

**NONDISCRIMINATION ON THE BASIS OF SEX AND
HANDICAP IN EDUCATION PROGRAM AND ACTIVITIES**

P0110

A. General

Title IX of the federal Education Amendments of 1972 and section 504 of the Rehabilitation Act of 1973 stipulate that:

No person in the United States shall on the basis of sex or handicap be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

This district receives Federal financial assistance. The Board of Education believes that discrimination on the basis of sex or handicap in any education program or activity of this district is not to be permitted except where necessary to accomplish a specific purpose that does not impinge upon essential equality or fundamental fairness in the treatment of students or employees of this district. Accordingly, employees of this district are required by this policy to comply with the provisions of Title IX of the Education Amendments of 1972 and Section 504 of the Rehabilitation Act of 1973 as such regulations are applicable to this district.

B. Application to Specific Education Programs and Activities

This policy's prohibition against discrimination by employees or other persons acting in the name and on the behalf of this district because of the sex or handicap of a student or employee, applies to all education programs and activities conducted by this district including, but not limited to, the following:

1. Educational Programs

- a) **Course Offerings:** Applies to all course offerings and extra-class activities. This policy does not prohibit:
 - (1) grouping of students in physical education classes and activities by ability as assessed by objective standards of individual performance developed and applied without regard to sex or handicap;
 - (2) separation of students by sex within physical education classes or activities during participation in wrestling, boxing, rugby, ice hockey, football, basketball, and other bodily contact sports;
 - (3) separation of students by sex in classes dealing exclusively with human sexuality; and
 - (4) separation of persons based on vocal range or quality even though such separation may result in chorus or choruses of one, or predominately one, sex.
- b) **Athletics:** Applies to all athletic programs or activities except where exceptions are identified in Commissioner's Regulation 135.4c(7)ii(C1-4).
- c) **Counseling:** Applies to all counseling and guidance activities at the elementary and secondary school levels.
- d) **Textbooks:** Nothing in this policy shall be interpreted as requiring or prohibiting or abridging in any way the use of particular textbooks or curricular materials.

2. Other Activities or Facilities

- a) **Financial Assistance:** Applies to awarding college scholarship funds, student loans, or other aid to students of this district.

- b) Employment Assistance: Applies to all efforts to place students in employment. The district shall, as part of its work-study program or other efforts to secure employment for students, ensure that all employment opportunities are made available without discrimination on the basis of sex and refuse participation in its student employment program to employers who would practice such discrimination.
- c) Toilet, Locker, and Shower Facilities: Separate toilet, locker, and shower facilities may be provided on the basis of sex. Such facilities shall be comparable to similar facilities provided for students of the other sex.
- d) No rule on marital, family or parental status that treats one sex different from the other sex shall be applied or enforced.

3. District Employment Activities

Applies to all aspects of the district's employment programs, including but not limited to, recruitment, advertising, process of application for employment, promotion, granting of tenure, termination, layoffs, wages, job assignments, leaves of absence of all types, fringe benefits, training programs, employer-sponsored programs, including social or recreational programs and any other term, condition or privilege of employment. Specifically, the following personnel employment practices are prohibited:

- a) Tests. Administration of any test or other criterion which has a disproportionately adverse effect on persons on the basis of sex or handicap;
- b) Recruitment. Recruitment of employees from entities which furnish as applicants only or predominately members of one sex, if such action has the effect of discriminating on the basis of sex or handicap;
- c) Compensation. Establishment of rates of pay on the basis of sex or handicap;
- d) Job Classification. Classification of jobs as being for males or females;
- e) Fringe Benefits. Provision of fringe benefits on basis of sex or handicap;
- f) Marital and Parental Status. Any action based on marital or parental status; pregnancies are considered temporary disabilities for all job- related purposes and shall be accorded the same treatment by the district as are all other temporary disabilities. No inquiry shall be made by the district in job applications as to the marriage status of an applicant, including whether such applicant is "Miss or Mrs." But, inquiry may be made as to the sex of a job applicant for employment if made of all applicants and is not a basis for discrimination.
- g) Employment Advertising. Prohibits any expression of preference, limitation, or specification based on sex or handicap unless either is a bona fide occupational qualification for the particular job in question.

C. Policy Enforcement

- 1. designate a member of the administrative staff:
 - a) to coordinate efforts of the district to comply with this policy;
 - b) to develop, and ensure the maintenance of a filing system to keep all records required under this policy;
 - c) to investigate any complaints of violations of this policy;
 - d) to administer the grievance procedure established in this policy;
 - e) to develop affirmative action programs, as appropriate; and
- 2. provide for the publication of this policy on an ongoing basis to students, parents, employees, prospective employees, and district employee unions or organizations, such publication to

include the name, office address and telephone number of the compliance administrator designated pursuant to this policy in paragraph C. 1., above.

D. Grievance Procedure

Any student or employee of this district who believes he or she has been discriminated against, denied a benefit, or excluded from participation, in any district education program or activity, on the basis of sex or handicap in violation of this policy may file a written complaint following the procedures specified in the administrative regulation accompanying this policy.

Grievance procedures for both students and employees provide for informal proceedings involving the building principal or other immediate supervisor in the case of employees not working in a school building. If an informal proceeding does not resolve the grievance, the grievant may submit a written complaint to his/her principal or supervisor and receive a written response within ten school days. If this response is unsatisfactory to the grievant, a written appeal may be submitted to the compliance administrator designated in C. 1. above. The Grievance Officer shall answer the appeal in writing within ten school days. A copy of the written complaint and the compliance administrator's response shall be provided each member of the Board of Education. If the complainant is not satisfied with such response, he or she may submit a written appeal to the Board of Education indicating with particularity the nature of disagreement with the response and his or her reasons underlying such disagreement.

The Board of Education shall consider the appeal at its next regularly scheduled Board meeting following receipt of the appeal.

SEXUAL HARASSMENT OF EMPLOYEES

It is the policy of the Burnt Hills-Ballston Lake School District that all employees have a right to work or study in an environment free of discrimination, which encompasses freedom from sexual harassment. The district strongly disapproves of sexual harassment of its employees and states that all employees at all levels of the district must avoid offensive or inappropriate sexual or sexually harassing behavior at work, on school grounds, school functions, on school transportation and via electronic communication and will be held responsible for ensuring that such workplace is free from sexual harassment.

Specifically, the district prohibits the following:

- Unwelcome sexual advances,
- Requests for sexual favors, whether or not accompanied by promises or threats with regard to student-staff, staff, or employment relationship,
- Other language or physical conduct of a sexual nature made to any employee that may threaten or insinuate either explicitly or implicitly that any person's submission to or rejection of sexual advances will in any way influence any decision regarding that person's employment, evaluation, wages, advancement, assigned duties, shifts, or any other condition of employment, or career development,
- Any language or physical conduct of a sexual nature that has the purpose or effect of substantially interfering with a person's ability to perform the individual's duties,
- Any language or physical conduct of a sexual nature that has the purpose or effect of creating an intimidating, hostile or offensive work environment.

Such conduct may result in disciplinary action up to and including suspension or dismissal. Repeated offenses will be taken into consideration in determining appropriate disciplinary action.

Other sexually harassing conduct in the workplace, whether physical or verbal, committed by supervisors or non-supervisory personnel is also prohibited. This behavior includes but is not limited to, commentary about an individual's body, sexually degrading words to describe an individual, offensive comments, inappropriate language and sexually suggestive objects, books, magazines, photographs, cartoons or pictures.

Employees who have complaints of sexual harassment by anyone in the school environment, including any supervisors, co-employees, students, or visitors are urged to report such conduct to the building administrator so that the district may investigate and resolve the problem. If the complaint involves the building administrator, or if the person for any reason is uncomfortable dealing with the administrator, the employee may go directly to the Title IX Compliance Officer who is our HR Director and can be reached at 399-9141 ext. 85006.

The district will endeavor to investigate all complaints as expeditiously and as professionally as possible. Where investigations confirm the allegations, appropriate corrective action will be taken.

The district will endeavor to maintain the information provided to it in the complaint and investigation process as confidentially as possible, consistent with the laws of the State, and if applicable, the collective negotiations agreement.

There will be no retaliation against employees for reporting sexual harassment or assisting the district in the investigation of a complaint. However, if after investigating any complaint of harassment or unlawful discrimination, the district learns that the complaint is not in good faith, or that an employee has provided false information regarding the complaint, disciplinary action may be taken against the individual who provided the false information.

EMPLOYEE SEXUAL HARASSMENT

The Board of Education is committed to safeguarding the right of all students, employees and others involved in the schools to a work/school environment that is free from all forms of sexual harassment. Therefore, the Board condemns and prohibits all unwelcome behavior of a sexual nature in which:

Submission to such conduct is either explicitly or implicitly made a term or condition of an individual's employment or education; or

Submission to or rejection of such conduct is used as a basis for employment or education decisions affecting the individual; or

Such conduct has the purpose or effect of interfering with an individual's educational or work performance, or creating an intimidating, hostile or offensive employment or educational environment. (These last three paragraphs are transferred from the original AR4440.)

Sexual harassment includes, but is not limited to unwelcome flirtation, sexual advances or propositions; sexual, abusive, or lewd language or suggestive jokes; physical or verbal pursuit with a sexual theme; leering, suggestive, or insulting sounds or gestures; touching, brushing, patting, pinching, or attention to one's body; threats of, or deliberate sexual assault or molestation; or the use of sexually degrading words and the display in the workplace of sexually suggestive pictures.

Sexual harassment in the school/workplace is a very serious violation and will result in disciplinary action up to and including the suspension or dismissal of the offender, and may lead to personal, legal and financial liability. Any student who believes that he or she has been subjected to sexual harassment should report the alleged misconduct immediately to his or her building principal, guidance counselor, or teacher so that corrective action may be initiated. The reporting and investigation procedures for students are described in greater detail in AR5480. Any employee, or other person, who believes that he or she has been subjected to sexual harassment should report the alleged misconduct immediately to his or her supervisor, principal, or to the District's Title IX Coordinator so that appropriate action may be taken. The reporting and investigation procedure for employees and other persons is described in AR4440.

Complaints will be investigated promptly and corrective action will be taken where appropriate. No student, employee or other person involved will suffer retaliation or intimidation as a result of using the internal complaint procedure. The Superintendent of Schools is directed to develop and implement specific procedures on reporting, investigating and remedying allegations of sexual harassment. Such procedures are to be consistent with any applicable provisions contained in the District's collective bargaining agreements.

A copy of this policy and its accompanying regulations is to be distributed to employees of the District and posted in appropriate places. Students will be advised of this policy through educational programs and written materials. A policy summation shall be included in each school building's Student Handbook and Faculty Handbook.

The substance of this policy is repeated in Policy P5480, the section of the Board of Education Policy Book dealing with Student Welfare.

SEXUAL HARASSMENT OF STUDENTS

It is the policy of the Burnt Hills-Ballston Lake School District that all students have a right to study in an environment free of discrimination, which encompasses freedom from sexual harassment. The district strongly disapproves of sexual harassment of its students in any form, and states that all employees as well as students at all levels of the district must avoid offensive or inappropriate sexual or sexually harassing behavior at school, on school grounds, school functions and on school transportation.

Specifically, the district prohibits the following:

- Unwelcome sexual advances,
- Requests for sexual favors, whether or not accompanied by promises or threats with regard to student-teacher, or student-student, relationships,
- Other language or physical conduct of a sexual nature made to any student that may threaten or insinuate either explicitly or implicitly that any person's submission to or rejection of sexual advances will in any way influence any decision regarding that person's academic performance, or any other condition of academic, extra-curricular, or career development,
- Any language or physical conduct of a sexual nature that has the purpose or effect of substantially interfering with a person's ability to perform the individual's duties,
- Any language or physical conduct of a sexual nature that has the purpose or effect of creating an intimidating, hostile or offensive academic or extra-curricular environment.

Such conduct may result in disciplinary action up to and including suspension. Repeated offenses will be taken into consideration in determining appropriate disciplinary action.

Other sexually harassing conduct, whether physical or verbal, committed by personnel or students is also prohibited. This behavior includes but is not limited to, commentary about an individual's body, sexually degrading words to describe an individual, sexually offensive comments, inappropriate language and sexually suggestive objects, books, magazines, photographs, cartoons or pictures.

Students who have complaints of sexual harassment by anyone in the school environment, including any staff, students, or visitors are urged to report such conduct to the building administrator so that the district may investigate and resolve the problem. If the complaint involves the building administrator, or if the person for any reason is uncomfortable dealing with the administrator, the employee may go directly to the Title IX Compliance Officer who is our HR Director and can be reached at 399-9141 ext. 85006.

The district will endeavor to investigate all complaints as expeditiously and as professionally as possible. Where investigations confirm the allegations, appropriate corrective action will be taken.

The district will endeavor to maintain the information provided to it in the complaint and investigation process as confidentially as possible, consistent with the laws of the State, and if applicable, the collective negotiations agreement.

There will be no retaliation against students for reporting sexual harassment or assisting the district in the investigation of a complaint. However, if after investigating any complaint of harassment or unlawful discrimination, the district learns that the complaint is not in good faith, or that the student has provided false information regarding the complaint, disciplinary action may be taken against the individual who provided the false information.

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