFFIRMATIVE ACTION COMPLAINT PROCEDURE (regulation continued)

- L. The affirmative action officer shall make a determination whether alleged conduct was present;
- M. If the affirmative action officer determines that sexual harassment or discrimination has occurred, the superintendent shall take reasonable and effective corrective action, including steps tailored to the specific situation. Appropriate steps will be taken to end the harassment or the discrimination such as counseling, warning, and/or disciplinary action. The steps will be based on the severity of the incident 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;
- N. All directly involved parties including the complainant shall be notified of the determination of the affirmative action officer in writing;
- O. In the event the affirmative action officer determines a hostile environment exists, the superintendent shall take steps to eliminate the hostile environment. Special training or other interventions may be arranged to repair the educational environment. Other measures may include a written letter of apology, dissemination of information, distribution of new policy statements or other steps to communicate the message that the board does not tolerate harassment or discrimination and will be responsive to any school staff member that reports such conduct;
- P. In some situations other services shall be provided to the offended staff member, if necessary, to address the effects of the harassment or discrimination upon that staff member. Additional services may include an independent re-assessment of the staff member's work performance, counseling and/or other measures that are appropriate to the situation;
- Q. The superintendent will take steps to avoid any further incidents and to prevent any retaliation against the staff member who made the complaint, was the subject of the harassment or discrimination, or against those who provided the information or were witnesses. The affirmative action officer will encourage the complainant to report any subsequent problems and will make follow-up inquiries to see if there has been any new incidents or retaliation;
- R. All written documentation regarding sexual harassment and discrimination grievances and accompanied investigation documentation shall be maintained in a confidential file by the affirmative action officer.

Appeal

- S. The determination and resolution of the affirmative action officer's investigation may be appealed to the superintendent in writing within ten (10) 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;
- T. 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;
- U. The superintendent shall render a decision within ten (10) working days of the hearing;
- V. The complainant may appeal the superintendent's decision to the board by filing a written appeal with the board secretary no later than ten days after receipt of the chief school administrator's decision. The appeal shall include:
 1. The original complaint;
 2. The response to the complaint;
 3. The superintendent's report and decision;
 4. The complainant's reason for believing the superintendent's decision should be changed.

AFFIRMATIVE ACTION COMPLAINT PROCEDURE (regulation continued)

- W. A copy of the appeal to the board must be given to the staff member, if any, charged with a discriminatory act:
- X. 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:
- Y. 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:
- Z. The complainant will be informed of his or her right to appeal the board's decision to the
1. The Commissioner of Education
Bureau of Controversies and Disputes
New Jersey Department of Education
PO Box 500
Trenton, New Jersey 08625
Phone: (609) 292-5705
 2. Equal Employment Opportunity Commission Newark District Office
1 Newark Center, 21st Floor
Newark, New Jersey 07102
Phone: 800-669-4000 or 973-645-6383
 3. U.S. Office for Civil Rights
U.S. Department of Education
32 Old Slip, 26th Floor
New York, NY 10005-2500
Phone 646-428-3900 or TDD: 877-521-2172
Email: OCR.NewYork@ed.gov
 4. New Jersey Division on Civil Rights
140 East Front Street, 6th Floor
P.O. Box 090
Trenton, NJ 08625-0090
Phone: 609-292-4605 or TDD 609-292-1785

Record

The records of any complaint processed in accordance with this procedure shall be maintained in a file kept by the affirmative action officer.

A copy of the decision rendered at the highest level of appeal will be kept in the employee's personnel file.

NJSBA Review/Update: August 2017
Readopted: September 26, 2018