

MODEL POLICY #9

RACIAL NON-DISCRIMINATION

Why Adopt This Policy?

Prohibiting racial discrimination of any kind is both required by law and is essential to ensuring children grow up knowing that it is the content of their character, not the color of their skin, that matters. This policy enshrines this ideal of equality within the District and provides specific examples of where district personnel may not use race as a factor in any decision.

Policy

The school board is committed to maintaining a learning environment in which discrimination based on race is strictly prohibited. This policy aims to ensure that every individual is treated fairly as an individual, regardless of race.

The School Board has adopted a non-discrimination policy in compliance with state and federal law that governs several protected categories, including race, sex, and religion, among others. However, given the current emphasis on race in education throughout the United States, the School Board believes it is critically important to emphasize that no employee of the District may use race as a factor in any decision regarding the treatment of any person, including students. As examples, (1) teachers and other district employees may not prioritize students for instruction, services, or support based on race, (2) offer clubs, scholarships, benefits, services, or trips based on race, (3) attempt to racially balance classrooms, teams, sports, clubs, or other groups based on race, (4) alter or adjust school policies, the enforcement of school policies, or any outcomes, such as discipline policies and academic outcomes, based on race, (5) disaggregate data in such a way as to evaluate student or staff performance or discipline based on race, or (6) require, support, endorse, permit, or facilitate the segregation by race in any way of any person, including students and teachers (this would include the use of so-called racial “affinity groups”). School employees are prohibited from making decisions, changing policy, or otherwise acting based on race or on raw statistical disparities among racial groups. The phrase “based on race” should be read broadly to include any treatment, conduct, or action in which race is a factor in a decision or action. Race may never be used as a negative or stereotype in any situation. Racial groups, to the extent they need to be described, should be described carefully, thoughtfully, and accurately. Overall, it is the policy of this school district that all individuals should be treated as individuals, not as racial-group members. In short, all staff should act in a colorblind manner towards everyone.



Legal Analysis

This policy operates supplementary to other non-discrimination policies and applicable state and federal laws and does not replace them. The right to a public education “must be made available to all on equal terms” and

no public school has authority to “use race as a factor in affording educational opportunities.” *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181, 143 S. Ct. 2141, 216 L. Ed. 2d 857 (2023). The right of equality “requires equality of treatment before the law for all persons without regard to race or color.” *Id.* “The educational benefits of diversity” do not justify the use of race in any way in public education. *Id.* Describing racial groups in general terms, for example as broadly labeling a student as “Asian” or “Hispanic,” are in many ways “overbroad,” “underinclusive,” “arbitrary,” “incoherent,” “irrational,” and “undefined” and therefore constitutionally “imprecise” as a legal matter. *Id.* Caution should therefore be exercised in using these labels. Race can never be used as a “negative” or as a “stereotype.” *Id.* It is constitutionally impermissible for a public school to claim that “a black person can usually bring something that a white person cannot offer.” *Id.*



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