

PROHIBITION AGAINST DISCRIMINATION, HARASSMENT AND BULLYING BY OFFICIALS, EMPLOYEES, VOLUNTEERS AND VISITORS

The Board believes that all employees, students and their parents/families should be free of discrimination, harassment and bullying as part of a safe, orderly, caring, and inviting, working and learning environment. The Board expressly prohibits discrimination, harassment or bullying of students, employees and their parents/families, by Board members, employees, volunteers and visitors.

Any violation of this Policy is considered a serious violation and appropriate action will be taken in response to a violation.

A. APPLICATION OF POLICY

This Policy will apply in the following circumstances:

1. While in any school building or on any school system premises before, during, or after school hours.
2. While on any bus or other vehicle as part of any school activity.
3. While waiting at any bus stop.
4. During any school function, extracurricular activity or school sponsored function.
5. When subject to the authority of school personnel.
6. During any time, at any place or using any method of communication, including but not limited to electronic communications, when the behavior has a direct and immediate effect on maintaining order and discipline in the school or at a school related activity.

B. DEFINITIONS

For purposes of this Policy, the following definitions will apply:

1. **“Discrimination”**, means any act that unreasonably and unfavorably differentiates treatment of others based solely on their membership in a socially distinct group or category, such as race, ethnicity, gender, pregnancy, religion, age, or disability. Discrimination may be intentional or unintentional.
2. **“Harassment” or “Bullying”**, means acts reasonably perceived as being motivated by any actual or perceived differentiating characteristic, including race, ethnicity, ancestry, color, national origin, gender, socio-economic status, academic status, gender identity, physical appearance, sexual orientation, pregnancy, religion, age, mental, physical, developmental or sensory disability, or by an association with a person who has or is perceived to have one or more of these characteristics, and which constitute a pattern of gestures or written, electronic or verbal communications or any physical act or any threatening communication that takes place on school property, at any school sponsored function, on a school bus, or in connection with any of the other circumstances listed in section A of this Policy, and that:
 - a. Places a student or school employee in actual and reasonable fear of harm to his or her person or damage to his or her property; or
 - b. Creates or is certain to create a hostile environment by substantially interfering with or impairing a student’s educational performance, opportunities, or benefits. As used in this Policy, the term “hostile environment” means that the victim

subjectively views the conduct as bullying or harassment and the conduct is objectively severe or pervasive enough that a reasonable person would agree that it is bullying or harassment. Harassing or bullying behavior may include in appropriate circumstances and consistent with the definition above, but is not necessarily limited to: threats, epithets, derogatory comments or slurs, lewd propositions, assault, impeding or blocking movement, offensive touching or any physical interference with normal work or movement, and visual insults, such as derogatory posters or cartoons; or

- c. Meets the definition of “sexual harassment” below.

Legitimate age-appropriate pedagogical techniques are not considered harassment or bullying.

3. **“Sexual Harassment”**, as used in this Policy, is conduct of a sexual nature, which occurs in the following circumstances:
 - a. Submission to such conduct is made, either explicitly or implicitly, a term or condition of an individual’s employment, academic progress, or completion of a school-related activity; or
 - b. Submission to or rejection of such conduct is used as the basis for employment decisions affecting such individual, or in the case of a student, submission to or rejection of such conduct is used in evaluating the individual’s performance within a course of study or other school-related activity; or
 - c. Such conduct is sufficiently severe, persistent or pervasive so that it has the purpose or effect of substantially interfering with an employee’s work or performance or a student’s educational performance; substantially limiting a student’s ability to participate in or benefit from an educational program or environment, or creating an abusive, intimidating, hostile, or offensive work or educational environment. The terms “abusive environment”, “intimidating environment” and “offensive environment”, as used in this Policy, mean that the victim subjectively views the conduct as sexual harassment and the conduct is objectively severe or pervasive enough that a reasonable person would agree that it is sexual harassment.

Sexual harassment may occur between members of the same sex or members of the opposite sex. Examples of sexually harassing conduct may include, but are not limited to the following:

- a. Deliberate, unwelcome touching of a sexual nature or that takes on sexual connotations.
- b. Suggestions or demands for sexual involvement accompanied by implied or overt promises of preferential treatment or threats.
- c. Continued or repeated offensive and unwanted sexual flirtations, advances, propositions or pressure for sexual activity.
- d. Continued, repeated and unwanted verbal remarks about an individual’s body.
- e. Sexually degrading words used toward an individual or to describe an individual or the display of sexually suggestive objects or pictures.
- f. The use of personal or school electronic communications to convey sexually inappropriate words, pictures or images.

1. “**Visitor(s)**” include persons, agencies, vendors, contractors and organizations doing business with or performing services for the school system.

It is possible for discrimination, harassment or bullying to occur at various levels including but not limited to: between co-workers, between supervisors and subordinates, between employees and students, or imposed by non-employees, including volunteers or visitors on employees and/or students or their families. Harassment or bullying may also be between students (refer to Policy 8307, Prohibition Against Harassment And Bullying By Students).

C. DISCRIMINATION, HARASSMENT OR BULLYING COMPLAINT PROCEDURES

Complaints and investigations of discrimination, harassment or bullying, may be initiated and will be investigated using the procedures outlined below. (For complaints and investigations of harassment or bullying by students, refer to Policy 8307, Prohibition Against Harassment And Bullying By Students).

1. Employees who believe or suspect that a student or employee has been discriminated against, harassed or bullied in violation of this Policy, shall report such information to the person set forth in paragraph C. 9. below using the *Discrimination, Harassment, or Bullying Reporting Form* (“Reporting Form”). All other persons are encouraged to and should report suspected violations of this Policy to as set forth in paragraph C. 9. below. Persons other than employees are not required to use the Reporting Form, but are encouraged to do so. A complaint or report of discrimination, harassment or bullying may be made anonymously, except that employees must sign the Reporting Form; however, neither the person reporting, the alleged victim nor witnesses can be promised confidentiality at the onset of an investigation due to the fact that it cannot be predicted what information will be discovered or if a hearing may result from the ultimate outcome of the investigation.
2. *Discrimination Harassment or Bullying Reporting Forms* may be obtained in the school's main (front) office, counselors' office and other locations determined by the school. A student may request assistance from a staff member to complete the Reporting Form if the student wishes.
3. *Discrimination, Harassment, or Bullying Reporting Forms* may also be obtained electronically from the school system's website, or the school's website.
4. *Discrimination, Harassment, or Bullying Reporting Forms* will be included in the beginning of the year packets for students and their parents/guardians.
5. Once a Reporting Form or other report is received, the appropriate investigating person, will initiate an investigation using the *Discrimination, Harassment or Bullying Incident Investigation Form* within two school days after receipt of a complaint or as timely as reasonably possible. The Board recognizes that some complaints may be addressed informally through such methods as conferences, or mediation, and the Board encourages the use of such procedures to the extent possible. If an informal process is used, the appropriate investigating person must notify the complainant that he or she has the option to request formal procedures at any time and must make a copy of this policy and other relevant policies available to the complainant. In those circumstances in which informal procedures fail or are inappropriate, or in which the complainant requests formal procedures, the procedures in paragraph C. 7 will apply. If the alleged victim is an employee who requests formal procedures, the procedures and timelines of the Grievance Procedure For Employees, Policy 6450, shall be followed in addition to the procedures in this Policy.

6. The person in charge of the investigation will notify the alleged victim, or if the alleged victim is a student, the parents/guardians of the alleged victim and alleged offender of the complaint.
7. The person in charge of a formal investigation will conduct a thorough investigation and will prepare a written report detailing the results of the investigation, and if appropriate, apply consequences and/or remedial actions. If the Division of Human Resources is not conducting the investigation, it will be consulted regarding any consequences or remedial action. (See paragraph C. 5. above for procedures to resolve complaints informally, when appropriate).
8. If it is determined that this Policy was violated, separate conferences with the victim, or the victim's parents/guardian if the victim is a student, and the offender will occur within two weeks after the investigation has been completed to determine whether the discrimination, harassment or bullying has continued and whether additional consequences and/or remediation need to be implemented. These conferences may occur as a part of the counseling intervention. The Principal or Principal's designee will determine which school staff will conduct these conferences if the offender worked at a school; otherwise the Director of Human Resources, Superintendent, Superintendent's designee or Board Chairman shall make such determination, as appropriate. This paragraph C. 8. shall not apply to employees who are on suspension or have been dismissed, or to volunteers or visitors who are no longer allowed on school premises.
9. In the following situations, the Reporting Form or other report or complaint shall be submitted to the person indicated below, who shall initiate and complete the investigation:

<u>If the Person Accused is:</u>	<u>Submit Reporting Form or Complaint to:</u>
School Principal	Director of Human Resources
Director of Human Resources	Assistant Superintendent for Human Resources
Assistant Superintendent for Human Resources	Superintendent
Superintendent	Board Chairperson and Board Attorney
Board Member other than Chairperson	Board Chairperson and Board Attorney
Board Chairperson	Board Attorney and Superintendent
Employee, Volunteer or Visitor at a school	School Principal
All other persons	Immediate Supervisor, who shall forward the complaint to the Director of Human Resources

D. PREVENTION, INTERVENTION, REMEDIATION, AND CONSEQUENCES

The Board recognizes that the prohibition of discrimination, harassment, bullying and wrongful reprisal and retaliation against individuals who report such acts, as well as subsequent and standard consequences and remedial actions, cannot be effective as prevention and intervention methods unless they are included as a part of a whole-school prevention/intervention program.

1. Prevention will include:

- a. Annual professional development for administrators and staff to review classroom management strategies to reduce negative behaviors.
 - b. Classroom guidance lessons.
 - c. Anti-discrimination, anti-bullying and anti-harassment programs.
2. Intervention/Remediation will include:
- a. Annual professional development to review policy and procedures for reporting discrimination, harassment and bullying.
 - b. Education/intervention for the offenders exhibiting discrimination, harassing or bullying behaviors will include teaching replacement behaviors, empathy, tolerance and sensitivity to diversity.
 - c. A continuum of interventions to prevent the discrimination, harassing or bullying behavior from continuing to occur.
 - d. Utilizing Human Resources staff members to provide additional assistance.

Consequences and remedial actions for officials, employees, volunteers or visitors committing acts of discrimination, harassment or bullying in violation of this Policy, and for persons engaged in prohibited reprisal or retaliation should be consistently and fairly applied after an appropriate investigation has determined that such an offense has occurred. The following is a list of consequences and remedial actions and is presented in no particular order, nor does it limit the imposition of other or additional disciplinary or remedial actions.

1. Standard Consequences and remedial actions:
 - a. Verbal warning.
 - b. Apology.
 - c. Written reprimand.
 - d. Personal growth plan.
 - e. Suspension without pay.
 - f. Dismissal.
 - g. Request to leave school system grounds and/or prohibition from returning to school grounds.

E. NON-RETALIATION

The Board prohibits reprisal or retaliation against any person who reports an act of discrimination, harassment or bullying, as long as the person did not know or have reason to believe that the report was false. The consequence and appropriate remedial action for a person who engages in wrongful reprisal or retaliation shall be determined by the appropriate administrator, after consideration of the nature and circumstances of the act, in accordance with applicable federal, state or local laws, policies and regulations.

F. TRAINING AND PROGRAMS

The Superintendent shall designate an employee(s) to participate in training by the Department of Public Instruction pertaining to anti-discrimination anti-harassment and anti-bullying. The designee will provide leadership and training in the school system regarding this Policy and state requirements.

As funds are available, the Board will provide additional training for officials, employees, volunteers and visitors regarding the Board's policy on discrimination, harassment and bullying and will create programs to address these issues. The Superintendent will ensure that any training or programs provided will include indentifying groups that may be the target of discrimination, harassment or bullying, identifying places at which such behavior may occur, including within school buildings, at school bus stops, via the internet, etc., and providing clear examples of behavior that constitutes discrimination, harassment or bullying.

G. NOTICE

The Superintendent is responsible for providing effective notice to students, parents/guardians, employees, visitors and volunteers of the procedures for reporting and investigating complaints of discrimination, harassment or bullying. The dissemination of such information may be completed using the following techniques, as well as through others that may not be listed:

1. Student handbooks at the beginning of the school year.
2. School system website.
3. School websites.
4. Local media.
5. Brochures or handbooks.
6. Employee manuals.

H. COORDINATORS

The Superintendent or designee will publish the names, addresses and phone numbers of the "Title IX Coordinator" (for sex discrimination), "Section 504 Coordinator" (for discrimination on the basis of disability) and the "ADA Coordinator" (also for discrimination on the basis of disability) in a manner intended to ensure that employees, applicants, students, parents/guardians and other individuals who participate in the school system's program are aware of the coordinators. The purpose of the coordinator positions is to provide additional protection of nondiscrimination, non-harassment and non-bullying rights. The coordinator either must (1) implement a resolution to discrimination, harassment or bullying complaint, to the extent a resolution can be reached and the coordinator has the authority to implement corrective action or (2) notify the Superintendent that intervention by other school officials is required to resolve the situation.

I. RECORDS AND REPORTING

The Superintendent or his or her designee shall maintain confidential records of complaints or reports of discrimination, harassment and bullying which identify the names of any individuals accused and the resolution of such reports or complaints. The Superintendent also shall maintain records of training, corrective action or other steps taken by the system to help provide an environment free of discrimination, harassment and bullying.

The Superintendent shall report to the State Board of Education all verified cases of discrimination, harassment or bullying. The report will be made through the Discipline Data Collection Report or through other means required by the State Board.

J. DIVERSITY PROGRAMS

The Board is committed to promoting the worth and dignity of all individuals regardless of race, ethnicity, ancestry, color, religion, national origin, gender, socio-economic status, gender identity, physical appearance, sexual orientation, age or mental, physical, developmental, or sensory disability. The Board directs the Superintendent to establish training and other programs to help eliminate discrimination, harassment and bullying and to foster an environment of understanding and respect for all individuals.

K. EVALUATIONS

The Superintendent is required to evaluate the effectiveness of efforts to correct or prevent discrimination, harassment and bullying and will share these evaluations periodically with the Board.

L. CIVIL LIABILITY

This Policy is intended to provide guidance as to disciplinary action that shall or may be taken by the Board or administration for violations of this Policy. This Policy is not intended to, and shall not provide a basis for a civil cause of action or damages against the Board, its Board members, agents or employees, in favor of a victim of discrimination, harassment or bullying. Any cause of action or right to damages in favor of a victim of discrimination, harassment or bullying shall be as specified by applicable federal and/or state law.

Adopted: 3/2/10

LEGAL REFS: Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et. seq., 34 CFR. pt.100; Title VII of the Civil Rights Act of 1964, 42 USC. 2000e et. seq., 29 CFR pt. 1604; Title IX of the Education Amendments of 1972, 20 USC §1681 et. seq., 34 CFR pt. 106; Age Discrimination in Employment Act of 1967, 29 USC 621 et. seq.; The Rehabilitation Act of 1973, 29 USC 705(20), 794, 34 CFR pt. 104; Americans With Disabilities Act, 42 USC 12101 et. seq., 34 CFR pt. 35; Revised Sexual Harassment Guidance: Harassment of Students by School Employees, other Students, or Third Parties, US Department of Education, Office for Civil Rights (2001); Racial Incidents and Harassment Against Students at Educational Institutions, Investigative Guidance, US Department of Education, Office for Civil Rights (1994); Oncale v. Sundowner Offshore Services, 523 US 75 (1998); GS 115C-335.5, -407.9 through 407.12, -126-16; State Board of Education Policy HRS-A-007.

CROSS REF: Prohibition Against Harassment And Bullying By Students (Policy 8307); Grievance Procedure For Employees (Policy 6450).

New Hanover County Schools, Wilmington, North Carolina