

Affirmative Action Training

Lodi Public Schools Annual Training

**This training does not have narration—please read the following slides.
See slide 87 for training verification instructions.
Certificated staff will receive one-(1) hour of professional development for
this training.**

NJ Law Against Discrimination (*LAD*)

The New Jersey Law Against Discrimination (N.J.S.A. 10:5-12) (*LAD*) makes it unlawful to subject people to differential treatment based on race, creed, color, national origin, nationality, ancestry, age, sex (including pregnancy), familial status, marital status, domestic partnership or civil union status, affectional or sexual orientation, gender identity or expression, atypical hereditary cellular or blood trait, genetic information, liability for military service, and mental or physical disability, perceived disability, and AIDS and HIV status.

Affirmative Action Officer

Mr. Jamie E. Ciofalo

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What is Affirmative Action?

What is Affirmative Action?

Affirmative Action is a belief or a conviction that all staff and students have a right to be treated with equal fairness and to have the maximum opportunity to reach their fullest potential.

Compliance with...

Executive Order No. 61, Division of Equal Employment Opportunity/Affirmative Action Administrative Order #3:03, and New Jersey Administrative Code 4A:7-3.3 and 3.4

Title VII of the Civil Rights Act of 1964 ("Title VII") prohibits discrimination, including "sexual harassment." Under N.J.S.A. 10:5-12, discrimination based on "race, creed, color, national origin...(and) sex" is illegal

Prejudice/Discrimination

Prejudice

An attitude which predisposes an individual to make either negative or positive judgments about persons, objects, concepts or groups prior to objective evaluation.

Prejudice/Discrimination

Discrimination

The differential treatment of individuals considered to belong to a particular group, the denial of opportunity, privilege, role or reward on the basis of sex, race, or any other basis regardless of whether that denial is prohibited by law.

Prejudice/Discrimination

Prejudice and discrimination are related in a causal sequence: **Prejudice** is an attitude and **discrimination** is its behavioral component.

Lodi Board of Education Policies and Regulations

Policy Statement

"It is the policy of the Lodi School District not to discriminate on the basis of race, color, creed, religion, sex, sexual orientation, ancestry, national origin, social/economic status or disability in its educational programs or activities and employment policies, as required by Titled IX of the Education Amendments of 1972, N.J.A.C. 6:4-1.1 et seq. of the New Jersey Administrative Code, Section 504 of the Rehabilitation Act of 1973 and P.L. 101-336, ADA of 1990."

Lodi BOE Regulation No. 1550

Affirmative Action Program for Employment and Contract Practices/Employment Practices Plan

Lodi BOE Regulation No. 1550

The Board of Education shall, in accordance with law, strive to overcome the effects of any previous patterns of discrimination in district employment practices and shall systematically monitor district procedures to ensure continuing compliance with anti-discrimination laws and regulations.

Lodi BOE Regulation No. 1550

No qualified handicapped person, shall, on the basis of handicap, be subjected to discrimination in employment and the Board will take positive steps to employ and advance in employment qualified handicapped persons in programs and activities.

Lodi BOE Regulation No. 1510

Rights of Persons with Handicaps or Disabilities

Lodi BOE Regulation No. 1510

It is the policy of the Board of Education that no qualified handicapped or disabled person shall, on the basis of handicap or disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination in employment or under any program, activity or vocational opportunities sponsored by this Board. The Board shall comply with §504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990. It shall also comply with the Individuals with Disabilities Education Act through the implementation of Policy No. 2460 and Regulations Nos. 2460 through 2460.14.

Rights of Persons with Handicaps or Disabilities

Employment

No employee or candidate for employment shall be discriminated against in recruitment, hiring, advancement, discharge, compensation, training, transfer, or any other term, condition, or privilege of employment solely because of his/her handicap/disability, provided the employee or candidate can, with or without reasonable accommodation, perform the essential functions of the position sought or held.

Rights of Persons with Handicaps or Disabilities

No candidate for employment shall be required to answer a question or submit to an examination regarding a handicap/disability except as such handicap/disability relates directly to the performance of the job sought. No candidate will be discriminated against on the basis of a handicap/disability that is not directly related to the essential function of the position for which he/she has applied.

Rights of Persons with Handicaps or Disabilities

Reasonable accommodations, not directly affecting the educational and/or instructional program, shall be made to accommodate employment conditions to the needs of qualified persons with handicaps/disabilities. Such accommodations may include, but are not limited to rescheduling; restructuring jobs; making facilities accessible; acquiring or modifying equipment; modifying examinations, training materials, policies and procedures; and providing readers or interpreters.

Facilities Accessibility

No qualified handicapped/disabled person shall, because of the school district's facilities being inaccessible or unusable by handicapped/disabled persons, be denied the benefits of, be excluded from participation in or otherwise be subjected to discrimination under any program or activity offered by the Board. No new facilities shall be constructed that do not fully comply with §504 of the Rehabilitation Act of 1973 and the American with Disabilities Act. Alterations to existing facilities or part thereof, shall be altered in such a manner to the maximum extent feasible, that the facilities are readily accessible and usable by individuals with handicaps/disabilities who have a need to access Board facilities.

Educational Program Accessibility

No qualified handicapped/disabled person shall be denied the benefit of, be excluded from participation in, or otherwise be subjected to discrimination in any activity offered by this district.

The Board has an affirmative obligation to evaluate a pupil who is suspected of having a handicap/disability to determine the pupil's need for special education and related services. The Board directs that all reasonable efforts be made to identify unserved children with handicaps/disabilities in this district who are eligible for special education and/or related services in accordance with Policy No. 2460 and Regulations Nos. 2460 through 2460.14, the Individuals with Disabilities Education Act, §504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990.

Rights of Persons with Handicaps or Disabilities

Section 504 of the Rehabilitation Act requires the Board to address the needs of children who are considered handicapped/disabled under §504 and do not qualify for services under the Individuals with Disabilities Education Act. A pupil may be handicapped/disabled within the meaning of §504, and therefore entitled to regular or special education and related aids and services under the §504 regulation, even though the pupil may not be eligible for special education and related services under Part B of the Individuals with Disabilities Education Act.

Rights of Persons with Handicaps or Disabilities

No pupil will be denied, because of his/her educational handicap/disability, participation in co-curricular, intramural, or interscholastic activities or any of the services offered or recognitions rendered regularly to the pupils of this district.

There will be grievance procedures for persons alleging discriminatory acts by the Board and/or staff. The due process rights of pupils with handicaps/disabilities and their parents will be rigorously enforced.

Enforcement

A complaint regarding a violation of law and this policy will be subject to a complaint procedure that provides for the prompt and equitable resolution of disputes.

The complainant shall be notified of his/her rights of appeal at each step of the process, and accommodations to the needs of handicapped/disabled complainants shall be made. A complainant shall be informed of his/her right to file a formal action for redress with or without recourse to the complaint procedure established by this policy and its accompanying regulation.

Enforcement

A complaint regarding the identification, evaluation, classification, or educational program of a pupil with a handicap/disability shall be governed by the due process rules of the State Board of Education, N.J.A.C. 6A:14-2.7 and the Office of Administrative Law, N.J.A.C. 1:6A-1 et seq., and by the procedural safeguard processes established by Board Policy No. 2460 and Regulation No. 2460.6 or the grievance procedures established in Regulation No. 1510.

Guarantee of Rights

The Board shall not interfere, directly or indirectly, with any person's exercise or enjoyment of the rights protected by the §504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Individuals with Disabilities Education Act or Title IX.

The Board shall not discriminate against any person for that person's opposition to any act or practice made unlawful by law or this policy or for that person's participation in any manner in an investigation or proceeding arising under §504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Individuals with Disabilities Education Act or Title IX.

Affirmative Action Grievance Procedure

Affirmative Action Grievance Procedure

Purpose: To provide students, employees, and parents, a procedure by which they can seek a remedy for alleged violations related to discrimination on the basis of race, color, creed, religion, sex, sexual orientation, ancestry, national origin, social/economic status or disability.

Affirmative Action Grievance Procedure

The school district's existing employee grievance procedure shall be utilized to hear any complaint or charge of discrimination by an employee. The school district's existing pupil grievance procedure shall be utilized to hear any complaint or charge of discrimination by a pupil. The Affirmative Action Officer will serve as a member of the grievance committee when such charges are heard.

Affirmative Action Grievance Procedure

In keeping with federal/state anti-discrimination legislation, the following grievance procedure will be followed for the resolution of alleged violations related to discrimination as outlined above.

Affirmative Action Grievance Procedure

Step #1:

The grievant submits the complaint to the Building Principal/Supervisor.

Affirmative Action Grievance Procedure

Step #2:

The principal has ten (10) working days in which to investigate and respond to the grievant.

Affirmative Action Grievance Procedure

Step # 3:

If the matter is not resolved to the satisfaction of the complainant within ten (10) working days, the complainant may submit a written complaint to the Affirmative Action Officer. The Affirmative Action Officer will investigate the matter and will respond to the complaint in writing no later than thirty (30) working days after receipt of the written complaint.

Affirmative Action Grievance Procedure

Step #4 :

The complainant may appeal the Affirmative Action Officer's decision to the Board by filing a written appeal with the Board Secretary no later than ten (10) working days after receipt of the Affirmative Action Officer's decision.

Affirmative Action Grievance Procedure

Step #5 :

The Board will render a written decision no later than thirty (30) calendar days after the appeal was filed or the hearing held, whichever occurred later.

Affirmative Action Grievance Procedure

Step #6:

If the grievant is not satisfied with the Board's decision, the grievant may file the complaint to the Commissioner of Education or the NJ Division on Civil Rights.

Disability Harassment

Disability Harassment

Disability harassment under Section 504 and Title II is intimidation or abusive behavior toward a student based on disability that creates a hostile environment by interfering with or denying a student's participating in or receipt of benefits, services, or opportunities in the school's/district's programs. May take many forms, including verbal acts and name-calling as well as non-verbal behavior, such as graphic and written statements or conduct that is physically threatening, harmful or humiliating.

Disability Discrimination

The term “disability” is very broad under New Jersey law.

Disability includes:

- * any physical disability, infirmity, malformation, or disfigurement caused by bodily injury, birth defect or illness
- * any mental, psychological or developmental disability that results from conditions that prevent the normal exercise of any bodily or mental function or which can be shown to exist through accepted clinical or laboratory diagnostic tests

In addition to any disability you have now, the LAD also prohibits discrimination based on:

- * any disability that someone thinks you have now
- * any disability you had in the past, or that
- * someone thinks you had in the past
- * any disability that you might get in the future

Visual Impairment Discrimination

What Does NJ Law Say about Discrimination Due to Visual Impairment?

The New Jersey Law Against Discrimination (LAD) makes it unlawful for employers to discriminate against people with disabilities. Visual impairment is a disability recognized under the LAD.

New Jersey law protects you from:

- * Being denied a job or promotion because of your visual impairment.
- * Being treated differently or harassed because of your visual impairment.
- * Being denied a reasonable accommodation you request at work, at home, or at any place of public accommodation.

Employment

- * Employers are required to give every applicant an equal chance at being hired for a job, regardless of any disabilities he or she may have, provided that the applicant is capable of performing the essential functions of the job with reasonable accommodation.
- * An employer must make reasonable accommodations to an employee's disability to allow the person to perform the functions of the job.
- * An accommodation is reasonable if it does not cause the employer undue hardship. Whether a requested accommodation causes undue hardship is a fact sensitive inquiry, but generally, an employer is not required to provide an accommodation that is, very costly or changes the nature of its business or way of doing business.

Examples of reasonable accommodations are:

- * acquiring or modifying equipment, or
- * providing qualified readers, or
- * providing Braille materials or large type documents, or
- * job restructuring, modified work schedules, or
- * job reassignment.

Race Discrimination

Race Discrimination

You may not be discriminated against because of your race or color in employment. It is against the law for an employer to treat you differently or harass you because of your race or color.

You have the right to apply for and be fairly considered for any job, apprenticeship or traineeship no matter what your race or color.

An employer may not discriminate based on race or color:

- * When making hiring decisions.
- * In the salary, benefits and job assignments you receive when you are hired.
- * During the course of your employment, including when making decisions about job assignments, transfers, promotions and disciplinary actions.
- * When your employer is selecting employees for layoff during a downsizing or reduction in force.
- * When an employer is deciding whether to discharge you for cause.

Employment-Related Advertisement

It is against the law for any employer or employment agency to print, publish or circulate any employment-related advertisement specifying a preference based on a person's race or color.

Labor Unions

Labor unions or other labor organizations may not deny anyone membership based on race or color, and may not discriminate based on race or color in admission to any training or apprenticeship programs, referral to any jobs, or in any other benefits provided to their members.

Religious Discrimination

What Does New Jersey Law Say about Discrimination Based on Your Religious Beliefs?

New Jersey law protects you against discrimination based on your creed, or religious beliefs, in employment. It is against the law for an employer to treat you differently or harass you because of your religion.

What's Covered?

The prohibition against discrimination based on creed protects you if:

- * You belong to a particular religious faith or attend a particular place of worship, or
- * You are a non-believer, or
- * You are associated with a person of a particular religion (for example, your husband is Muslim), or

What's Covered?

- * You are perceived to be of a particular religious faith, even though you are not actually of that faith, or
- * You have sincere and meaningful moral or ethical beliefs which you hold with the strength of traditional religious views.

What's Not Covered?

The prohibitions against discrimination based on creed generally do not apply to protect a person's political or social views.

Employment

You have the right to apply for and be fairly considered for any job, apprenticeship or traineeship no matter what your religious beliefs are. An employer cannot refuse to hire you, terminate your employment or treat you differently in the terms and conditions of employment, such as pay and other job benefits, because of your religious beliefs.

Employment

When applying for a job, it is unlawful for an employer that is not a religious association or organization to ask you:

- * What religious faith you belong to, or
- * Whether you are affiliated with a church, synagogue, mosque, temple or other such place of worship, or
- * What your worship practices are, such as whether you attend services regularly.

Sex Discrimination

Sex Discrimination

Sex discrimination occurs when:

- * You are treated differently or unfairly because of your gender; that is, because you are a woman or because you are a man, and you are denied a job, promotion, equal pay or other job benefits, or

Employment

- * You are subjected to an unwarranted sexually hostile environment; that is, you are the target of unwelcome, offensive conduct on account of your gender, or conduct that is sexually oriented.

Employment

- * This includes hostile, demeaning or intimidating comments, offensive gestures, non-consensual sexual contact, unwanted sexually suggestive language (oral or written), unwanted sexually hostile, demeaning or intimidating comments (oral or written); and sexual abuse, or

Employment

- * You are treated differently or unfairly because you are pregnant, or
- * Sexual favors are demanded in exchange for a job benefit, like a promotion, or

Employment

- * A policy, pattern or practice that applies to all persons exists and is gender neutral on its face, but that in effect, disadvantages members of your gender more so than the opposite gender.
- * For example, it would be sex discrimination for an employer to require that an employee be at least 6 feet tall in order to be considered for a particular position, unless the job could not reasonably be performed by someone under that height. Otherwise, such a policy would unfairly discriminate against women, because fewer women than men are 6 feet or taller; therefore, fewer women would qualify to be considered for the position.

Employment

The scope of the law reaches from the advertisement of a particular position to the discharge of the employee.

Nondiscriminatory criteria must be used in the application process, hiring and firing, determining wages, and in the conditions or privileges of employment. The refusal of an employer to accept any person for employment based on sex must be justified as a qualification reasonably necessary to the normal operation of the particular business or enterprise, such as when a job involves intimate personal contact with a client. This exception cannot be based on custom, client preferences, or stereotypes.

Sexual Harassment

Sexual Harassment

Sexual Harassment is conduct by an employee which has the purpose or effect of creating an intimidating, hostile or offensive working environment, has the purpose or effect of unreasonably interfering with an individual's work performance, or otherwise similarly affects an individual's employment opportunities.

Levels of Sexual Harassment

- * Gender Harassment
- * Seductive Behavior
- * Sexual Bribery
- * Sexual Coercion
- * Sexual Assault

Sexual Harassment

“Quid Pro Quo” Harassment (*Trading this for that*)

In "quid pro quo" sexual harassment, an employee is confronted with the choice between acceding to sexual demands and forfeiting job benefits, continued employment or promotion or otherwise suffering tangible job detriments.

“Hostile Environment” Harassment an employee feels fear, anxiety, shame or embarrassment.

Four Criteria for Hostile Environment Harassment

- * Are unwelcome
- * Are persuasive
- * Are related to gender
- * Interfere with the work/school environment

Depending on the circumstances, each of the following actions may constitute sexual harassment:

- * Sexually suggestive behavior
- * Sexually suggestive staring or leering
- * Sexual or sexually suggestive jokes
- * Sexual propositions, such as continually asking you out, phoning you, or asking for sexual favors

Depending on the circumstances, each of the following actions may constitute sexual harassment:

- * Sexual or physical contact, such as touching, slapping, kissing or pinching
- * Sexual comments, insults or teasing
- * Sexually offensive gestures
- * Intrusive questions about sexual activity
- * Sexually explicit or offensive material that is displayed in a public place or put in your work area or belongings.

Point of Emphasis

In some cases, just **one** of these actions may be enough to amount to sexual harassment.

Remember that women can sexually harass men, men can sexually harass women, men can sexually harass other men, and women can sexually harass other women.

Our responsibility:

We are responsible if an “act” of sexual harassment is reported:

An employer is responsible for its acts and those of its agents and supervisory employees with respect to sexual harassment regardless of whether the specific acts complained of were authorized or even forbidden by the employer and regardless of whether the employee knew or should have known of their occurrence.

With respect to the conduct between fellow employees, an employer is responsible for acts of sexual harassment in the workplace where the employer (or its agents or supervisory employees) knows or should have known of the conduct, unless it can be shown that the employer took immediate and appropriate corrective action.

Employment

- * An employee who is harassed has a claim under Title VII and the New Jersey Statute.
- * A claim may also be asserted by an employee who was denied a benefit (e.g., promotion) in favour of another employee who submitted to sexual advances.
- * An employee who is harassed may also be able to assert state law claims (e.g., infliction of emotional distress) against the person who harassed him/her and perhaps the employer .

Employment

- * An employee wrongfully accused of harassment may assert claims against the employer if he/she is discharged. Also an accused employee may dispute the severity of the penalty or disciplinary procedures.
- * Failure to maintain appropriate confidentiality in harassment investigation may give rise to various tort claims, including slander and invasion of privacy.
- * Under some circumstances a wilful and maliciously false harassment allegation can result in liability for the employee who makes it.

Sexual Orientation Discrimination

Does New Jersey Law Protect People from Discrimination on the Basis of Sexual Orientation?

YES. The New Jersey Law Against Discrimination prohibits discrimination based on sexual or affectional orientation. Federal law does not extend protection in this area. This means that it is against the law for you to be treated differently or otherwise denied the rights and privileges extended to others on the basis of sexual orientation. The law also forbids discrimination on the basis of ‘perceived’ sexual orientation, meaning that the Law protects you if you are subjected to discrimination because someone makes an erroneous presumption about your sexual orientation.

Unlawful Employment Discrimination

Examples of illegal employment discrimination based on sexual orientation include:

- * Refusal to hire
- * Termination
- * Harassment
- * Unequal salary or unfair treatment in other
- * terms, conditions or privileges of employment

About The NJ Family Leave Act (*FLA*)

About The NJ Family Leave Act (FLA)

The New Jersey Division on Civil Rights enforces the New Jersey Family Leave Act (NJFLA), which requires covered employers to grant eligible employees time off from work in connection with the birth or adoption of a child or the serious illness of a parent, child or spouse. The NJFLA's definition of "parent" includes a parent-in-law or a stepparent. The NJFLA provides for up to twelve weeks of leave in a 24-month period. The 24-month period begins on the first day of the employee's first NJFLA leave.

Three most frequently asked
questions regarding the Family
Leave Act

1. Which employers are covered by the NJFLA?

All employers with 50 or more employees anywhere worldwide must comply with the NJFLA for their New Jersey employees.

2. Which employees are eligible for leave under the NJFLA?

To be eligible for family leave under the NJFLA, an employee must be employed in New Jersey by a covered employer. The employee also must have been employed for at least twelve (12) months for the employer, and must have worked 1,000 base hours in the preceding twelve (12) months.

3. How does the NJFLA relate to the Federal Family and Medical Leave Act?

Like the NJFLA, federal Family and Medical Leave Act (FMLA) also provides time off from work in connection with the birth or adoption of a child or the serious illness of a parent, child or spouse. When an employee takes a leave for a purpose covered by both the FMLA and the NJFLA, the leave simultaneously counts against the employee's entitlement under both laws.

Federal Family and Medical Leave Act

The FMLA provides time off from work due to an employee's own disability, while the NJFLA does not provide covered employees with leave for their own disabilities. Thus, even though an employee may utilize all of his or her allotted time under the federal FMLA due to his or her disability, the employee may subsequently be entitled to time off under the NJFLA in connection with the birth or adoption of a child or the serious illness of a parent, child or spouse.

Federal Family and Medical Leave Act

The FMLA provides up to twelve weeks in a 12-month period, rather than a 24-month period as provided in the NJFLA.

LODI PUBLIC SCHOOLS AFFIRMATIVE ACTION TRAINING VERIFICATION

***Staff with Lodi Gmail account: submit the electronic
AFFIRMATIVE ACTION TRAINING VERIFICATION FORM
that is linked in the email notification that you received
for this training.***

***Staff without Lodi Gmail account: return the paper
AFFIRMATIVE ACTION TRAINING VERIFICATION FORM
that you received.***

Thank you for your participation!



RESOURCES

NJ Division on Civil Rights