

# POLICY

## Board of Education

Bernards Township

File Code: M 5751

### SEXUAL HARASSMENT - PUPILS

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 our School District staff and/or pupils can report alleged sexual discrimination, including sexual harassment which may include quid pro quo harassment and hostile work environment.

#### Definitions:

- **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.
- **Hostile Work 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 our 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.

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

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who provided the information or were witnesses. Our School District staff can learn of sexual harassment through notice and any other means.

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 that staff and the pupils understand what type of conduct can cause sexual harassment and that the staff know our 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, since the Board accepts federal funds, the Board is bound by Title IX of the Education Amendments of 1992 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 our 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.

**SOURCE:**

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

**ADOPTED:** November 26, 2007