

REGULATION

Hopewell Valley Regional Board of Education

Teaching Staff Members
4281/Inappropriate Staff Conduct

R3281 INAPPROPRIATE STAFF CONDUCT

Inappropriate conduct by a school staff member will not be tolerated by the Board of Education. Policy No. 3281 and this Regulation have been developed and adopted by this Board to provide guidance and direction to avoid actual and/or the appearance of inappropriate conduct and conduct unbecoming a school staff member **with to pupil students, fellow employees and/or community members.**

A. Definitions

1. "Building Principal" is the Principal of the building where the staff member is assigned.
2. "Grievance Procedure" is the grievance procedure that provides for prompt and equitable resolution of inappropriate conduct or conduct unbecoming a school staff member.
3. "Hostile Environment Sexual Harassment" is ~~sexual harassment~~ **sexual harassment of a sexual nature conduct**, which ~~can~~ **may** include sexual advances, requests for sexual favors, or other favors; ~~or~~ other verbal, nonverbal, or physical conduct of a sexual nature that ~~is~~ **are** sufficiently severe, persistent, or pervasive **and** ~~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.
4. The "immediate supervisor" for teaching staff members may be a Building Principal, a member of the school district's non-instructional supervisory staff and/or the School Business Administrator/Board Secretary.
5. "Inappropriate comments" includes, but **are** is not limited to: ~~;~~ comments of a sexual nature, sexually oriented humor or language; ~~;~~ inappropriate comments about a student's clothing or physical appearance, comments with sexual overtones; ~~;~~ comments regarding a student's **identity, companions or** dating partner or comments about the staff member's personal life that are not relevant to the professional responsibility of the school staff member.
6. "Inappropriate conduct" includes, but is not limited to: ~~;~~ sexual misconduct; ~~;~~ a request by a school staff member to a student ~~for~~ **to enter into** a social relationship outside the school staff/student **relationship, including unannounced or uninvited visits or providing transportation in a staff-owned vehicle** ; ~~;~~ sexually ~~harassing~~ ~~conduct~~; ~~;~~ inappropriate touching **of a student by the staff member to a student or permitting a student to inappropriately touch a staff member;** ~~;~~ **and corporal punishment. Other examples of inappropriate conduct include: requesting a student to expose private parts of their body, other than for legitimate school medical purposes or as specified in a students educational plan, either IEP or health plan (e.g. toileting);** ~~;~~ ~~and~~ ~~or~~ a staff member exposing their own private parts of their body to a student.

The Board recognizes that codes of conduct and socially acceptable behaviors and norms continue to change and evolve. As a result, staff members are advised against touching students unless absolutely necessary for the safety or health of the student. Staff members who work with special needs students who require

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physical contact to perform a specific task (e.g. hand over hand instruction) receive annual training regarding how to work with students in an appropriate manner.

The reasons/intent for touching a student may be misconstrued by the parties involved; ~~Inappropriate conduct also includes physical contact between a staff member and student that is not~~ **absolutely necessary for the safety or health of the student beyond the staff member/pupil professional relationship is considered inappropriate.**

7. "Inappropriate Contact" **Inappropriate contact includes: touching of a student by the staff member or permitting a student to inappropriately touch a staff member;; corporal punishment;; requesting a student to expose private parts of their body, other than for school medical purposes, and; or a staff member exposing their own private parts of their body to a student;** kissing;; touching or feeling private parts of the body;; holding hands or arms;; and other contact that ~~typically shows a sign of~~ **demonstrates** affection beyond the staff member/student professional relationship **(e.g. beyond hand shaking or "high fiving")**.

~~"Inappropriate conduct" does not include a hug initiated by a pupil as a sign of the pupil's appreciation to a school staff member at a school sponsored activity such as school banquets, school recognition programs, graduations, etc. "~~

8. "Inappropriate language or expression" includes, but is not limited to:; the use of any profanity;; obscene language;; public lewdness or the use of public lewdness;; comments with sexual overtones;; **comments which refer to a student's identity** distribution and/or discussion of any pornography.
9. "Inappropriate staff conduct" is any conduct prohibited by this Policy and corresponding Regulation including any other conduct deemed by the Commissioner of Education, the State Board of Education, statute, administrative code, and/or the judicial case law to be inappropriate conduct and/or conduct unbecoming a school staff member.
10. Inappropriate staff conduct includes bullying, intimidation or harassment of students, fellow employees and/or community members.
11. "Quid Pro Quo Sexual Harassment" **occurs** ~~is~~ when a school employee explicitly or implicitly conditions a student's participation in an educational program or activity or bases an educational decision on the student'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 student resists and suffers the threatened harm or submits and thus avoids the threatened harm.
12. "Professional responsibility or responsibilities" **are** ~~is~~ the responsibilities of the staff member including, but not limited to, all school district sponsored extra-curricular activities, co-curricular activities, athletic coaching responsibilities; and other instructional or non-instructional positions and responsibilities appointed and/or assigned by the administration or Board.

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13. "Promptly report" is reporting by the end of the next school day. If school is not in session the next day, then **reporting should occur** by the end of the first day after the weekend or holiday break. If this reporting time would exceed seventy-two hours, the staff member shall notify the Assistant Superintendent no later than seventy-two hours after the required reporting time.
 14. "Sexual Harassment" is to include quid pro quo sexual harassment and/or hostile environment sexual harassment.
 15. "Staff member" or "school staff member" is a compensated and/or uncompensated (**volunteer**) member of the school district's staff, including any agents and/or representatives of the school district.
 16. "Unannounced or uninvited visit" is a student visiting, without prior notice to the staff member or without an invitation from the staff member, the staff member's residence and/or other place where the staff member may be when not performing school related professional responsibilities.
- B. Reporting Procedure
1. **Reporting of suspected infractions can take place via anonymous tip line, interviews, email, texts, phone calls, etc.**
 2. Any staff member who believes, or has reason to believe a student is seeking a relationship with the staff member beyond his/her professional responsibilities must promptly report this information to the Building Principal or immediate supervisor.
 3. Any staff member who believes, or has reason to believe a student is seeking a relationship with another staff member beyond the professional responsibilities of the other staff member or believes, or has reason to believe, another staff member is seeking a relationship with a student beyond the professional responsibilities of the other staff member must promptly report this information to the Building Principal or immediate supervisor.
 4. Any staff member who believes he/she had, or may have, engaged in conduct prohibited by this Policy and Regulation must promptly report the conduct to the Building Principal or immediate supervisor.
 5. Failure of a staff member to report conduct they know, or had reason to know, is prohibited by this Policy and Regulation and will result in appropriate disciplinary action.
 6. Any student, parent, legal guardian and/or other person(s) who believes, or has reason to believe, a staff member has engaged in conduct prohibited by this Policy and Regulation shall promptly report the conduct to the Assistant Superintendent.
 7. Any person, including school staff, may make an anonymous report to the Assistant Superintendent if the person in good faith believes, or has reason to believe, a staff member has engaged in conduct prohibited by this Policy and Regulation.

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C. Reasonable cause to believe a student has been subjected to child abuse or neglect or acts of child abuse or neglect as defined under [N.J.S.A. 9:6-8.10](#)

1. School staff having reasonable cause to believe a student has been subjected to child abuse or neglect or acts of child abuse or neglect as defined under [N.J.S.A. 9:6-8.10](#) are required to immediately report to the **New Jersey Division of Child Protection and Permanency** ~~Division of Youth and Family Services~~ and **local law enforcement** in accordance with [N.J.A.C. 6A:16-10.1 et seq.](#) and inform the Building Principal or immediate supervisor after making such report. **Once notification is made to New Jersey Division of Child Protection and Permanency (DCP&P) and law enforcement, the District must defer to the authorities and refrain from any investigation of its own while external investigations are being conducted. The District will assist in the external investigation as requested or required; however, the District may not be privy to all of the details contained in those investigations.**
2. **Any report to New Jersey Division of Child Protection and Permanency (DCP&P) must be entered into the district-wide confidential reporting system that will include the day and time of the contact, the individual contacted and the outcome.**
3. **Any report to the New Jersey Division of Child Protection and Permanency (DCP&P) related to inappropriate conduct of a staff member, must be reported to the Board of Education president immediately and must be reported to the full Board during executive session at their next regular meeting. The details of the report shall include the nature of the report and the employee number; the student's identity will remain anonymous.**

D. Investigation of Reports

1. An immediate supervisor or Building Principal who receives a report that a staff member engaged in, or may have engaged in conduct prohibited by this Policy and Regulation will immediately notify the Assistant Superintendent.
2. The Assistant Superintendent will begin a prompt and thorough investigation of every report.
3. The Assistant Superintendent or the Superintendent will take such appropriate action as provided for in the law and as necessary at any time after receiving a report. This action may include, but is not limited to: notifying law enforcement; notifying the New Jersey ~~Department of Children and Families~~ **Division of Child Protection and Permanency (DCP&P) and local law enforcement** if there is reasonable cause to believe a student has been subjected to child abuse or neglect or acts of child abuse or neglect as defined under N.J.S.A. 9:6-8.10 and in accordance with [N.J.A.C. 6A:16-11.1 et seq.](#); and/or any other measure provided for in the law.
4. **If the allegations include sexual conduct, the District must immediately contact the New Jersey Division of Child Protection and Permanency in accordance with [N.J.A.C. 6A:16-11.1](#) and local law enforcement.**

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E. Preliminary Investigation of Reports by Others

- 1. Once notification is made to DCP&P and law enforcement, the District must defer to the authorities and refrain from any investigation of its own while external investigations are being conducted. The District will assist in the external investigation as requested or required; however, the District may not be privy to all of the details contained in those investigations.**
- 2. At the conclusion of and based upon, the determinations of DCP&P and law enforcement,** the Assistant Superintendent will begin a prompt, thorough, and impartial investigation, **as necessary**. The preliminary investigation will be completed no more than ten working days after the Assistant Superintendent received the report.
3. The Assistant Superintendent's preliminary investigation may include, but is not limited to; interviews with staff members who may have potential knowledge of the alleged conduct; interviews with any **consenting** student who may have potential knowledge of such conduct; interviews with parent(s)/legal guardian(s) or any other persons who may have potential knowledge of the alleged conduct; and interview(s) with the school staff member(s) and student(s) reported to have engaged in conduct prohibited by this Policy and Regulation.
4. The Assistant Superintendent will request, if relevant to an investigation, the parent(s)/legal guardian(s) of any student involved in the investigation to assist in the investigation to determine if inappropriate staff conduct may have existed.
5. If, based on a preliminary investigation, the Assistant Superintendent determines conduct prohibited by this Policy and Regulation did not occur, the Assistant Superintendent will meet with the staff member(s) and the parent(s)/legal guardian(s) of the student(s) reported to review the results of the Assistant Superintendent's preliminary investigation. The preliminary investigation report indicating inappropriate conduct did not occur will be in writing and will be provided to the staff member(s) and to the parent(s)/legal guardian(s) if requested. The Assistant Superintendent will maintain a separate file for all such reports and the report will not be included in the staff member's personnel file.
6. If, based on a preliminary investigation, the Assistant Superintendent deems inappropriate staff conduct may have occurred, he/she will immediately notify and meet with the staff member(s) and the parent(s)/legal guardian(s) of the student(s) indicated in the report to review the procedures to be followed in a continued full investigation. A copy of this Regulation and corresponding Policy will be provided to the staff member(s) and to the parent(s)/legal guardian(s) of the student indicated in the report upon request.

F. Full Investigation

1. The Assistant Superintendent, finding that inappropriate staff conduct may have occurred after the preliminary investigation **or the allegations are sexual in nature**, requires

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a full investigation. This full investigation may be conducted in cooperation with the New Jersey Department of Children and Families in accordance with [N.J.A.C. 6A:16-11.1](#) and/or local law enforcement.

2. The Assistant Superintendent will conduct the full investigation if the New Jersey Department of Children and Families and/or local law enforcement does not intervene or if the allegations do not meet the reporting requirements of [N.J.A.C. 6A:16-11.1 et seq.](#) for reporting to the New Jersey Department of Children and Families and/or of [N.J.A.C. 6A:16-6.3](#) for reporting to law enforcement.
3. The full investigation will include, but not be limited to, interviews with the staff member(s), **consenting** student(s), parent(s)/legal guardian(s) and any other persons who know, or would have reason to know, **that** a staff member may have engaged in inappropriate staff conduct.
4. The Assistant Superintendent will accept testimony and evidence from the staff member(s), student(s), parent(s)/legal guardian(s) and other persons who may have information relevant to the investigation.
5. All persons that provide information, testimony and evidence to the Assistant Superintendent relative to a report will be informed **that** the information, testimony and evidence may be used in additional investigations and/or hearings as determined by the Superintendent of Schools.
6. Upon the conclusion of the interviews and review of the information, testimony and evidence, the Assistant Superintendent will prepare a written report to the Superintendent of Schools. The report will provide a summary of the interviews and information, testimony and evidence and, if possible, a finding from the Assistant Superintendent.
7. If the Assistant Superintendent's full investigation report finds inappropriate staff conduct and/or conduct unbecoming a school staff member did not occur and the Superintendent concurs with the report's findings, the Assistant Superintendent will notify and meet with the staff member(s) and the parent(s)/legal guardian(s) of the student(s) investigated to review the findings.
8. If the Assistant Superintendent's full investigation report finds inappropriate staff conduct and/or conduct unbecoming a school staff member may have occurred and the Superintendent concurs with the report's findings, the Superintendent may take such appropriate action necessary and as provided for in the law. This action may include, but is not ~~be~~ limited to:
 - a. ~~Providing~~ **ing** the staff member an opportunity to rebut the findings of the Assistant Superintendent's full investigation report and findings;
 - b. A ~~Recommendation~~ **action** to the Board of Education ~~to the withholding of~~ the staff member's salary increment/increase for the subsequent school year;
 - c. ~~Not A recommendation to not~~ **the staff member be re-appointed the staff member** for the next school year;

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- d. **A recommendation** to the Board of Education **that** the staff member be terminated for inappropriate staff conduct and/or conduct unbecoming a school staff member;
 - e. **Institution of** tenure charges (if applicable) in accordance with N.J.S.A. 18A and N.J.A.C. 6A; and/or
 - f. **A Recommendation** to the Board of Education any other disciplinary measures as the Superintendent of Schools determines to be appropriate under the circumstances and in accordance with any collective bargaining agreements between the employee representative association and the Board of Education.
9. If the Superintendent does not concur with the findings of the Assistant Superintendent's full investigation, the Superintendent may continue the investigation, which may include testimony and/or evidence from additional witnesses; a discussion(s) with those who have already provided information to the Assistant Superintendent; a discussion(s) with the student(s) and parent(s)/legal guardian(s) and any activity the Superintendent believes would be helpful to the continued investigation. The results of the continued investigation conducted by the Superintendent will proceed consistent with paragraphs 7. and 8. above.
10. Any person who is not satisfied with the Superintendent's determination may appeal to the Board of Education.

Adopted: April 27, 2009

Revised , First Reading: November 18, 2019, Second Reading and Adoption: