

# **NON-DISCRIMINATION 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**

The Board of Education recognizes that harassment of students, staff and certain “non-employees” (which includes contractors, subcontractors, vendors, consultant and other persons providing services pursuant to a contract, or their employees) on the basis of sex, gender and/or sexual orientation is abusive and illegal behavior that harms targets and negatively impacts the school culture by creating an environment of fear, distrust, intimidation and intolerance. The Board further recognizes that preventing and remedying such harassment in schools is essential to ensure a healthy, nondiscriminatory environment in which students can learn and employees and “non-employees” can work productively.

Sex-based harassment can be comprised of two types of behavior: sexual harassment and/or gender-based harassment. Sexual harassment is unwelcome conduct of a sexual nature, which can include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature (see regulation 0110-R for examples). Gender-based harassment includes verbal, nonverbal or physical aggression, intimidation or hostility that is based on actual or perceived gender and sexual stereotypes (see regulation 0110-R for examples). Sexual or gender-based harassment of a student can deny or limit the student’s ability to participate in or to receive benefits, services, or opportunities from the school’s program.

The Board is committed to providing an educational and working environment that promotes respect, dignity and equality and that is free from all forms of sexual harassment. To this end, the Board condemns and strictly prohibits all forms of sexual harassment on school grounds, school buses and at all school-sponsored activities, programs and events including those that take place at locations outside

the district, or outside the school setting if the harassment impacts the individual's education or employment in a way that violates their legal rights.

Under various state and federal laws, students, employees and "non-employees" have legal protections against sexual harassment in the school environment as described above. The district's Code of Conduct also addresses appropriate behavior in the school environment. Sexual harassment can occur between persons of all ages and genders.

In order for the Board to effectively enforce this policy and to take prompt corrective measures, it is essential that all targets of sexual harassment and persons with knowledge of sexual harassment report the harassment immediately. The district will promptly investigate all complaints of sexual harassment, either formal or informal, verbal or written. To the extent possible, all complaints will be treated in a confidential manner. Limited disclosure may be necessary to complete a thorough investigation. If the complainant reports that they feel unsafe at school due to the nature of the complaint, the district will determine if accommodations need to be made until the issue is resolved.

If, after appropriate investigation, the district finds that a student, an employee, "non-employee" or a third party has violated this policy, prompt corrective action will be taken in accordance with the applicable collective bargaining agreement, contract, district policy and state law. Individual nondisclosure agreements may only be used as permitted by law, described in the accompanying regulation. Mandatory arbitration clauses are prohibited in all district contracts and agreements.

All complainants and those who participate in the investigation of a complaint of sexual harassment have the right to be free from retaliation of any kind.

The Superintendent of Schools is directed to develop and implement regulations for reporting, investigating and remedying allegations of sexual harassment. These regulations are to be attached to this policy. In addition, training programs shall be established for students and employees to raise awareness of the issues surrounding sexual harassment and to implement preventative measures to help reduce incidents of sexual harassment. Age-appropriate instructional materials will be incorporated into the curriculum to educate students so that they can recognize and reduce the incidence of sexual harassment.

This policy shall be posted in a prominent place in each district facility, on the district's website, and shall also be published in student registration materials, student, parent and employee handbooks, and other appropriate school publications.

This policy shall be reviewed based on NYSSBA recommendations or as needed.

**EXHIBIT 1: Service Animals at School Activities, Events & Programs Open to the Community**  
E0110.1

Renumbered from P4020 – September 2015  
Renumbered from P4040 – September 2015  
Renumbered from P4440 – September 2015  
Renumbered from P5020 – September 2015  
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## **SERVICE ANIMALS AT SCHOOL ACTIVITIES, EVENTS & PROGRAMS OPEN TO THE COMMUNITY**

**E0110.1**

The Board of Education acknowledges its responsibility to permit an individual with a disability to be accompanied on school grounds by a service animal, if the service animal is trained to do work or perform tasks for the benefit of an individual with a disability. There is no Federal or New York state licensure required for a service animal. There is no NY state required training course to become a service animal either. NYS law specifically identifies a service animal as a dog. Other animals (wild or domestic), trained or untrained, are not service animals for the purposes of this definition. A therapy dog or an emotional support animal are not the same as a service dog, and are not afforded the same protections under law.

### **How do I know it is a Service Animal?**

Most service dogs will be appropriately identified with “service dog” emblazoned on their harness, leash or vest. *If it is not readily apparent that the animal is a service animal*, you may ask limited questions to verify the role of the animal and ensure that it is a service animal. **You may ask:**

1. Is that a service animal?
2. Is that service animal required due to a disability?
3. What work or tasks has the service animal been trained to perform?

**You may not ask** for medical documentation or a doctor’s note related to the individual’s disability, licensure or certification that the animal is a service animal, or inquire into the nature of the person’s disability.

### **How do I interact with the Service Animal or Handler?**

Each handler is different, so it is important not to make any assumptions. Typically, a service animal is seen as a working dog when they are on duty. Refrain from interacting with the dog, talking to the dog or petting the dog, unless you ask first and the handler says it is okay. Otherwise, communicate with the handler and essentially ignore the service animal.

### **What happens if the Service Animal is Allowed in and Becomes Out of Control?**

Service animals **must** be under the control of the handler at all times, and should be leashed or tethered (unless such devices interfere with the service animal’s work or the individual’s disability prevents him or her from using these devices). Individuals who cannot use such methods of securement must maintain control of the service animal through voice, signal or other effective commands. Service animals must be housebroken. The cost, care and supervision of the service animal are the responsibility of the handler. If the service animal is out of control and the handler does not take ***immediate effective action*** to control the animal, a building principal or other administrator or their designee may request the individual with a disability remove the service animal from the school building/property. If the service animal is excluded due to poor behavior or being out of control, the individual with a disability remains eligible to participate in the service, program or activity, and the district provide reasonable accommodations to enable them to do so, upon request.