



3281 **INAPPROPRIATE STAFF CONDUCT**

The Board of Education recognizes its responsibility to protect the health, safety and welfare of all students within this school district. Furthermore, the Board recognizes there exists a professional responsibility for all school staff to protect a student's health, safety and welfare. The Board strongly believes that school staff members have the public's trust and confidence to protect the well-being of all students attending the school district.

In support of this Board's strong commitment to the public's trust and confidence of school staff, the Board of Education holds all school staff to the highest level of professional responsibility in their conduct with all students. Inappropriate conduct and conduct unbecoming a school staff member will not be tolerated in this school district.

The Board recognizes and appreciates the staff-student professional relationship that exists in a school district's educational environment. This Policy has been developed and adopted by this Board to provide guidance and direction to avoid actual and/or the appearance of inappropriate staff conduct and conduct unbecoming a school staff member toward students.

School staff's conduct in completing their professional responsibilities shall be appropriate at all times. School staff shall not make inappropriate comments to students or about students and shall not engage in inappropriate language or expression in the presence of students. School staff shall not engage in inappropriate conduct toward or with students. School staff shall not engaged in inappropriate conduct toward or with other staff members. School staff shall not engage or seek to be in the presence of a student beyond the staff member's professional responsibilities. School staff shall not provide transportation to a student in their private vehicle or permit a student into their private vehicle unless there is an emergency or a special circumstance that has been approved in advance by the Building Principal/immediate supervisor and the parent.

Inappropriate conduct by a school staff member outside their professional responsibilities may be considered conduct unbecoming a staff member. Therefore, school staff members are advised to be concerned with such conduct which may include, but is not limited to, communications and/or publications using e-mails, text-messaging, social networking sites, or any other medium that is directed and/or available to students or for public display.

A school staff member is always expected to maintain a professional relationship with students and protect the health, safety and welfare of school students. A staff member's conduct will be held to the professional standards established by the New Jersey State Board of Education and the New Jersey Commissioner of Education. Inappropriate conduct or conduct unbecoming a staff member may also include conduct not specifically listed in this Policy, but conduct determined by the New Jersey State Board of Education, the New Jersey Commissioner of Education, an arbitration process, and/or appropriate courts to be inappropriate or conduct unbecoming a school staff member.



Policy/Regulations

East Orange Board of Education

TEACHING STAFF MEMBERS - POLICY
3281/page 2 of 2
Inappropriate Staff Conduct

School personnel, compensated and uncompensated (volunteers), are required to report to their immediate supervisor or Building Principal any possible violations of this Policy. In the event the report alleges conduct by the Building Principal or the immediate supervisor, the school staff member may report directly to the Director of Labor Relations and Employment Services. In addition, school personnel 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 Department of Children and Families in accordance with N.J.A.C. 6A:16-11.1 et seq. and inform the Building Principal or immediate supervisor after making such report. However, notice to the Building Principal or designee need not be given when the school staff member believes such notice would likely endanger the referrer or child(ren) involved or when the staff member believes that such disclosure would likely result in retaliation against the child or in discrimination against the referrer with respect to his/her employment.

Reports may be made in writing or with verbal notification. The immediate supervisor or Building Principal will notify the Director of Labor Relations and Employment Services of all reports, including anonymous reports. The Director of Labor Relations and Employment Services will investigate all reports with a final report to the Superintendent of Schools. The Director of Labor Relations and Employment Services upon reviewing an initial report or the Superintendent, upon reviewing the Director of Labor Relations and Employment Services' investigative report, may take such appropriate action as necessary and as provided for in the law. This may include, but is not limited to, notifying law enforcement, notifying the New Jersey Department of Children and Families in accordance with N.J.A.C. 6A:16-11.1 et seq., and/or any other measure provided for in the law.

This Policy will be distributed to all school staff and provided to staff members at any time, upon request.

N.J.S.A. 18A:28-5 et seq.; N.J.A.C. 6A:16-10.1 et seq.

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Policy/Regulations

East Orange Board of Education

TEACHING STAFF MEMBERS - REGULATION

R 3281/page 1 of 7

Inappropriate Staff Conduct

R 3281 **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 to students.

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 harassing conduct, which can include sexual advances, requests for sexual favors, or other favors, or other verbal, nonverbal, or physical conduct of a sexual nature that is sufficiently severe, persistent, or pervasive to limit a student'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 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 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 a social relationship outside the school staff/student relationship, sexually harassing conduct, inappropriate touching by the staff member to a student or permitting a student to inappropriately touch a staff member, corporal punishment, requesting a student to expose private parts of their body,



Policy/Regulations

East Orange Board of Education

TEACHING STAFF MEMBERS - REGULATION

R 3281/page 2 of 7

Inappropriate Staff Conduct

other than for school medical purposes, and a staff member exposing their own private parts of their body to a student. Inappropriate conduct also includes physical contact between a staff member and student that is beyond the staff member/student professional relationship. This contact includes, but is not limited to, kissing, touching or feeling private parts of the body, holding hands or arms, and other contact that typically shows a sign of affection beyond the staff member/student professional relationship. "Inappropriate conduct" does not include a hug initiated by a student as a sign of the student's appreciation to a school staff member at a school sponsored activity such as school banquets, school recognition programs, graduations, etc.

7. "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, distribution and/or discussion of any pornography.
8. "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.
9. "Quid Pro Quo Sexual Harassment" 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.
10. "Professional responsibility/or responsibilities" 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.
11. "Promptly report" is reporting by the end of the next school day. If school is not in session the next day, then 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 Director of Human Resources no later than seventy-two hours after the required reporting time.
12. "Sexual Harassment" is to include quid pro quo sexual harassment and/or hostile environment sexual harassment.



Policy/Regulations

East Orange Board of Education

TEACHING STAFF MEMBERS - REGULATION

R 3281/page 3 of 7

Inappropriate Staff Conduct

13. "Staff member" or "school staff member" is a compensated and/or uncompensated member of the school district's staff, including any agents and/or representatives of the school district.
14. "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. 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.
2. 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.
3. 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.
4. 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.
5. Any student, parent, 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 Director of Labor Relations and Employment Services.
6. Any person, including school staff, may make an anonymous report to the Director of Labor Relations and Employment Services 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.



Policy/Regulations

East Orange Board of Education

TEACHING STAFF MEMBERS - REGULATION

R 3281/page 4 of 7

Inappropriate Staff Conduct

7. 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 Department of Children and Families in accordance with N.J.A.C. 6A:16-11.1 et seq. and inform the Building Principal or immediate supervisor after making such report.
- C. Investigation of Reports
1. An immediate supervisor or Building Principal who receives a report a staff member engaged in, or may have engaged in, conduct prohibited by this Policy and Regulation will immediately notify the Director of Human Resources.
 2. The Director of Labor Relations and Employment Services will begin a prompt and thorough investigation of every report.
 3. The Director of Labor Relations and Employment Services 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 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.
- D. Preliminary Investigation of Reports by Others
1. The Director of Labor Relations and Employment Services will begin a prompt, thorough, and impartial investigation. The preliminary investigation will be completed no more than ten working days after the Director of Human Resources received the report.
 2. The Director of Labor Relations and Employment Services' 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 students who may have potential knowledge of such conduct, interviews with parent(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.
 3. The Director of Labor Relations and Employment Services will request, if relevant to an investigation, the parent(s) of any student involved in the investigation to assist in the investigation to determine if inappropriate staff conduct may have existed.



Policy/Regulations

East Orange Board of Education

TEACHING STAFF MEMBERS - REGULATION

R 3281/page 5 of 7

Inappropriate Staff Conduct

4. If, based on a preliminary investigation, the Director of Labor Relations and Employment Services determines conduct prohibited by this Policy and Regulation did not exist, the Director of Labor Relations and Employment Services will meet with the staff member(s) and the parent(s) of the student(s) reported to review the results of the Director of Labor Relations and Employment Services' preliminary investigation. The preliminary investigation report indicating inappropriate conduct did not exist will be in writing and will be provided to the staff member(s) and to the parent(s) if requested. The Director of Labor Relations and Employment Services will maintain a separate file for all such reports and the report will not be included in the staff member's personnel file.
 5. If, based on a preliminary investigation, the Director of Labor Relations and Employment Services deems inappropriate staff conduct may have occurred, he/she will immediately notify and meet with the staff member(s) and the parent(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) of the student indicated in the report upon request.
- E. Full Investigation
1. The Director of Labor Relations and Employment Services, finding that inappropriate staff conduct may have occurred after the preliminary investigation, requires a full investigation. This full investigation may be conducted in cooperation with the Division of Youth and Family Services in accordance with N.J.A.C. 6A:16-10.2 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 Director of Labor Relations and Employment Services 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 Division of Youth and Family Services 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), students, parent(s) and any other persons who know, or would have reason to know, a staff member may have engaged in inappropriate staff conduct.
 4. The Director of Labor Relations and Employment Services will accept testimony and evidence from the staff member(s), student(s), parent(s) and other persons who may have information relevant to the investigation.



Policy/Regulations

East Orange Board of Education

TEACHING STAFF MEMBERS - REGULATION

R 3281/page 6 of 7

Inappropriate Staff Conduct

5. All persons that provide information, testimony and evidence to the Director of Labor Relations and Employment Services relative to a report will be informed 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 Director of Labor Relations and Employment Services 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 Director of Labor Relations and Employment Services.
7. If the Director of Labor Relations and Employment Services 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 Director of Labor Relations and Employment Services will notify and meet with the staff member(s) and the parent(s) of the student(s) investigated to review the findings.
8. If the Director of Labor Relations and Employment Services full investigative 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 to be limited to:
 - a. Provide the staff member an opportunity to rebut the findings of the Director of Labor Relations and Employment Services full investigation report and findings;
 - b. Recommend to the Board of Education the withholding of the staff member's salary increment/increase for the subsequent school year;
 - c. Not recommend the staff member be re-appointed for the next school year;
 - d. Recommend to the Board of Education the staff member be terminated for inappropriate staff conduct and/or conduct unbecoming a school staff member;
 - e. Institute tenure charges (if applicable) in accordance with N.J.S.A. 18A and N.J.A.C. 6A; and/or



Policy/Regulations

East Orange Board of Education

TEACHING STAFF MEMBERS - REGULATION

R 3281/page 7 of 7

Inappropriate Staff Conduct

- f. Recommend to the Board of Education any other disciplinary and/or legal 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 Director of Labor Relations and Employment Services full investigation, the Superintendent may continue the investigation, which may include testimony and/or evidence from additional witnesses, a discussion with those who have already provided information to the Director of Labor Relations and Employment Services, a discussion with the student(s) and parent(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 paragraph 7. and 8. above.
10. Any person who is not satisfied with the Superintendent's determination may appeal to the Board of Education.

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