

*Related Policies: ACD, ACE, GBAA, JBAA, JICK, KED, KEE  
See also: EF, EFAA, IKG, AC-E & AC-R*

## **NON-DISCRIMINATION, EQUAL OPPORTUNITY EMPLOYMENT and DISTRICT ANTI-DISCRIMINATION PLAN**

**Statement of Purpose:** As a public school system, the Merrimack School District affirms its commitment to creating and supporting the conditions for inclusion, acceptance, and fair and equal treatment for all students, teachers and staff with respect to all operations of and within the District.

### **A. Prohibition Against Discrimination of Students in Educational Programs and Activities.**

Under New Hampshire law and Board policy, no person shall be excluded from, denied the benefits of, or subjected to discrimination in the District's public schools because of their age, sex, gender identity, sexual orientation, race, color, marital status, familial status, disability, religion or national origin. Discrimination, including harassment, against any student in the District's education programs, on the basis of any of the above classes, or a student's creed, is prohibited. Finally, there shall be no denial to any person of the benefits of educational programs or activities, on the basis of any of the above classes, or economic status.

Harassment of students other than on the basis of any of the classes or categories listed above is prohibited under Board policy JICK Pupil Safety and Violence Prevention.

### **B. Equal Opportunity of Employment and Prohibition Against Discrimination in Employment**

The School District is an Equal Opportunity Employer. The District ensures equal employment opportunities without regard to age, color, creed, disability, gender identity, marital status, national origin, pregnancy, race, religion, sex, or sexual orientation. The District will employ individuals who meet the physical and mental requirements, and who have the education, training, and experience established as necessary for the performance of the job as specified in the pertinent job description(s).

Discrimination against and harassment of school employees because of age, sex, race, creed, religion, color, marital status, familial status, physical or mental disability, genetic information, national origin, ancestry, sexual orientation, or gender identity are prohibited. Additionally, the District will not discriminate against any employee who is a victim of domestic violence, harassment, sexual assault, or stalking.

### **C. Policy Application**

This Policy is applicable to all persons employed or served by the District. It applies to all sites and activities the District supervises, controls, or where it has jurisdiction under the law, including where it (a) occurs on, or is delivered to, school property or a school-sponsored activity or event on or off school property; or (b) occurs off of school property or outside of a school-sponsored activity or event, if the conduct interferes with a student's educational opportunities or substantially disrupts the orderly operations of the school or school-sponsored activity or event, as set forth in Board policy JICK, Pupil Safety and Violence Prevention. Examples of sites and activities include all District buildings and grounds, school buses and other vehicles, field trips, and athletic competitions.

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**D. District Anti-Discrimination Plan**

No later than October 15, 2020, the Superintendent shall develop and provide to the Board for approval, a coordinated written District Anti-Discrimination Plan (the “Plan”) to include guidelines, protocols and procedures intended to prevent, assess the presence of, intervene in, and respond to incidents of discrimination.

Among other things, the Plan should include provisions, and recommendations with respect to resources, policies, complaint procedures, student education programs, Plan dissemination and training appropriate to carrying out the Plan objectives stated in the preceding paragraph.

In developing the Plan, the Superintendent is encouraged to seek input from appropriate groups of the school and local community and coordinate with the District’s Human Rights [*Non-Discrimination*] Officer and Title IX and 504 Coordinators.

No less than once every two years (off years from review of the District’s Suicide Prevention Plan per Policy JLDBB), the Superintendent shall update the District Anti-Discrimination Plan, and present the same to the Board for review. Such Plan updates should be submitted to the Board in time for appropriate budget consideration.

**E. Human Rights [or Non-Discrimination], Title IX, 504 and other Coordinators or Officers**

The Superintendent shall assure that District and or building personnel are assigned to the positions listed below. Each year, the Superintendent shall prepare and disseminate as an Appendix AC-E to this Policy an updated list of the person or persons acting in those positions, along with their District contact information, including telephone number, email, postal and physical addresses.

Non-Discrimination Officer District

Title IX Coordinator District

Title IX Coordinator Merrimack High School

Title IX Coordinator Merrimack Middle School

Title IX Coordinator Mastricola Upper Elementary School

Title IX Coordinator Mastricola Elementary School

Title IX Coordinator Reeds Ferry Elementary School

Title IX Coordinator Thorntons Ferry Elementary School

504 Coordinator District

504 Coordinator Merrimack High School

504 Coordinator Merrimack Middle School

504 Coordinator Mastricola Upper Elementary School

504 Coordinator Mastricola Elementary School

504 Coordinator Reeds Ferry Elementary School

504 Coordinator Thorntons Ferry Elementary School

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The Appendix will also include current contact for relevant state and federal agencies including:

U.S. Department of Education, Office of Civil Rights  
U.S. Department of Agriculture, Office of Civil Rights  
N.H. Human Rights Commission  
N.H. Department of Justice, Civil Rights Unit  
N.H. Department of Education, Commissioner of Education

**F. Complaint and Reporting Procedures**

Any person who believes that he or she has been discriminated against, harassed, or bullied in violation of this policy by any student, employee, or other person under the supervision and control of the school system, or any third person who knows or suspects conduct that may constitute discrimination, harassment, or bullying, should contact the District Human Rights Officer, or otherwise as provided in the policies referenced below under this same heading.

Any employee who has witnessed, or who has reliable information that another person may have been subjected to discrimination, harassment, or bullying in violation of this policy has a duty to report such conduct to his/her immediate supervisor, the District Human Rights Officer, or as provided in one of the policies or administrative procedures referenced below under this same heading. Additionally, employees who observe an incident of harassment or bullying have a responsibility to intervene to stop the conduct assuming conditions in which it is safe to do so. If an employee knows of an incident involving discrimination, harassment, or bullying and the employee is found, after a complete investigation, to have failed to report the conduct, to have failed to take proper action with regard to the incident, or to have knowingly provided false information in regard to the incident, the employee will be subject to disciplinary action up to, and including, dismissal.

Investigations and resolution of any complaints shall be according to the policies listed below and related administrative procedures or regulations. Complaints or reports regarding matters not covered in one or the other of those policies should be made to the District Human Rights Officer.

1. Reports or complaints of sexual harassment or sexual violence by employees or third party contractors should be made under Board policy GBAA;
2. Reports or complaints of sexual harassment or sexual violence by students should be made under Board policy JBAA;
3. Reports or complaints of discrimination on the basis of disability should be made under Board policy ACE, except for complaints regarding facilities accessibility by disabled non-students or employees, which should be made under Board policy KED; and
4. Reports or complaints of bullying or other harassment of pupils should be made under Board policy JICK.

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**G. Alternative Complaint Procedures and Legal Remedies**

At any time, whether or not, an individual files a complaint or report under this Policy, an individual may file a complaint with the Office for Civil Rights (“OCR”), of the United States Department of Education, or with the New Hampshire Commissioner for Human Rights.

1. Office for Civil Rights, U.S. Department of Education, 5 Post Office Square, 8<sup>th</sup> Floor, Boston, MA 02109-3921; Telephone number: (617) 289-0111; Fax number: (617) 289-0150; Email: [OCR.Boston@ed.gov](mailto:OCR.Boston@ed.gov)

*Note:* Complaints to OCR must be filed in writing no later than 180 days after the alleged act(s) of discrimination. OCR may waive its 180-day time limit based on OCR policies and procedures.

2. New Hampshire Commission for Human Rights, 2 Industrial Park Drive, Concord, NH 03301; Telephone number: (603) 271-2767; Email: [humanrights@nh.gov](mailto:humanrights@nh.gov)

Notwithstanding any other remedy, any person may contact the police or pursue a criminal prosecution under state or federal criminal law.

**H. Retaliation Prohibited**

No reprisals or retaliation of any kind will be taken by the Board or by any District employee against the complainant or other individual on account of his or her filing a complaint or report or participating in an investigation of a complaint or report filed and decided pursuant to this policy, unless that person knew the complaint or report was false or knowingly provided false information.

**I. Administrative Procedures and Regulations**

The Superintendent shall develop such other procedures and regulations as are necessary and appropriate to implement this Policy.

**J. Notice of Compliance**

The Superintendent will provide notice of compliance with federal and state civil rights laws to all applicants for employment, employees, students, parents, and other interested persons, as appropriate.

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**Legal References:**

RSA 186:11, XXXIII, Discrimination  
RSA 193:38, Discrimination in Public Schools  
RSA 193-F, Student Safety and Violence Protection Act  
RSA 275:71, Prohibited Conduct by Employer  
RSA 354-A, State Commission for Human Rights  
The Age Discrimination in Employment Act of 1967, 29 U.S.C. 621, et seq.  
The Rehabilitation Act of 1973, 29 U.S.C. 705 and 794  
Title II of The Americans with Disabilities Act of 1990, 42 U.S.C. 12101, et seq.  
Title IV of the Civil Rights Act of 1964, 42 U.S.C. §2000c  
Title VII of The Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq  
Title IX of the Education Amendments of 1972, 20 U.S.C 1681, et seq  
NH Dept of Ed. Rule 303.01 (i), School Board Substantive Duties

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