PROHIBITION AGAINST DISCRIMINATION, HARASSMENT AND BULLYING

Policy Code : **1710/4021/7230**

The board acknowledges the dignity and worth of all students and employees and strives to create as safe, orderly, caring and inviting school environment to facilitate student learning and achievement. The board prohibits discrimination on the basis of race, color, national origin, sex, disability or age and will provide equal access to the Boy Scouts and other designated youth groups as required by law. The board will not tolerate any form of unlawful discrimination, harassment or bullying in any of its educational or employment activities.

A. PROHIBITED BEHAVIORS AND CONSEQUENCES

1. Discrimination, Harassment and Bullying

   Students, school system employees, volunteers and visitors are expected to behave in a civil and respectful manner. The board expressly prohibits unlawful discrimination, harassment and bullying

   Students are expected to comply with the behavior standards, established by board policy and the Code of Student Conduct. Employees are expected to comply with board policy and school system regulations. Volunteers and visitors on school property also are expected to comply with board policy and established school rules and procedures.

   Any violation of this policy is serious and school officials shall promptly take appropriate action. Students will be disciplined in accordance with the school's behavior management plan (see policy 4302, School Plan for Management of Student Behavior). Based on the nature and severity of the offense and the circumstances surrounding the incident, the student will be subject to appropriate consequences and remedial actions ranging from positive behavioral interventions up to, and including, expulsion.

   Employees who violate this policy will be subject to disciplinary action, up to, and including, dismissal. Volunteers and visitors who violate this policy will be directed to leave school property and/or reported to law enforcement, as appropriate, in accordance with policy 5020, Visitors to the Schools.

   When considering if a response beyond the individual level is appropriate, school administrators should consider the nature and severity of the misconduct to determine whether a classroom, school-wide or school system-response is necessary. Such classroom, school-wide or school system-wide responses may include staff training, harassment and bullying

prevention programs and other measures deemed appropriate by the superintendent to address the behavior.

2. Retaliation

The board prohibits reprisal or retaliation against any person for reporting or intending to report violations of this policy, supporting someone for reporting or intending to report a violation of this policy or participating in the investigation of reported violations of this policy.

After consideration of the nature and circumstances of the reprisal or retaliation and in accordance with applicable federal, state or local laws, policies and regulations, the superintendent or designee shall determine the consequences and remedial action for a person found to have engaged in reprisal or retaliation.

B. APPLICATION OF POLICY

This policy prohibits unlawful discrimination, harassment and bullying by students, employees, volunteers, and visitors. "Visitors" includes persons, agencies, vendors, contractors and organizations doing business with or performing services for the school system.

This policy applies to behavior that takes place:

1. in any school building or on any school premises before, during or after school hours;

2. on any bus or other vehicle as part of any school activity;

3. at any bus stop;

4. during any school sponsored activity or extracurricular activity;

5. at any time or place when the individual is subject to the authority of school personnel; and

6. at any time or place when the behavior has a direct and immediate effect on maintaining order and discipline in the schools.

7. By way of inclusion, but not limitation, this policy applies to the use of

computers, text messaging, cell phones, or other medium in a manner that materially and substantially interferes with the requirements of appropriate discipline in the operation of the schools.

C. DEFINITIONS

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

1. Discrimination

   Discrimination means any act or failure to 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, sex, pregnancy, religion, age, or disability. Discrimination may be intentional or unintentional.

2. Harassment and Bullying

   Harassment or bullying behavior is any pattern of gestures or written, electronic or verbal communications, or any physical act or any threatening communication that:

   (1) 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.

   (2) Creates or is certain to create a hostile environment by substantially interfering with or impairing a student's educational performance, opportunities or benefits.

   "Hostile environment" means that the victim subjectively views the conduct as harassment or bullying and that the conduct is objectively severe or pervasive enough that a reasonable person would agree that it is harassment or bullying. A hostile environment may be created through pervasive or persistent misbehavior or a single incident, if sufficiently severe. Harassment and bullying include, but are not limited to, behavior described above that is reasonable perceived as being motivated by any actual or perceived differentiating characteristic or motivated by an individual's association with a person who has or is perceived to have a differentiating characteristic such as race, color, religion, ancestry, national origin, gender, socioeconomic status,

academic status, gender identity, physical appearance, sexual orientation, or mental, physical, developmental or sensory disability. Examples of behavior that may constitute bullying or harassment include, but are not limited to, verbal taunts, name-calling and put-downs, epithets, derogatory comments or slurs, lewd propositions, exclusions from peer groups, extortion of money or possessions, implied or stated threats, 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. Legitimate age-appropriate pedagogical techniques are not considered harassment or bullying.

Harassment, including sexual or gender-based harassment, is not limited to specific situations or relationships. It may occur: between fellow students or co-workers, between supervisors and subordinates, between employees and students, or between non-employees, including visitors, and employees or students. Harassment may occur between members of the opposite sex or the same sex.

a. Unwelcome sexual advances, request for sexual favors and other verbal or physical conduct of a sexual nature constitutes sexual harassment when:

(1) Submission to the 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;

(2) Submission to or rejection of such conduct is used as the basis for employment decisions affecting the individual, or in the case of a student, submission to or rejection of such conduct is used in evaluating the student's performance within a course of study or other school-related activity; or

(3) Such conduct is sufficiently severe, persistent or pervasive that it has the purpose or effect of unreasonably interfering with an Employees work or performance or a student's educational performance, 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.

Sexually harassing conduct includes, but is not limited to, deliberate, unwelcome touching that has sexual connotations or is of a sexual nature, suggestions or demands for sexual involvement accompanied by implied or overt promises of preferential treatment or threats, pressure for sexual activity, continued or repeated offensive sexual flirtations, advances or propositions, continued or repeated verbal remarks about an individual's body, sexually degrading words used toward an individual or to describe an individual, or the display of sexually suggestive drawings, objects, pictures or written materials. Acts of verbal, nonverbal or physical aggression, intimidation or hostility based on sex, but not involving sexual activity or language, may be combined with incidents of sexually harassing conduct are sufficiently serious to create a sexually hostile environment.

b. Gender-based harassment is also a type of harassment. Gender-based harassment may include acts of verbal, nonverbal or physical aggression, intimidation or hostility based on sex or sex-stereotyping but not involving conduct of a sexual nature.

D. REPORTING AND INVESTIGATING COMPLAINTS OF DISCRIMINATION, HARASSMENT OR BULLYING

Employees are required to report any actual or suspected violations of this policy. Students, parents, volunteers, visitors or others are also strongly encouraged to report any actual or suspected incidents of discrimination, harassment or bullying. All reports should be made in accordance with policy 1720/4015/7225, Discrimination, Harassment and Bullying Complaint Procedure, and reported to one of the school officials identified in that policy. Reports may be made anonymously, and all reports shall be investigated in accordance with that policy.

E. TRAINING AND PROGRAMS

The board directs the superintendent to establish training and other programs that are designed to help eliminate unlawful discrimination, harassment and bullying and to foster an environment of understanding and respect for all members of the school community.

As funds are available, the board will provide additional training for students, employees and volunteers who have significant contact with students regarding the board's effort to address discrimination, harassment

and bullying and will create programs to address these issues. The training or programs should (1) provide examples of behavior that constitutes discrimination, harassment or bullying; (2) teach employees to identify groups that may be the target of discrimination, harassment or bullying; and (3) train school employees to be alert to locations where such behavior may occur, including locations within school buildings, at school bus stops, and on cell phones and the internet.

F. NOTICE

The superintendent is responsible for providing effective notice to students, parents and employees of the procedures for reporting and investigating complaints of discrimination, harassment and bullying. This policy must be posted on the school system website, and copies of the policy must be readily available in the principal's office, the media center at each school and the superintendent's office. Notice of this policy must appear in all student and employee handbooks and in any school system publication that sets forth the comprehensive rules, procedures and standards of conduct for students and employees.

G. COORDINATORS

The superintendent or designee shall appoint one or more individuals to coordinate the school system's efforts to comply with an carry out its responsibilities under federal non-discrimination laws. These responsibilities include investigating any complaints communicated to school officials alleging noncompliance with Title VI of Title IX of the Civil Rights Act, Section 504 of the Rehabilitation Act, the Americans with Disabilities Act (ADA), the Age Discrimination Act and/or the Boy Scouts Act, ofr alleging actions which would be prohibited by those laws. The superintendent or designee shall publish the name (s), office address (es) and phone number (s)of the compliance coordinator(s) a manner intended to ensure that students, employees, applicants, employees, applicants, parents and other individuals who participate in the school system's programs are aware of the coordinator (s) .

H. RECORDS AND REPORTING

The superintendent or designee shall maintain confidential records of complaints or reports of discrimination , harassment or bullying. The records must identify the names of all individuals accused of discrimination

and the resolution of such reports or complaints. The superintendent also shall maintain records of training conducted and corrective actions or other steps taken by the school system to 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 must be made through the Discipline Data Collection Report or through other means required by the State Board.

I. EVALUATION

The superintendent shall evaluate the effectiveness of efforts to correct or prevent discrimination, harassment and bullying and shall share these evaluations periodically with the board.

Legal References: Age Discrimination in Employment Act of 1967, 29 U.S.C. 621 *et seq.;* 34 C.F.R. pt. 110; Americans With Disabilities Act, 42 U.S.C. 12101 *et seq*.,, 28 C.F.R. pt. 35; Rehabilitation Act of 1973, 29 U.S.C. 705 (20), 794, 34 C.F.R. pt. 104; Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d e*t seq.*, 34 C.F.R. pt. 100; Title VII of the Civil Rights Act of 1964, 42 U.S.C, 2000e *et seq.*; 29 C.F.R. pt.1604; Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 *et seq., 34* C.F.R. pt. 106; Boy Scouts of America Equal Access Act, 20 U.S.C. 7905, 34 C.F.R. pt. 108; *Racial Incidents and Harassment Against Students at Educational Institutions; Investigative Guidance*, U.S. Department of Education, Office for Civil Rights (1994); *Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties,* U. S. Department of Education, Office for Civil Rights (2001); *Notice of Non-Discrimination,* U.S. Department of Education, Office for Civil Rights (2010); *Dear Colleague Letter*, U.S. Department of Education, Office for Civil Rights, (October 26, 2010, available at http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.pdf; Dear Colleague Letter, U.S. Department of Education, Office for Civil Rights, (April 4, 2011) available at http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.pdf; *Oncale v. Sundowner Offshore Services, 523 U.S. 75 (1998);*G.S. 115C-335.5, -407.9 through -407.12;126-16; State Board of Education Policy HRS-A-007

Cross References: Discrimination, Harassment and Bullying Complaint Procedure (policy 1720/4015/7225), Nondiscrimination on the Basis of Disabilities (1730/4022/7231), Prohibition Against Retaliation (1760/7280), Equal Educational Opportunities (policy 4001), School Plan for Management of Student Behavior (policy 4302), Visitors to the Schools (policy 5020). Community Use of Facilities (policy 5030),

Recruitment and Selection of Personnel (policy 7100), Professional Employees: Demotion and Dismissal (7930), Classified Personnel: Suspension and Dismissal (7940)

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