

### **Nondiscrimination On The Basis of Sex**

- A. General Explanation: Title IX of the Educational Amendments of 1972 declared, in part that:

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

This District receives federal financial assistance. In order to continue receiving such federal financial assistance, this district must comply with Title IX and the regulations promulgated through the U.S. Department of Health, Education and Welfare by the Department's Office for Civil Rights interpreting Title IX. If any program or activity of this district fails to comply with Title IX, or the federal administrative regulations implementing Title IX, or public hearings would be held by the federal government which could result in the termination of federal funds to this district.

In addition to the sanction of nonreceipt of federal funds, however, the board of education is of the general view that discrimination on the basis of sex 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 provision of

1. This policy as in the case of any rule or regulation adopted by the Board of Education of this district; and,
  2. Title IX of the Education Amendments of 1972 and the regulations promulgated thereunder by the U.S. Department of Health, Education, and Welfare, as Part 86, Title 45, U.S. Code, printed also in the U.S. Federal Register, Vol. 40, No. 108, Wednesday, June 4, 1975, as amended, as Title IX and as such regulations are applicable to this district.
- B. Application to Specific Education Programs and Activities. This policy's prohibition against action by employees or other persons acting in the name and on the behalf of this district which bases any exclusion from participation in, denial of benefits from, or discrimination in, any educational program or activity because of the sex of a student or employees, 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, except that with respect to physical education classes and activities at the elementary and secondary school levels, compliance shall be attained as expeditiously as possible but in no event later than July 21, 1976 at the elementary school level and July 21, 1978 at the secondary school level. This policy's prohibition 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;
  - (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 that separate teams for members of each sex may be operated:
  - (1) when the sport involved is a contact sport; or
  - (2) where selection for the separate teams is based upon competitive skill, provided that where there is not now and has been no such team for the excluded sex, members of the excluded sex must be allowed to tryout for the team unless the sport involved is a contact sport, as defined in paragraph l.s.(2) of this policy above.

Moreover, equal athletic opportunity shall be provided for members of both sexes, including equal provision for equipment, supplies, coaching, facilities, services and publicity, except that unequal aggregate expenditures of funds for members of each sex or male and female teams will not in and of itself constitute a violation of this policy.

Full compliance with this shall be attained as expeditiously as possible but in no event later than July 21, 1976, at the elementary school level and July 21, 1978, at the secondary school level.

- 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 offering scholarship or other aid or assisting non-school organizations in offering of scholarships 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 any employment assistance program 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. Health and Insurance. Applies to all health or insurance policies offered to students but does not prohibit providing benefits or services which may be used by a different proportion of students of one sex than of the other, including family planning. If full coverage is provided, such coverage must include gynecological care.
- d. Housing. Nothing in this policy shall be interpreted as prohibiting the separation of students by sex in housing for field trips or other reasons. Such separate housing must be comparable in quality and availability.
- e. 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.

No rule on marital, family, or parental status that treats one sex different from the other sex shall be applied to enforce.

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 unless

it is valid predictor of job success and alternative tests or criterion are unavailable;

- 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;
- c. Compensation. Establishment of rates of pay on the basis of sex;
- d. Job Classification. Classification of jobs as being for males or females;
- e. Fringe Benefits. Provision of fringe benefits on basis of sex; all fringe benefit plans must treat males and females equally;
- 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 application 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. Any expression of preference, limitation, or specification based on sex, unless sex in a bona fide occupational qualification for the particular job in question.

C. Policy Enforcement. To ensure compliance with this policy, the Superintendent shall:

- 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; and
  - 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, 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 in violation of this policy, may file a written complaint with the compliance administrator designated in paragraph C.1., of this policy, above. The compliance administrator shall cause a review of the written complaint to be conducted and a written response mailed to the complainant within ten working days after receipt of the written complaint. 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 response.

The Board of Education shall permit the complainant to address the Board in public or closed session, as appropriate and lawful, concerning his or her complaint and shall provide the complainant with its written decision in the matter as expeditiously as possible following completion of the hearings.

- E. Evaluation. The superintendent shall present a report to the Board of Education in a public meeting on or about July 21, 1976, and in a public meeting to be held on or about the anniversary of that date each year thereafter, describing this district's compliance with this policy during the previous year, which report can be the basis of an evaluation of the effectiveness of this policy by the Board of Education and a determination as to whether or not additional affirmative action is necessary in light of all the facts.

Readopted:     Date of Manual Recodification

Legal Refs.:    cited above