441 Page Street • P.O. Box 427
Troy, North Carolina 27371-0427
PHONE: (910) 576-6511 • FAX: (910) 576-2044

TO: Board of Education

FROM: Dr. Emily Shaw

DATE: September 9, 2024

Attached you will find proposed Policy Codes for your consideration:

- **Policy 1725/4035/7236** Title IX Sexual Harassment-Prohibited Conduct and Reporting Process
- **Policy 1725/4035/7236 R** Title IX Sexual Harassment-Definitions
- **Policy 1726/4036/7237** Title IX Sexual Harassment Grievance Process
- **Policy 7232** Discrimination and Harassment in the Workplace
- **Policy 1510/4200/7270** School Safety
- **Policy 1710/4020/7230** Discrimination and Harassment Prohibited by Federal Law
- **Policy 1720/4030/7235** Title IX Nondiscrimination on the Basis of Sex
- **Policy 1725/4035/7236 (NEW)** Title IX Sexual Harassment-Prohibited Conduct and Grievance Procedures
- **Policy 4023/7233** Pregnant and Parenting Students and Employees
- **Policy 4329/7311** Bullying and Harassing Behavior Prohibited
- **Policy 1300** Governing Principle-Parental Involvement
- **Policy 1500** Governing Principle-Safe, Orderly, and Inviting Enviornment
- **Policy 1600** Governing Principle- Professional Development
- **Policy 1700** Governing Principle-Removal of Barriers
- **Policy 1742/5060** Responding to Complaints
- **Policy 1760/7280** Prohibition Against Retaliation
- **Policy 2500 (Option B)** Hearings Before the Board
- **Policy 4040/7310** Staff-Student Relations

441 Page Street • P.O. Box 427
Troy, North Carolina 27371-0427
PHONE: (910) 576-6511 • FAX: (910) 576-2044

- **Policy 7335** Employees Use of Social Media
- **Policy 7820** Personnel Files

441 Page Street • P.O. Box 427
Troy, North Carolina 27371-0427

September 9, 2024

RE: Approval
Montgomery County School Board Policy

The following 4 policies represent the School Board Association's recommendations. The policies listed below should be rescinded. They have been superseded by the policies listed in the next section. These changes to the policy align with the new Title IX regulations.

Policy #	Name	Explanation
1725/4035/7236	Title IX Sexual Harassment–Prohibited Conduct and Reporting Process	• This policy has been superseded by policy1725/4035/7236, Title IX Sex Discrimination–Prohibited Conduct and Grievance Procedures
1725/4035/7236 R	Title IX Sexual Harassment–Definitions	• This policy has been superseded by policy 1725/4035/7236, Title IX Sex Discrimination–Prohibited Conduct and Grievance Procedures
1726/4036/7237	Title IX Sexual Harassment Grievance Process	• This policy has been superseded by policy 1725/4035/7236, Title IX Sex Discrimination–Prohibited Conduct and Grievance Procedures.
7232	Discrimination and Harassment in the Workplace	• The information in this policy is now addressed in policy 1710/4020/7230, Discrimination and Harassment Prohibited by Federal Law

The following 16 policies represent the School Board Association's revision recommendations and a required change to policy.

Policy #	Name	Explanation
1510/4200/7270	School Safety	**Required Changes to the Policy** ● A provision was added to Section D.3 regarding training on recognizing and reporting threats. ● A new Section E was added to address the statutorily required threat assessment teams. ● Information was changed to reflect the changes to the other policies in this update. ● The cross-references were updated. **Strongly Recommended Changes to the Policy** ● The legal references and other resources were updated. **Informational Only** ● The footnotes were updated.
1710/4020/7230	Discrimination and Harassment Prohibited by Federal Law	**Required Changes to the Policy** ● This policy was revised to now cover the board's obligation to provide a workplace free of discrimination and harassment. Previously this obligation was addressed 7232, Discrimination and Harassment in the Workplace, which is now repealed ● Language about the applicability of the policy was updated ● Information was changed to reflect the changes to the other policies in this update. ● The legal and cross-references were updated **Recommended Changes to the Policy** ● The policy contains various other revisions to improve clarity **Optional Changes** ● The contact information for the U.S. Department of Education Office of Civil Rights was removed **Informational Only** ● The footnotes were updated.
1720/4030/7235	Title IX Nondiscrimination on the Basis of Sex	**Required Changes to the Policy** ● This policy was updated throughout to comply with the new Title IX regulations ● Information was changed to reflect the changes to the other policies in this update

		● Information about Title IX training was moved to this policy. ● The legal and cross-references and other resources were updated. **Optional Changes** ● The contact information for the U.S. Department of Education Office of Civil Rights was removed
1725/4035/7236 (NEW)	Title IX Sexual Harassment–Prohibited Conduct and Grievance Procedures	**Required Changes to the Policy** ● This new policy supersedes policies1725/4035/7236, Title IX Sexual Harassment–Prohibited Conduct and Reporting Process;1725/4035/7236-R, Title IX Sexual Harassment–Definitions; and 1726/4036/7237, Title IX SexualHarassment Grievance Process. It is designed to comply with the requirements of the new Title IX regulations. ● This policy provides one process to be used to address all complaints of sex discrimination, including sex-based harassment, prohibited by Title IX. ● This policy broadens the scope of what constitutes sex discrimination and sex-based harassment ● The ability to use a single investigator-adjudicator model; and a simplification of the investigation and adjudication phases of the grievance procedures
4023/7233	Pregnant and Parenting Students and Employees	**Required Changes to the Policy** ● This policy was revised to comply with the new Title IX regulations **Strongly Recommended Changes to the Policy** ● The legal references were updated. **Informational Only** ● The footnotes were updated.
4329/7311	Bullying and Harassing Behavior Prohibited	**Required Changes to the Policy** ● Language regarding the applicability of the policy was updated ● Information was changed to reflect the changes to the other policies in this update. ● The cross-references were updated. **Informational Only** ● The footnotes were updated.

1300	Governing Principle–Parental Involvement	**Required Changes to the Policy** ● References to other policies were updated
1500	Governing Principle–Safe, Orderly, and Inviting Environment	**Required Changes to the Policy** ● References to other policies were updated
1600	Governing Principle–Professional Development	**Required Changes to the Policy** ● References to other policies were updated
1700	GoverningPrinciple–Removal of Barriers	**Required Changes to the Policy** ● References to other policies were updated
1742/5060	Responding to Complaints	**Required Changes to the Policy** ● References to other policies were updated
1760/7280	Prohibition Against Retaliation	**Required Changes to the Policy** ● References to other policies were updated
2500 (Option B)	Hearings Before the Board	**Required Changes to the Policy** ● References to other policies were updated
4040/7310	Staff-Student Relations	**Required Changes to the Policy** ● References to other policies were updated
7335	Employee Use of Social Media	**Required Changes to the Policy** ● References to other policies were updated
7820	Personnel Files	**Required Changes to the Policy** ● References to other policies were updated

TITLE IX SEXUAL HARASSMENT – PROHIBITED CONDUCT AND REPORTING PROCESS

Policy Code: **1725/4035/7236**

The board acknowledges the dignity and worth of all students and employees and strives to create a safe, orderly, caring, and inviting school environment to facilitate student learning and achievement. As provided in policy 1720/4030/7235, Title IX Nondiscrimination on the Basis of Sex, the board will not tolerate sexual harassment in the education program and activities of the school system. The board takes seriously all reports and formal complaints of sexual harassment.

This Title IX sexual harassment policy specifically prohibits sexual harassment as that term is defined under Title IX. It provides a process for students, employees, and others to report such sexual harassment for response by school officials. All incidents of conduct that could constitute sexual harassment under this policy are to be reported and treated in accordance with this policy, whether or not the incidents may also constitute violations of other board policies or standards of conduct.

Individuals who believe they have been subjected to sexual harassment prohibited by this policy or who have witnessed or have reliable information that another person has been subjected to sexual harassment prohibited by this policy should use the process provided in Section C of this policy to report such violations.

The board also provides a grievance process for those who believe they have been victims of sexual harassment that is designed to achieve prompt and equitable resolution of formal complaints of sexual harassment through a formal investigation and adjudication of the allegations in the complaint or through informal resolution processes. The grievance process is provided in policy 1726/4036/7237, Title IX Sexual Harassment Grievance Process. Affected individuals are encouraged to report sexual harassment in accordance with the process provided in Section C of this policy before filing a formal complaint to initiate the grievance process.

A. PROHIBITED BEHAVIOR

Students, school system employees, volunteers, and visitors are expected to behave in a civil and respectful manner. The board expressly prohibits sexual harassment by students, employees, board members, volunteers, or visitors. "Visitors" includes parents and other family members and individuals from the community, as well as vendors, contractors, and other persons doing business with or performing services for the school system.

Sexual harassment prohibited under Title IX and by this policy is conduct *on the basis of sex* occurring in a school system education program or activity that satisfies one or more of the following:

1. an employee of the school system conditioning the provision of an aid, benefit, or service of the school system on an individual's participation in unwelcome sexual conduct;

2. unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school system's education program or activities. This determination requires consideration of all the facts and circumstances, including, but not limited to, the ages and disability statuses of the harasser and the victim and the number of individuals involved and their authority;

3. sexual assault including rape, statutory rape, fondling, and incest;

4. dating violence;

5. domestic violence; or

6. stalking.

Sexual assault, dating violence, domestic violence, and stalking will be defined in accordance with applicable law and the definitions will be incorporated into an administrative regulation developed by the superintendent.

Conduct that satisfies this standard is not sexual harassment for purposes of this policy if the conduct occurred (1) outside the United States or (2) under circumstances in which the school system did not have substantial control over both the harasser and the context in which the harassment occurred.

All references to "sexual harassment" in this policy mean sexual harassment that meets this definition.

Examples of conduct on the basis of sex that would be considered sexual harassment if the conduct satisfies the criteria above include, but are not limited to: unwelcome sexual advances; requests for sexual favors; and other verbal or physical conduct of a sexual nature, such as 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; sexual assault; sexual violence; the display of sexually suggestive drawings, objects, pictures, or written materials; posting sexually suggestive pictures of a person without the person's consent; and forwarding pornographic material depicting a classmate or other member of the school community. Acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping but not involving conduct of a sexual nature may also constitute sexual harassment.

Conduct that is determined not to meet the definition above may violate other board policies or established standards of conduct and will be treated accordingly. For example,

conduct that does not meet the definition of Title IX sexual harassment above may nevertheless violate other board policies, including:

- policy 4329/7311, Bullying and Harassing Behavior Prohibited, prohibiting all forms of bullying and harassing conduct, including when it consists of unwelcome conduct of a sexual nature;

- policy 7232, Discrimination and Harassment in the Workplace, prohibiting harassment in the workplace; or

- policy 4040/7310, Staff-Student Relations, prohibiting romantic or sexual relationships between employees and students.

Nothing in this policy is intended to limit discipline for violation of other board policies when appropriate and consistent with law.

B. DEFINITIONS

The following additional definitions apply in this policy.

1. Report

A report is an oral or written notification that an individual is an alleged or suspected perpetrator or victim of sexual harassment.

Making a report initiates the interactive process with the complainant described in Section D.1, below. No disciplinary action will be taken against a respondent for sexual harassment based on a report alone.

2. Formal Complaint

A formal complaint is a document signed and filed with the Title IX coordinator by a complainant or signed by the Title IX coordinator alleging sexual harassment against a respondent and requesting that school officials investigate the allegation(s). Filing a formal complaint initiates the grievance process set forth in policy 1726/4036/7237, Title IX Sexual Harassment Grievance Process.

At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activities of the school system.

3. Complainant

The complainant is the individual(s) who is alleged to be the victim of conduct that could constitute sexual harassment.

4. Respondent

~~The respondent is the individual(s) who has been reported to be the perpetrator of conduct that could constitute sexual harassment.~~

~~5. Grievance Process~~

~~Grievance process means the process for investigating and reaching a final determination of responsibility for a formal complaint of sexual harassment. The sexual harassment grievance process is set out in policy 1726/4036/7237.~~

~~6. Title IX Coordinator~~

~~The Title IX coordinator is a school official who is designated to coordinate the school system's response to sexual harassment and allegations of sexual harassment. Contact information for the Title IX coordinator is posted on the school system's website and listed in policy 1720/4030/7235, Title IX Nondiscrimination on the Basis of Sex.~~

~~7. Supportive Measures~~

~~Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the school system's education program and activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the school system's educational environment, or deter sexual harassment.~~

~~Supportive measures available to the parties include, but are not limited to, counseling, mental health services referral, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, escort services, mutual restrictions on contact between the parties, changes in work locations, leaves of absence, increased security and monitoring, and other similar measures determined by school officials to be necessary to protect the safety or educational or employment activities of a party.~~

~~8. Days~~

~~Days are calendar days unless specified otherwise.~~

~~9. Student(s)~~

~~"Student(s)" means the student and/or the student's parent or legal guardian unless the context clearly indicates otherwise. When the complainant or respondent is a student, references to those terms also include the student's parent or legal guardian~~

unless the context clearly indicates otherwise.

10. Actual Knowledge

"Actual knowledge" means a school employee has notice of sexual harassment or allegations of sexual harassment.

C. REPORTING SEXUAL HARASSMENT

1. Student Reports

Any student who believes he or she is a victim of sexual harassment occurring in the school system's education programs or activities is encouraged to report the matter to the student's principal or to the Title IX coordinator. Reports may also be made to a teacher, counselor, assistant principal, teacher assistant, or any other school employee. Middle and high school students may also report sexual harassment through the anonymous tip line, but school officials may be limited in their ability to respond if the report does not identify the complainant.

2. Mandatory Reporting by School Employees and Board Members

Any employee or member of the board of education who has actual knowledge of sexual harassment or allegations of sexual harassment occurring in the education program or any activity of the school system must report that information immediately to the Title IX coordinator.

Any of the following confers "actual knowledge" and must be reported immediately:

a. a report of sexual harassment from a student or other person;

b. the employee or board member witnesses conduct that is or reasonably could be sexual harassment; or

c. the employee or board member discovers evidence of sexual harassment, such as sexualized graffiti on school property, or otherwise has reliable information or reason to believe that a student, employee, or other individual may have been sexually harassed in violation of this policy, even if no one has reported the sexual harassment.

Employees who observe an incident of harassment are expected to intervene to stop the conduct in situations in which they have supervisory control over the perpetrator, and it is safe to do so. An employee with actual knowledge of possible sexual harassment in violation of this policy who does not promptly report the conduct and/or take proper action as required by this subsection, or who knowingly provides false information about the incident, will be subject to disciplinary action,

~~up to and including dismissal.~~

~~Any doubt about whether particular conduct is possible sexual harassment must be resolved in favor of reporting the conduct.~~

~~The mandatory reporting required by this section is in addition to required reporting under policies 4040/7310, Student-Staff Relations, and 4240/7312, Child Abuse and Related Threats to Child Safety, where the conduct at issue requires a report under either of those policies.~~

~~3. Reporting by Others~~

~~All other members of the school community are strongly encouraged to report any act that may constitute an incident of sexual harassment in violation of this policy to the school principal, the Title IX coordinator, or the superintendent.~~

~~4. Content of the Report~~

~~To the extent possible, reports should be sufficient to put school officials on notice of conduct that could constitute sexual harassment. Employees making mandatory reports should provide as much detail about the alleged sexual harassment as is known, unless such disclosure would violate law or standards of professional ethics. Reports, other than mandatory reports by employees, may be made anonymously, but anonymous reports may limit the school system's ability to respond fully if the alleged victim is not identified.~~

~~5. Time Period for Making a Report~~

~~Reports by students and third parties can be made at any time. During non-business hours, reports can be made by using the contact information for the Title IX coordinator provided on the school system's website and in policy 1720/4030/7235, Title IX Nondiscrimination on the Basis of Sex. A report should be made as soon as possible after disclosure or discovery of the facts giving rise to the report. Delays in reporting may impair the ability of school officials to investigate and respond to any subsequent formal complaint.~~

~~School employees and board members with actual knowledge of sexual harassment must report that information immediately, as provided in subsection C.2 above.~~

~~D. SCHOOL OFFICIALS' RESPONSE TO ACTUAL KNOWLEDGE OF SEXUAL HARASSMENT~~

~~As required to meet the school system's obligations under Title IX, school officials shall respond promptly and impartially to actual knowledge of alleged sexual harassment in a manner that is not deliberately indifferent. A response that is not deliberately indifferent is one that is not clearly unreasonable in light of the known circumstances and includes, at a minimum, the provision of supportive measures to the complainant, as described in this~~

~~section.~~

~~Consistent with this duty, school officials shall respond to all reports of conduct that could constitute sexual harassment in accordance with this section. However, a report alleging conduct that is not sexual harassment as defined in this policy is not subject to this policy but may be referred to appropriate school officials as a possible violation of other board policies.~~

~~1. Title IX Coordinator Initiates Interactive Process with Complainant~~

~~Upon receiving a report of alleged sexual harassment, the Title IX coordinator shall promptly contact the complainant and the complainant's parent or guardian confidentially. This contact must occur within three days, excluding weekends, absent extenuating circumstances. The Title IX coordinator shall also notify the principal of the report and, if an employee is the complainant or respondent, the senior human resources official or designee.~~

~~When contacting the complainant and parent or guardian, the Title IX coordinator shall do all of the following during the contact and shall document the same:~~

~~a. offer supportive measures;~~

~~b. consider the complainant's wishes with respect to supportive measures;~~

~~c. explain that supportive measures are available with or without the filing of a formal complaint; and~~

~~d. explain the process for filing a formal complaint with the Title IX coordinator and the response required of the school system when a complaint is filed, including all the following:~~

~~i. that a formal complaint will initiate the grievance process described in policy 1726/4036/7237, Title IX Sexual Harassment Grievance Process;~~

~~ii. that a formal complaint may be filed with the Title IX coordinator in person, by mail, or by electronic mail;~~

~~iii. the major steps in the grievance process, including (1) a notice of the allegations that will be provided to the respondent that includes identification of the complainant and the allegations made; (2) an investigation of the allegations of sexual harassment in which both parties will have opportunity to have an advisor, present witnesses, review evidence, pose written questions of the other party, and receive a copy of the investigative report; (3) a decision on responsibility in which a decision-maker objectively evaluates all~~

relevant evidence and determines whether the respondent engaged in the alleged sexual harassment in violation of this policy; and (4) the opportunity for either party to appeal the decision;

iv. the approximate time frame for concluding the grievance process;

v. that school officials will treat both parties equitably by (1) providing remedies to the complainant if the respondent is found responsible, and (2) by not imposing disciplinary sanctions on the respondent without first following the grievance process set forth in policy 1726/4036/7237;

vi. the circumstances under which a formal complaint might be consolidated with other formal complaints or dismissed; and

vii. that the Title IX coordinator may have an obligation to initiate the grievance process in the absence of a formal complaint filed by the complainant and the time frame in which that decision will be made.

2. Title IX Coordinator Arranges Implementation of Supportive Measures

After considering the complainant's wishes, the Title IX coordinator shall arrange the effective implementation of appropriate supportive measures unless, in the exercise of good judgment, the Title IX coordinator determines that supportive measures should not be provided. If supportive measures are not provided to the complainant, the Title IX coordinator shall document why supportive measures were not provided and why not providing supportive measures is not deliberately indifferent to known sexual harassment.

If the complainant is a student with a disability, the Title IX coordinator may need to consult with appropriate school personnel to determine whether adjustments to the student's IEP or Section 504 plan are needed to implement any supportive measures to be provided and/or whether the student's plan necessitates any adjustment to the proposed supportive measures.

3. Title IX Coordinator Determines Whether to Sign a Formal Complaint

If the complainant declined to file a formal complaint within the designated time period following the interactive process described above, the Title IX coordinator shall determine on a case-by-case basis whether to sign, i.e., file, a formal complaint to initiate the grievance process.

The Title IX coordinator should file a formal complaint (1) if the respondent is a school employee and the complainant is a student; and (2) in other cases where, in the exercise of good judgment and in consultation with the school attorney as appropriate, the coordinator determines that a grievance process is necessary to

~~comply with the obligation not to be deliberately indifferent to known allegations of sexual harassment. Credibility or merit of the complaint shall not be considered in making the determination.~~

~~A decision by the Title IX coordinator to sign a formal complaint is not to be construed as supportive of the complainant or in opposition to the respondent or as an indication of whether the allegations are credible or have merit, or whether there is evidence sufficient to determine responsibility. Signing a formal complaint does not make the Title IX coordinator a complainant or party to the complaint nor relieve the Title IX coordinator from any responsibilities under this policy.~~

~~The Title IX coordinator shall document the decision of whether to sign a complaint and the reasons for that decision.~~

~~4. Presumption of Non-responsibility of Respondent and Bar on Disciplinary Sanctions without Due Process~~

~~The respondent identified in any report alleging sexual harassment under this policy will be presumed not responsible for the alleged conduct until the respondent's responsibility is conclusively established through the grievance process outlined in policy 1726/4036/7237, Title IX Sexual Harassment Grievance Process.~~

~~No disciplinary sanction or other action that is not a supportive measure, including but not limited to (1) short or long-term suspension, expulsion, or transfer to an alternative school or program for student-respondents and (2) suspension, demotion, or dismissal for employee-respondents, may be imposed for a violation of this policy unless the respondent agrees to a specific disciplinary sanction or action in an informal resolution or has been determined to be responsible for the sexual harassment at the conclusion of a grievance process that complies with the process in policy 1726/4036/7237. An employee-respondent, however, may be placed on administrative leave during the pendency of the grievance process if consistent with applicable state and federal laws.~~

~~Notwithstanding the limitation just described, respondents are subject to emergency removal as described in the next paragraph.~~

~~5. Emergency Removal of Respondent from School or Employment~~

~~Any respondent is subject to removal from the school system's education program and activities, or any part of the program or activities, on an emergency basis if a school-based threat assessment team conducts an individualized safety and risk analysis and determines that removal is justified because the person poses an immediate health or safety threat to any person arising from the allegations of sexual harassment. A removal under this subsection includes a transfer of a student to an alternative education program consistent with policy 3470/4305, Alternative Learning Programs/Schools. A schedule change, and/or removing a student from~~

an extracurricular activity is also considered a removal under this subsection where such action would not otherwise constitute a supportive measure.

The emergency removal may take place regardless of whether a formal complaint has been filed. However, any such removal must be consistent with federal and state law, including any applicable law protecting the rights of individuals with disabilities. The respondent shall receive notice of the removal and an opportunity to challenge the decision in an informal hearing with the superintendent or designee immediately following the removal.

An employee may be placed on administrative leave with or without pay during the pendency of the grievance process set out in policy 1726/4036/7237, Title IX Sexual Harassment Grievance Process, if consistent with state law and in accordance with any applicable requirements of state law.

The superintendent or designee shall document all emergency removal decisions under this subsection, including the immediate threat to health or safety that justified the removal.

6. Supportive Measures

Supportive measures will be available to both the complainant and respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Supportive measures will remain confidential to the extent that maintaining such confidentiality does not impair the ability to provide the supportive measures. The Title IX coordinator is responsible for coordinating the effective implementation of supportive measures.

E. GRIEVANCE PROCESS FOR FORMAL COMPLAINTS

The grievance process for formal complaints of sexual harassment under this policy is set out in policy 1726/4036/7237, Title IX Sexual Harassment Grievance Process. The policy also provides an informal resolution process for complainants who seek an alternate means of resolution to their complaint.

As described in subsection D.3 above, the Title IX coordinator may also initiate the grievance process, as needed.

F. RECORDS

The Title IX coordinator shall create and maintain for a period of seven years records of all reports and formal complaints of sexual harassment. For each report or formal complaint, the coordinator shall document the following:

1. any actions, including any supportive measures, taken in response to the report or formal complaint;

2. that school officials have taken measures that are designed to restore or preserve equal access to the school system's education program and activities;

3. why school officials believe their response to the report or complaint was not deliberately indifferent; and

4. if supportive measures were not provided to the complainant, why that was not clearly unreasonable in light of the known circumstances.

In conjunction with the superintendent, the Title IX coordinator shall also maintain for seven years all materials used to train the Title IX coordinator, investigators, decision-makers, and any person who facilitates an informal resolution process. These materials will be made publicly available on the school system's website.

Legal References: Title IX of the Education Amendments Act of 1972, 20 U.S.C. 1681 *et seq.*, 34 C.F.R. pt. 106; *Gebser v. Lago Vista Independent School District*, 524 U.S. 274 (1998); *Davis v. Monroe County Board of Education*, 526 U.S. 629 (1999); G.S. 115C-335.5

Cross References: Title IX Nondiscrimination on the Basis of Sex (policy 1720/4030/7235), Title IX Sexual Harassment Grievance Process (policy 1726/4036/7237), Alternative Learning Programs/Schools (policy 3470/4305), Staff-Student Relations (policy 4040/7310), Child Abuse and Related Threats to Child Safety (policy 4240/7312), Bullying and Harassing Behavior Prohibited (policy 4329/7311), Discrimination and Harassment in the Workplace (policy 7232)

Other Resources: *Questions and Answers on the Title IX Regulations on Sexual Harassment*, U.S. Department of Education, Office for Civil Rights (July 2021), available at https://www2.ed.gov/about/offices/list/ocr/docs/202107-qa-titleix.pdf

Adopted: November 2, 2020
Updated: January 10, 2022

Terms used in board policy 1725/4035/7236, Title IX Sexual Harassment – Prohibited Conduct and Reporting Process, are defined as follows:

1. Sexual assault

A sexual assault is any one of the following offenses:

a. Rape

Rape is the penetration of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

b. Statutory rape

Statutory rape is sexual intercourse with a child 15 years of age or younger and the perpetrator is at least 12 years old and more than four years older than the victim.

c. Fondling

Fondling is the touching, underneath the clothing, of a person's genitalia, anus, buttocks, or breasts without the consent of the victim for purposes of sexual gratification.

d. Incest

Incest is sexual intercourse between: (i) grandparent and grandchild; (ii) parent and child/stepchild/legally adopted child; (iii) siblings of half or full blood; or (iv) uncle or aunt and nephew or niece.

2. Dating violence

Dating violence is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship is determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

3. Domestic violence

~~Domestic violence is a crime of violence committed by: a current or former spouse or intimate partner of the victim; a person with whom the victim shares a child in common; a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner; a person who is the parent or child of the victim, including others acting in loco parentis to a minor child; a person who is the grandparent or grandchild of the victim; a person who is a current or former member of the victim's household; a person who is of the opposite sex of, and lives or has lived with, the victim; or a person who is of the opposite sex of, and is or was in a dating relationship with, the victim.~~

~~4. Stalking~~

~~Stalking is engaging in a course of conduct directed at a specific person that would cause a reasonable person to (i) fear for his or her safety or the safety of others or (ii) suffer substantial emotional distress.~~

~~Where lack of consent is an element of the offense, the following definition applies:~~

~~Consent is informed, freely and affirmatively given through mutually understandable words or actions that indicate a willingness to participate in the sexual activity. Consent can be withdrawn at any time. There is no consent when there is force, expressed or implied, or when coercion, intimidation, threats, or duress is used. Whether a person has taken advantage of a position of influence over another person may be a factor in determining consent. Silence or absence of resistance does not imply consent. Consent to one type of sexual activity does not amount to consent to another type of activity. Prior consent or sexual relations with the same person do not imply future consent. The fact that both people are in a relationship does not, by itself, establish consent. A person cannot consent if they are unconscious, asleep, or impaired to the extent that they do not understand what is going on. Minors under the age of 16 are incapable of giving consent to sexual activity with a person more than four years older than the minor. Consent may never be given by mentally disabled persons if their disability was reasonably knowable to a sexual partner who is not mentally disabled. Consent between parties engaging in sexual activity does not prevent the school system from taking disciplinary action against the parties for violation of any other board policy.~~

~~Issued by the Superintendent: November 2, 2020~~

~~Reviewed:~~

~~Revised:~~

The process provided in this policy is designed for those who believe that they have been sexually harassed in violation of policy1725/4035/7236, Title IX Sexual Harassment – Prohibited Conduct and Reporting Process, and wish to file a formal complaint. School officials shall follow the grievance process established in this policy when responding to all formal complaints of sexual harassment.

The superintendent is responsible for notifying students and their parents or legal guardians, employees, and applicants for employment of this policy and ensuring that each principal or site supervisor provides a copy of this policy to these persons.

A. DEFINITIONS

All definitions in policy 1725/4035/7236, Title IX Sexual Harassment – Prohibited Conduct and Reporting Process, are incorporated by reference and have the same meaning when used in this policy, including all references to "sexual harassment" in this policy.

The following additional definitions apply in this policy.

1. Investigator

   The investigator is the school official responsible for investigating and responding to a formal complaint.

2. Decision Maker

   The decision-maker is the school official responsible for making a determination regarding responsibility in response to an investigation of sexual harassment triggered by a formal complaint.

3. Investigative Report

   The investigative report is a written account of the findings of the investigation conducted in response to a formal complaint.

4. Remedies

   Remedies are individualized measures provided to a complainant designed to restore or preserve the complainant's equal access to the education program and activities of the school system when a respondent is found responsible for sexual harassment.

Remedial measures available to a complainant following a determination of responsibility include counseling, mental health services referral, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, escort services, mutual or one-way restrictions on contact between the parties, changes in work locations, leaves of absence, increased security and monitoring, and other measures determined by school officials to be necessary to restore or preserve the complainant's equal access to the education program and activities, regardless of whether such measures impose a burden on the respondent or are punitive or disciplinary in nature.

5. Disciplinary Sanctions

Disciplinary sanctions are consequences imposed on a respondent when the respondent is found responsible for sexual harassment.

B. FILING A FORMAL COMPLAINT TO INITIATE THE GRIEVANCE PROCESS

A formal complaint initiates the grievance process.

1. Individuals Who May File a Formal Complaint

a. Eligible Complainants

Eligible individuals who believe that they have been sexually harassed in violation of policy 1725/4035/7236, Title IX Sexual Harassment – Prohibited Conduct and Reporting Process, may initiate the grievance process for alleged sexual harassment by filing a formal written complaint with the Title IX coordinator. To be eligible to file a formal written complaint, the complainant must be participating in or attempting to participate in the education program or activities of the school system at the time of filing.

b. The Title IX Coordinator

If the complainant does not wish to file a formal complaint and the matter has not been adequately resolved through the provision of supportive measures, the Title IX coordinator may initiate the grievance process by signing a formal complaint. In accordance with law, only the complainant and the Title IX coordinator may initiate the grievance process; no other individuals or school officials shall have authority to do so.

2. Time Period for Filing a Formal Complaint

There is no deadline for filing a complaint. A complaint should be filed as soon as possible after the conduct occurs, preferably within 30 days after the complainant becomes aware of the alleged sexual harassment, unless the conduct forming the

basis for the complaint is ongoing. School officials will initiate the grievance process regardless of when the formal complaint is submitted, but delays in reporting may significantly impair the ability of school officials to investigate and respond to the allegations.

In addition, in some circumstances it may be necessary for the Title IX coordinator to sign a formal complaint to initiate the grievance process in order to meet the school system's legal obligations when the coordinator is aware of sexual harassment or alleged sexual harassment and the complainant has not yet filed a formal complaint. The Title IX coordinator can do so at any time.

3. Contents of the Formal Complaint

The complaint should (1) contain the name and address of the complainant and the student's parent or guardian if the complainant is a minor student, (2) describe the alleged sexual harassment, (3) request an investigation of the matter, and (4) be signed by the complainant or otherwise indicate that the complainant is the person filing the complaint.

4. How to File the Formal Complaint

The complaint may be filed with the Title IX coordinator in person, by mail, or by email. Complaint forms may be obtained from the Title IX coordinator or on the school system website.

5. School System's Response to Receipt of the Formal Complaint

a. Upon receipt of a formal complaint of sexual harassment, the Title IX coordinator shall engage in an interactive process with the complainant, consider the provision of supportive measures in light of the complainant's wishes, provide supportive measures as appropriate, and otherwise fulfill the requirements of Section D of policy 1725/4035/7236, Title IX Sexual Harassment – Prohibited Conduct and Reporting Process, unless the Title IX coordinator has already done so in response to an initial report of the same allegation of sexual harassment.

b. School officials reserve the right to consolidate formal complaints against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances. The Title IX coordinator shall advise the complainant if the formal complaint will be consolidated with others.

c. The formal complaint initiates the grievance process as described below.

C. General Principles of the Grievance Process for Formal Complaints

To ensure a complete, thorough, and fair grievance process for formal complaints of sexual harassment, school officials responsible for the investigation, adjudication, or appeal of a formal complaint of sexual harassment shall comply with the following requirements. Failure by any school official to comply with these requirements or other standards or procedures established in this policy is cause for disciplinary action.

1. Equitable Treatment

Complainants and respondents must be treated equitably throughout the grievance process. Relevant evidence collected in the investigation of a formal complaint must be evaluated objectively. No individual designated as a Title IX coordinator, investigator, decision-maker, or appeal decision-maker will have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. Credibility determinations will not be based on a person's status as a complainant, respondent, or witness.

The complainant and respondent shall be provided an equal opportunity to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be an attorney. If a party elects to be represented by an attorney, the party should notify school officials in advance so that an attorney for the school system may also be present. Any restrictions on advisor participation in any proceeding must be applied equally to both parties.

The complainant and respondent will both be provided a description of the range of supportive measures available to them.

2. Adequate Training

The Title IX coordinator, and all persons serving as Title IX investigators, decision-makers, or appeal decision-makers shall receive training on what constitutes sexual harassment, the scope of the school system's education program and activities, how to conduct an investigation and grievance process, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. Decision-makers will be trained on any technology to be used at a live hearing and on issues of relevance of questions and evidence.

Materials used to train coordinators, investigators, decision-makers, and appeal decision-makers will not rely on sex stereotypes and shall promote impartial investigations and adjudications of sexual harassment. Copyright restrictions will be taken into consideration in selecting training materials in order to comply with the school system's legal obligation to make all training materials available on the school system's website.

~~3. Presumption of Non-Responsibility/Innocence~~

~~At all times prior to a determination regarding responsibility by the decision-maker, there will be a presumption that the respondent is not responsible for the alleged conduct.~~

~~4. Burden of Proof and Production of Evidence~~

~~The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility will at all times rest on the school system and not on the complainant or respondent. Formal rules of evidence shall not apply in the grievance process.~~

~~5. Written Notice of Meetings and Other Proceedings~~

~~Parties whose participation is invited or expected at any hearing, investigative interview, or other meeting will be provided written notice of the event's date, time, location, participants, and purpose with sufficient time for the party to prepare to participate.~~

~~6. Confidentiality and Privacy~~

~~The school system will keep confidential the identity of any individual who has made a report or formal complaint of sexual harassment, any complainant, any respondent, and any witness, except as may be permitted by FERPA, as required by law, or as necessary to carry out a Title IX proceeding. A violation of this provision may constitute retaliation.~~

~~All meetings, hearings, or other proceeding conducted pursuant to this policy will be private except to the extent that the parties are permitted to be accompanied by others as provided in subsection C.1 above.~~

~~School officials shall not access, consider, disclose, or otherwise use a party's medical, mental health, or other records that are made or maintained by a professional or paraprofessional in connection with the provision of treatment to the party without the party's voluntary written consent.~~

~~7. No Disclosure of Privileged Information~~

~~No person acting on behalf of the school system shall require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.~~

8. Timeliness of Process

School officials shall make a good faith effort to conduct a fair, impartial grievance process in a timely manner designed to provide all parties with a prompt and equitable resolution. It is expected that in most cases, the grievance process will be concluded through the adjudication phase within 90 days after filing the formal complaint. The board reserves the right to extend this time frame or any deadline contained in this policy for good cause with written notice to the parties of the delay and the reason for the delay. Good cause may include but is not limited to the absence of the parties or witnesses, concurrent law enforcement activity, or the need for language assistance or accommodation of disabilities.

The Title IX coordinator or other responsible school official shall make reasonable efforts to keep the complainant and respondent apprised of progress being made during any period of delay.

D. THE GRIEVANCE PROCESS FOR FORMAL COMPLAINTS: PART I – INVESTIGATION

1. Step 1 – Notice of Allegations

a. Upon the filing of a formal complaint, the Title IX coordinator shall, within five school business days, provide the known parties written notice of the allegations that includes:

i. notice of the allegations of sexual harassment in sufficient detail to permit the parties to prepare a response before any initial interview, including:

a) the identities of the parties involved, if known;

b) the conduct allegedly constituting sexual harassment; and

c) the date and location of the alleged incident, if known;

ii. a copy of this policy to give notice of the school system's grievance process, including the investigative and adjudication procedures, and any informal resolution process available;

iii. notice that the parties may have an advisor of their choice and that either party may inspect and review any evidence;

iv. notice of the provision in board policy 4340, School Level Investigations, that prohibits students and employees from knowingly making false statements or knowingly submitting false information during the grievance process; and

v. a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility will be made at the conclusion of the grievance process.

b. If during the investigation, the investigator decides to investigate allegations of sexual harassment not included in the initial notice provided above, notice of the additional allegations will be provided to the parties.

2. Step 2 – Review Grounds for Dismissal of the Formal Complaint

The Title IX coordinator shall review the allegations and determine whether the formal complaint must be dismissed without further investigation because the conduct alleged in the formal complaint, even if assumed true, would not constitute sexual harassment as defined in this policy, did not occur in the school system's education program or activities, or did not occur against a person in the United States. Such a dismissal does not preclude action under another provision of the Code of Student Conduct, board policy, or expected standards of employee behavior. The complaint will not be dismissed at this stage on the basis that the allegations are frivolous, without merit, or otherwise unfounded.

Upon a dismissal, the Title IX coordinator must promptly send written notice of the dismissal and reason(s) therefor simultaneously to the parties. The parties have the right to appeal the decision as provided in Section F.

The Title IX coordinator shall refer the matter that was the subject of the dismissed complaint to the principal for further action as warranted.

3. Step 3 – Initiating the Investigation

If the complaint may proceed, the Title IX coordinator shall notify the appropriate investigator, who shall investigate the formal complaint.

a. In order to provide a neutral and objective investigation, the investigator shall not be a party to the complaint under investigation. The investigator of a formal complaint is ordinarily determined as described below; however, the Title IX coordinator, in consultation with the superintendent, may determine that conflict of interest, bias, or other individual circumstances warrant the assignment of a different investigator.

i. If the respondent is a student, the investigator is the principal or designee of the school with jurisdiction over the incident.

ii. If the respondent is an employee or applicant for employment, the investigator is the senior human resources official or designee.

iii. If the respondent is neither a student nor an employee/applicant for

employment, the principal of the school/site supervisor at which the complainant is enrolled or employed shall be the investigator.

iv. Notwithstanding the above designations, (1) if the respondent is the senior human resources official, the superintendent shall investigate the complaint; (2) if the respondent is the superintendent or a member of the board, the Title IX coordinator shall immediately notify the board chair who shall direct the board attorney to investigate, unless the board chair determines that outside counsel should be engaged to investigate.

b. The investigator may request assistance from the Title IX coordinator to conduct the investigation.

c. The Title IX coordinator and the investigator shall jointly assess the need for supportive measures for either party, including assessing the effectiveness of any supportive measures currently being provided to the complainant, and, as necessary, will implement appropriate measures in a timely manner and monitor the effectiveness of the measures during the pendency of the investigation and prior to a final determination regarding responsibility. Supportive measures provided to the complainant or respondent will be maintained as confidential to the extent that maintaining such confidentiality does not impair the ability to provide the supportive measures.

d. The investigator shall explain the process of the investigation to the complainant and respondent.

4. Step 4 – Conducting the Investigation

The investigator is responsible for gathering evidence sufficient to reach a determination of whether the allegations in the formal complaint are true and whether the facts as determined by the investigator establish that sexual harassment as defined in this policy occurred. In so doing, the investigator shall impartially, promptly, and thoroughly investigate the complaint.

a. The investigator shall interview all individuals who may have relevant information, including (1) the complainant; (2) the respondent; (3) individuals identified as witnesses by the complainant or respondent; and (4) any other individuals who are thought possibly to have relevant information. Prior written notice shall be provided to a party whose participation is invited or expected for any investigative interview or meeting in accordance with subsection C.5 above. The investigator shall provide the complainant and respondent an equal opportunity to present fact and expert witnesses and other evidence tending to prove or disprove the allegations.

b. The investigator shall ensure that the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the school system and not on the complainant or respondent.

c. The investigator shall not restrict the ability of either party to gather and present relevant evidence or to discuss the allegations under investigation.

d. The formal complaint and the investigation will be kept confidential to the extent possible. Information may be shared only with individuals who need the information in order to investigate and address the complaint appropriately and those with a legal right to access the information. Any requests by the complainant or respondent for further confidentiality will be evaluated within the context of the legal responsibilities of the school system.

The investigator may, with approval of the Title IX coordinator, dismiss the formal complaint or any allegations therein if at any time during the investigation or decision-making process: (1) the complainant notifies the Title IX coordinator in writing that he or she would like to withdraw the formal complaint or any allegations therein; (2) the respondent is no longer enrolled or employed by the school system; or (3) specific circumstances prevent school officials from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein. Upon dismissal, the Title IX coordinator shall promptly send written notice of the dismissal and reason(s) therefor simultaneously to the parties. The parties have the right to appeal the decision as provided in Section F.

The investigator may consider the matter that was the subject of the dismissed complaint for action in accordance with board policy for violation of other expected standards of student or employee behavior.

5. Step 5 – Investigative Report and Opportunity to Review Evidence

a. The investigator shall prepare an investigative report that fairly summarizes the relevant evidence.

b. Before completing the final report, the investigator shall send to each party and the party's advisor, if any, in hard copy or electronically, all the evidence collected which is directly related to the allegations raised in the formal complaint. The parties shall have 10 days to submit a written response for the investigator's consideration before the investigator finalizes the investigative report.

c. Following the parties' opportunity to respond to the written evidence, the investigator shall finalize the written investigative report, including a

recommendation on the question of responsibility and any recommended discipline sanction.

d. The investigator shall provide a copy of the report to each party and the party's advisor, if any, for their review and written response. The investigator shall also notify the parties of the opportunity to submit written questions to the other party and witnesses as provided in subsection E.2 below. The parties shall have 10 days to provide a written response to the investigative report, along with the party's initial set of written questions.

e. The investigator shall provide to the decision-maker a copy of the investigative report, the relevant evidence, and the parties' written responses to the report and initial sets of written questions.

The investigator shall also provide a description of the procedural steps taken, starting with the receipt of the formal complaint and continuing through the preparation of the investigative report, and including any notifications to the parties, interviews with parties and witnesses, site visits, and methods used to gather other evidence.

E. THE GRIEVANCE PROCESS FOR FORMAL COMPLAINTS: PART II – ADJUDICATION

The superintendent or designee (hereinafter "superintendent") shall serve as the decision-maker. In his or her role as decision-maker, the superintendent shall provide for the exchange of questions between the parties and a decision on responsibility in a manner consistent with state law and as provided below.

1. Step 1 – Student's Opportunity to Request a Hearing

In cases where the respondent is a student, after the investigative report has been sent to the parties, both parties shall have three school business days to request a hearing. If either party requests a hearing, the long-term suspension hearing procedures described in policy 4370, Student Discipline Hearing Procedures, shall be followed, except that (1) both parties shall have the right to participate in the hearing to the extent required by Title IX; (2) all the evidence sent to the parties pursuant to subsection D.5.b above will be made available at the hearing to give each party equal opportunity to refer to such evidence during the hearing; and (3) prior to the hearing, both parties shall have a limited opportunity to submit and respond to written questions and follow-up questions as provided below.

2. Step 2 – Exchange of Questions and Answers

Whether or not there will be a hearing and regardless of whether the respondent is a student, after the parties are sent the investigative report, the superintendent shall provide the parties an opportunity to submit written, relevant questions that the party wants asked of any other party or witness, provide each party with the

~~answers, and allow for additional, limited follow-up questions from each party in accordance with a reasonably prompt time frame established by the superintendent. The parties shall submit their initial set of written questions at the time they submit their response to the investigative report as described in subsection D.5.d above.~~

~~a. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior will be considered not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's sexual behavior with respect to the respondent and is offered to prove consent.~~

~~b. The superintendent must explain to the party proposing the questions any decision to exclude questions as not relevant.~~

~~3. Step 3 – Decision on the Question Regarding Responsibility~~

~~Following the exchange of questions and/or hearing as described above, the superintendent shall decide the question regarding responsibility, any disciplinary action, and any other measures the superintendent deems appropriate. The superintendent shall consider all the relevant evidence objectively, including evidence in the investigative report, any testimony of witnesses at the hearing, if one was held, and any additional information provided by the parties through the exchange of questions and responses as provided in subsection E.2 above.~~

~~Based on an objective evaluation of the evidence, the superintendent shall determine whether the preponderance of the evidence supports a finding that the respondent is responsible for sexual harassment in violation of board policy, and if so, what disciplinary sanction will be imposed. Remedies will be provided to the complainant if the respondent is found responsible.~~

~~4. Step 4 – Written Determination Regarding Responsibility~~

~~The superintendent shall issue a written determination regarding responsibility simultaneously to both parties that includes:~~

~~a. identification of the allegations potentially constituting sexual harassment under board policy;~~

~~b. a description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;~~

~~c. findings of fact supporting the determination;~~

d. conclusions regarding the application of board policy and/or the Code of Student Conduct or expected standards of employee behavior to the facts, including whether the respondent engaged in prohibited sexual harassment or other proscribed conduct;

e. a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions imposed on the respondent (which may be a recommendation to the board for discipline that is beyond the authority of the superintendent or other decision-maker), and whether remedies designed to restore or preserve equal access to the school system's education program and activities will be provided to the complainant;

f. the procedures and permissible bases for the complainant and respondent to appeal; and

g. any other notices that are required to accompany the decision under state law, such as when the superintendent imposes a long-term suspension or recommends dismissal of an employee.

F. GRIEVANCE PROCESS FOR FORMAL COMPLAINTS: PART III – APPEAL

The parties shall have the right to appeal to the board of education the determination regarding responsibility, the outcome of any disciplinary proceeding, and any dismissal of a formal complaint or any allegations therein. If a party appeals both the determination regarding responsibility and the outcome of a disciplinary proceeding, both matters will be heard by the board at the same time. If both parties appeal, the appeals will be heard at the same time.

1. Deadline and Grounds for Appeal

Either party may appeal by submitting a request in writing to the superintendent within three school business days of receiving the determination regarding responsibility, unless the party is entitled to a longer appeal period under state law or board policy. Any longer appeal period applicable to one party shall apply equally to the other party. The grounds for appeal may be any of the following:

a. procedural irregularity that affected the outcome of the matter;

b. new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;

c. the Title IX coordinator, investigator, or decision-maker had a conflict of interest or bias for or against complainants or respondents generally or the

individual complainant or respondent that affected the outcome of the matter;

d. the disciplinary sanction is inappropriate or unreasonable; or

e. any other basis provided by law or board policy governing appeals to the board.

2. Notice of the Appeal

In all appeals, the other party will be notified in writing when an appeal is filed and be provided a copy of the appeal.

3. Appeal Procedures

a. The board will hear the appeal. Unless otherwise required by law, the board may designate a panel of two or more board members to hear and act on behalf of the board.

b. Appeal procedures will be implemented equally for both parties and will follow the procedures in policy 2500, Hearings Before the Board, modified as necessary to allow equal participation of the parties.

If the appeal includes an appeal of a disciplinary sanction, the procedures in policy 4370, Student Discipline Hearing Procedures; policy 7940, Classified Personnel: Suspension and Dismissal; or policy 7930, Professional Employees: Demotion and Dismissal, shall also apply as applicable.

c. After the notice of appeal is provided, both parties will be given 10 days to submit a written statement in support of, or challenging, the outcome. If the basis of the appeal is newly available evidence affecting the outcome, the party shall submit such evidence or a summary of such evidence along with the party's written statement.

d. The board will review the record and the written argument of the parties submitted on appeal, determine whether additional information is needed from any party, and take any other steps that the board determines to be appropriate in order to respond to the appeal.

4. Decision on Appeal

a. After considering the record and written statements of the parties, the board will determine whether the grounds for the appeal have been substantiated.

b. If substantiated, the board will determine the appropriate response, which

may include a remand for a new investigation, a new decision, or both, or such other action as the board determines is needed to correct the error in the original proceedings.

c. The board will provide a written decision describing the results of the appeal and rationale for the result within thirty days after receiving the appeal unless the decision is delayed for good cause. The written decision will be provided simultaneously to both parties.

5. When the Decision Becomes Final

If an appeal is timely filed, the determination regarding responsibility becomes final at the conclusion of the appeal process. However, if the decision on appeal is remand, the determination regarding responsibility does not become final until that process, including any appeal of the proceedings on remand, is concluded. If an appeal is not filed, the determination regarding responsibility becomes final after the three-day appeal period.

The superintendent shall ensure that a copy of the final decision is provided to the Title IX coordinator and shall confer with the Title IX coordinator regarding any remedies to be provided to the complainant, as described in subsection G.4 below.

G. DISCIPLINARY CONSEQUENCES, REMEDIES, AND OTHER RESPONSES FOR SUBSTANTIATED SEXUAL HARASSMENT

1. Disciplinary Consequences for Students

Disciplinary consequences for substantiated sexual harassment will be assigned in accordance with the Code of Student Conduct. 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. In addition, the conduct also may be reported to law enforcement, as appropriate.

A student recommended for a long-term suspension or expulsion will have all applicable rights accorded by board policy and state law. A student with disabilities will have all rights accorded by law, including the right to a manifestation hearing before the imposition of a suspension exceeding 10 cumulative days in a school year.

This policy will not be construed to allow school officials to punish student expression or speech based on undifferentiated fear or apprehension of a disturbance or out of a desire to avoid the discomfort and unpleasantness that may accompany an unpopular viewpoint. However, false or malicious complaints of sexual harassment and false statements made in bad faith in the course of any

~~grievance proceeding conducted pursuant to this policy are subject to disciplinary action.~~

~~Nothing in this policy will preclude the school system from taking disciplinary action against a student when the evidence does not establish sexual harassment as defined in this policy but the conduct violates other board policy and/or the Code of Student Conduct.~~

~~2. Disciplinary Consequences for Employees~~

~~Substantiated sexual harassment by employees is subject to discipline up to and including dismissal. In addition, the conduct may also be reported to law enforcement, as appropriate.~~

~~An employee recommended for suspension, demotion, or dismissal shall have all applicable rights accorded by board policy and state law.~~

~~Nothing in this policy will preclude the school system from taking disciplinary action against an employee when the evidence does not establish sexual harassment as defined in this policy, but the conduct violates other board policy or expected standards of employee behavior.~~

~~3. Consequences for Other Perpetrators~~

~~Volunteers and visitors who engage in sexual harassment will be directed to leave school property and/or be reported to law enforcement, as appropriate, in accordance with policy 5020, Visitors to the Schools. A third party under the supervision and control of the school system will be subject to termination of contracts/agreements, restricted from access to school property, and/or subject to other consequences, as appropriate. Nothing in this policy will be construed to confer on any third party a right to due process or other proceedings to which student and employee respondents are entitled under this policy unless such right exists under law.~~

~~4. Remedies~~

~~At the conclusion of the grievance process, the superintendent or other decision-maker shall confer with the Title IX coordinator to determine the remedies to be provided to the complainant when the respondent is found responsible for sexual harassment. The Title IX coordinator shall consult with the complainant in determining appropriate remedies.~~

~~The Title IX coordinator shall be responsible for the effective implementation of the remedies to be provided to the complainant.~~

~~5. Consideration of Need for More Extensive Response~~

If the superintendent determines that a school-wide or system-wide response is needed in order to respond to the sexual harassment in a way that is not clearly unreasonable under the circumstances, the superintendent shall provide additional staff training, harassment prevention programs, or such other measures as determined appropriate to protect the safety of the educational environment and/or to deter sexual harassment.

H. INFORMAL RESOLUTION

The board provides informal resolution processes to resolve some formal complaints of sexual harassment without a full investigation and adjudication. Informal resolution is not available unless a formal complaint is filed and will not be used to resolve formal complaints alleging that an employee sexually harassed a student. Further, school officials shall never condition an individual's enrollment, employment, or other rights on an agreement to waive the individual's right to a formal investigation and adjudication of a formal complaint.

The Title IX coordinator, or other school official in consultation with the Title IX coordinator, may offer the parties an informal process to resolve a formal complaint at any time prior to reaching a final determination regarding responsibility. Before using an informal resolution process, school officials must ensure that both parties have given voluntary, informed, written consent to attempt informal resolution. Accordingly, the Title IX coordinator, investigator, or decision-maker shall:

1. provide the parties (including the parent of a minor) a written notice disclosing:

    a. the allegations;

    b. the nature and requirements of the informal resolution process, including that if the parties agree to a resolution of the matter, the agreement precludes either party from resuming a formal complaint process arising from the same allegations; and

    c. any consequences that could result from participating in the informal resolution process, including whether records will be maintained and could be shared; and

2. obtain the parties' voluntary, written consent to the informal resolution process.

Any agreement reached by the parties through informal resolution may include measures that are designed to restore or preserve the parties' equal access to the education program and activities, including measures that may be punitive or disciplinary in nature.

Any informal process should be completed within a reasonable period of time, not to exceed 60 days from filing the complaint unless special circumstances necessitate more

time. At any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint.

I. RETALIATION PROHIBITED

Any act of retaliation or discrimination against any person for the purpose of interfering with any right or privilege secured by Title IX or because the person has made a report or filed a formal complaint or testified, assisted, or participated or refused to participate in any investigation, proceeding, or hearing involving sexual harassment is prohibited. Any person who is found to have engaged in retaliation will be subject to discipline, up to and including dismissal. Acts of retaliation may also be subject to policy 1760/7280, Prohibition Against Retaliation.

Complaints alleging retaliation are to be treated as claims of sex discrimination and may be filed in accordance with policy 1720/4030/7235, Title IX Nondiscrimination on the Basis of Sex.

J. RECORDS

The superintendent or designee shall maintain for a period of seven years records of the following:

1. each sexual harassment investigation including:
    a. any determination regarding responsibility;
    b. any audio or audiovisual recording or transcript from any live hearing;
    c. any disciplinary sanctions imposed on the respondent; and
    d. any remedies provided to the complainant designed to restore or preserve equal access to the school system's education program and activities;
2. any appeal and the result therefrom;
3. any informal resolution and the result therefrom; and
4. in conjunction with the Title IX coordinator, all materials used to train Title IX coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. These materials will be made publicly available on the school system's website.

Legal References: Family Educational Rights and Privacy Act, 20 U.S.C. 1232g; Title IX of the Education Amendments Act of 1972, 20 U.S.C. 1681 *et seq.*, 34 C.F.R. pt. 106; *Gebser v. Lago Vista Independent School District*, 524 U.S. 274 (1998); *Davis v. Monroe County Board of*

~~*Education*, 526 U.S. 629 (1999)~~

~~Cross References: Title IX Nondiscrimination on the Basis of Sex (policy 1720/4030/7235), Title IX Sexual Harassment – Prohibited Conduct and Reporting Process (policy 1725/4035/7236), Prohibition Against Retaliation (policy 1760/7280), Hearings Before the Board (policy 2500), School-Level Investigations (policy 4340), Student Discipline Hearing Procedures (policy 4370), Visitors to the Schools (policy 5020), Discrimination and Harassment in the Workplace (policy 7232), Professional Employees: Demotion and Dismissal (policy 7930), Classified Personnel: Suspension and Dismissal (policy 7940)~~

~~Other Resources: *Questions and Answers on the Title IX Regulations on Sexual Harassment*, U.S. Department of Education, Office for Civil Rights (July 2021), available at https://www2.ed.gov/about/offices/list/ocr/docs/202107-qa-titleix.pdf~~

~~Adopted: November 2, 2020~~
~~Updated: January 10, 2022~~

The board prohibits unlawful discrimination in employment based on race, color, religion, national origin, military affiliation, genetic information, sex (including pregnancy, childbirth, sexual orientation, and gender identity), age (40 or older), disability, or other unlawful grounds. Harassment is a form of unlawful employment discrimination. The board recognizes that all forms of harassment of employees or applicants is harmful behavior that negatively impacts the workplace environment.

Any employee who engages in discrimination or harassment prohibited by this policy or who contributes to the development of a hostile work environment is subject to discipline, up to and including dismissal.

A. DISCRIMINATION PROHIBITED

Discrimination is any act or failure to act, whether intentional or unintentional, by an employee or agent of the school system that unreasonably and unfavorably differentiates treatment of others based solely on their membership or that of an associate in a legally protected class.

Discrimination in employment based on the characteristics listed above is prohibited in all employment-related practices, including hiring, compensation, terms, conditions, and other privileges of employment, except when sex, age, or physical requirements are essential occupational qualifications.

B. HARASSMENT PROHIBITED

Harassment prohibited by this policy is unwelcome conduct based on race, color, religion, national origin, military affiliation, genetic information, age (40 or older), sex (including pregnancy, childbirth, sexual orientation, and gender identity), or disability where:

1. enduring the offensive conduct becomes a condition of continued employment; or

2. the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive, even if the complaining individual is not the intended target.

A single incident of harassment, if physically threatening or humiliating, can create a hostile work environment. The complaining individual need not be the target of the harassment.

Examples of unwelcome conduct that may violate this policy include, but are not limited to, offensive jokes, slurs, epithets or name calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures, and interference

with work performance.

Petty slights, annoyances, simple teasing, offhand comments, or isolated incidents (unless extremely serious) are not harassment under this policy, nor are reasonable performance management actions taken to direct and control how work is performed or to monitor and give feedback on work performance. The exercise of legitimate authority administered in a professional and constructive manner is not harassment under this policy.

C. SEXUAL HARASSMENT PROHIBITED

Sexual harassment is a particular type of workplace harassment. Sexual harassment prohibited by this policy may also violate policy 1725/4035/7236, Title IX Sexual Harassment – Prohibited Conduct and Reporting Process, and in such cases school officials must proceed in accordance with the requirements of that policy.

Prohibited sexual harassment is unwelcome conduct which is either of a sexual nature, or is directed at a person because of the person's sex (including pregnancy, childbirth, sexual orientation, and gender identity), when:

1. submission to the conduct is made either explicitly or implicitly a term or condition of a person's employment;

2. submission to or rejection of such conduct is made the basis for decisions affecting a person's employment; or

3. the conduct has the purpose or effect of unreasonably interfering with an employee's work performance or creating an intimidating, hostile, or offensive work environment.

Sexual harassment can include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature, or verbal, nonverbal, or physical aggression, intimidation, or hostility that is based on actual or perceived gender and sexual stereotypes, sexual orientation, or gender identity. Consensual conduct between adults that is not directed at a third party is not sexual harassment.

D. REPORTING DISCRIMINATION AND HARASSMENT

Applicants and employees should promptly report orally or in writing any instance of alleged or potential discrimination, including harassment, to their principal or supervisor or the senior human resources official. Upon receiving a written complaint, the principal, supervisor, or senior human resources official shall promptly investigate the written complaint and cause or recommend appropriate corrective action if the written complaint is substantiated. Oral reports of violations may be investigated at the discretion of the school officials designated above. All reports and complaints of harassment under this policy will be investigated in a manner that protects the employee or applicant and maintains confidentiality to the greatest extent possible as permitted by law.

E. RETALIATION PROHIBITED

The board prohibits retaliation against any person for making a report or complaint of a violation of this policy, supporting someone for reporting or intending to report a violation of this policy, or participating in the investigation of a reported violation of this policy. No reprisals will be taken by the board against a complaining party or other individual who makes a good faith report of discrimination or harassment. Any person who is found to have engaged in retaliation will be subject to discipline, up to and including dismissal. Acts of retaliation may also be subject to policy 1760/7280, Prohibition Against Retaliation.

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 II of the Genetic Information Nondiscrimination Act of 2008; Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e *et seq.*, 29 C.F.R. pt. 1604; Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. 4301 *et seq.*; *Bostock v. Clayton County*, 590 U.S. __, 140 S. Ct. 1731 (2020); G.S. 143-422.2

Cross References: Discrimination and Harassment Prohibited by Federal Law (policy 1710/4020/7230), Title IX Nondiscrimination on the Basis of Sex (policy 1720/4030/7235), Title IX Sexual Harassment Prohibited Conduct and Reporting Process (policy 1725/4035/7236), Title IX Sexual Harassment Grievance Process (policy 1726/4036/7237), Prohibition Against Retaliation (policy 1760/7280), Recruitment and Selection of Personnel (policy 7100)

Adopted: December 7, 2020
Updated: June 7, 2021

Safe schools are critical to creating a learning environment in which students can succeed. Staff and students share the responsibility for taking reasonable precautions and following established safety measures to create and maintain safe schools. The following safety measures must be implemented at each school.

A. SUPERVISION OF STUDENTS

Students must be reasonably supervised while in the care and custody of the school system. This supervision must occur throughout school hours, including during class, between classes, on the playground, and during recess or lunch periods; during authorized school field trips; and on school buses. Reasonable precautions should be taken to protect the safety of students on school grounds and on buses before, during, and after school.

Students who are subject to policy 4260, Student Sex Offenders, and are receiving educational services on school property must be supervised by school personnel at all times.

B. SUPERVISION OF VISITORS

School administrators shall strictly enforce policies 5015, School Volunteers, and 5020, Visitors to the Schools.

C. SAFETY OF SCHOOL BUILDINGS AND GROUNDS

The board recognizes its duty to provide each of its employees with a workplace free from recognized hazards that are causing or are likely to cause death or serious physical harm.

The superintendent and each building principal shall comply with all duties set out for their respective positions in G.S. 115C-288(d) and G.S. 115C-525 to minimize fire hazards. The principal is required to inspect school buildings, playgrounds, and equipment for health, fire, and safety hazards on a regular basis, as required by law, and to notify the superintendent immediately of unsanitary conditions or repairs needed to meet safety standards.

Any employee who observes any potential hazards must notify the principal or the employee's supervisor immediately.

All warning systems must meet building and equipment codes required by law and must be properly maintained. When necessary, proper signs indicating potential hazards or recommended safety precautions must be posted.

D. ESTABLISHING PROCESSES TO ADDRESS POTENTIAL SAFETY CONCERNS AND EMERGENCIES

1. Responding to Student Altercations and Other Threats to Safety

   All school system employees have a duty to be alert at all times to situations that may pose a threat to the safety of students, employees, or visitors on school property, at school events, or in other situations in which the students are under the authority of school employees. Even an employee who does not have responsibility for supervising students is expected to make an immediate report if the employee observes or has reason to suspect that a situation poses a threat to safety and no administrator, teacher, or other supervisory employee is present and aware of the potential threat.

   Teachers, teacher assistants, coaches, and other employees with responsibility for supervising students will use appropriate student behavior management techniques to maintain order and discipline on school property, at school events, and anywhere that students are under the employees' authority. Such employees must enforce the Code of Student Conduct and address student behavior in accordance with the school plan for management of student behavior (see policy 4302, School Plan for Management of Student Behavior).

   When employees with responsibility for supervising students have personal knowledge or actual notice of a student altercation or other situation that poses an immediate threat to safety, they shall use their professional judgment to determine how best to address the situation to protect the safety of everyone in the vicinity. Emergency procedures identified in a student's Behavior Intervention Plan shall be followed to the maximum extent possible under the circumstances. For minor threats or altercations or altercations involving young children, the employee shall intervene directly to end the fight or address the safety threat if the employee can do so safely. An employee who encounters a situation that cannot be managed safely and effectively by that employee immediately shall request assistance from other employees or administrative staff and shall take steps to remove bystanders from the area. Only the degree of force or physical control reasonably necessary shall be used to re-establish a safe environment.

   Employees should take further action as appropriate in accordance with any response protocols established by the principal or superintendent. All employees are responsible for knowing and following such protocols to the fullest extent reasonable under the circumstances at the time.

2. School Rules

   The principal or designee shall develop rules to help prevent accidents in school buildings, on school buses, and on school grounds.

3. Training ~~for Staff and Students~~

Staff training must include detailed instruction on how to respond to a variety of emergency situations. Staff should also be able to recognize and respond to behavior, information, and related indicators that warn of impending problems. In addition, middle and high school employees must receive adequate training on the operation of the school's anonymous safety tip line.

School personnel must teach and review with students (1) safety procedures, including fire safety procedures; (2) precautions for handling chemicals or potentially dangerous equipment; and (3) appropriate responses to threats to school safety. Middle and high school students must also be informed of the anonymous safety tip line and its purpose and function.

Training must be provided annually for all school system stakeholders (including staff, students, parents, coaches, volunteers, and community members) on how to recognize, and how and when to report, threats to the school population or community.

4. Safety Equipment

School employees shall provide students and visitors with safety equipment as required by law and shall enforce school rules pertaining to wearing safety equipment. School employees shall wear and use appropriate safety equipment as required for the safe performance of their specific job assignments.

5. Planning for Emergencies and Conducting Fire Drills and Other Emergency Drills

The board, in coordination with local law enforcement and emergency management agencies, will adopt a school risk management plan relating to incidents of school violence for each school in the school system. The superintendent must provide the Department of Public Safety's Division of Emergency Management (Division) with emergency response information it requests for the school risk management plan and updated emergency response information when such updates are made. The superintendent must also provide the Division and local law enforcement with schematic diagrams, including digital schematic diagrams, of all school facilities and updates of the schematic diagrams when the school system makes substantial facility modifications, such as the addition of new facilities or modifications to doors or windows. Schematic diagrams must meet any standards established by the Department of Public Instruction for the preparation and content of the diagrams. In addition, the superintendent shall provide local law enforcement with (1) either keys to the main entrance of all school buildings or emergency access to key storage devices for all school buildings and (2) updated access to school buildings when changes are made to the locks of the main entrances or to the key storage devices.

At least one school-wide tabletop exercise and drill that meets the requirements of state law and is based on the procedures documented in the school risk management plan will be held annually at each school. Principals shall also conduct fire drills as required by law.

6. Reporting Risks to the School Population

Students should notify any staff member of any acts of violence, harassment, or bullying or any other unusual or suspicious behavior that may endanger safety. Middle and high school students may also use the anonymous safety tip line to report any risks to the school population or buildings. Ongoing student education efforts will aim at minimizing any fear, peer pressure, embarrassment, or other impediments to students reporting potential problems.

Maintaining a safe school environment that is conducive to learning requires staff to be proactive in dealing with violence, harassment, and bullying. Staff members must report immediately to the principal any information regarding unusual or suspicious behavior or acts of violence, harassment, or bullying.

School officials shall investigate and act upon any report of such behavior, including, when appropriate, referring reports to the school threat assessment team and reporting criminal activities to law enforcement, the State Board, the State Superintendent of Public Instruction, and the superintendent or designee (see policies 1710/4020/7230, Discrimination and Harassment Prohibited by Federal Law, 1725/4035/7236, Title IX Sex~~ual~~ Discrimination ~~Harassment –~~ Prohibited Conduct and ~~Reporting Process~~ Grievance Procedures, ~~1726/4036/7237, Title IX Sexual Harassment Grievance Process,~~ 4040/7310, Staff-Student Relations, 4329/7311, Bullying and Harassing Behavior Prohibited, and 4335, Criminal Behavior~~, and 7232, Discrimination and Harassment in the Workplace)~~.

7. Potential Threats of Registered Sex Offenders

The principal of each school shall register with the North Carolina Sex Offender and Public Protection Registry to receive e-mail notification when a registered sex offender moves within a one-mile radius of the school.

8. Student Behavior Standards

Students are expected to meet behavior standards set forth in board policies

E. THREAT ASSESSMENT TEAMS

In accordance with G.S. 115C-105.65, the superintendent shall establish a multidisciplinary threat assessment team for each school within the school system to identify, assess, and manage behavior of students or others who may pose a risk of violence or harm to self or others.22The threat assessment teams will include, but are not limited to, individuals with expertise in counseling, instruction, school administration, and law enforcement. When practicable, at least one school psychologist, one staff member knowledgeable about and experienced in working with students with special needs, and one staff member knowledgeable about and experienced in working with students with disabilities will be assigned to each threat assessment team. If a school psychologist is not available, a licensed mental

health professional may be assigned instead. A member of each threat assessment team will operate as team leader with the responsibility to ensure adherence to the threat assessment process, ensure proper documentation of reports of threats and threat assessment activities, and facilitate collaborative team discussions to ensure various perspectives are considered.

The superintendent shall designate a school system administrator to oversee the school system's threat assessment program and to serve as liaison between the school system and the North Carolina Center for Safer Schools(CSS).The superintendent or designee shall also establish a committee composed of individuals with expertise in human resources, education, school administration, mental health, and law enforcement that will coordinate and monitor the threat assessment teams operating within the school system.

1. Training

All team members will receive behavioral threat assessment and management training annually prior to the start of the school year. Individuals who join the team in the middle of the school year must receive training within 60 calendar days of joining the team.

2. Assessment and Intervention

Unless the superintendent establishes a different classification system in the threat assessment protocols developed pursuant to subsection E.4of this policy, threat assessment teams will use the levels of concern table listed in the behavioral threat assessment and management guidance issued by CSS in assessing the level of threat posed and forming a response to threats. Upon determining that a student poses a threat, the threat assessment team will develop a written student support, intervention, and monitoring management plan that establishes interventions and specifies required monitoring times of the student based on the level of concern the student presents. To effectively manage and mitigate potential risk, interventions must focus on building resilience and protective factors for the student while also addressing safety concerns.

3. Information Sharing

Parents of a student or minor will be notified as soon as practicable that a threat assessment will be or is being conducted on their child.29The threat assessment team will contact the parents and provide them the opportunity to participate in the threat assessment. The team is not required to extend the invitation to participate if the student or minor discloses abuse or neglect from the parent. Once a threat assessment is completed, the team will provide its findings and conclusions to the parents, including any interventions the team is recommending be put in place for the well-being of their child and the school community and any school system or community resources that may be useful for the parents in seeking help for their child.

When the threat assessment team learns that an individual has threatened specific harm to an identifiable potential victim, the team will provide notice of the threat to the potential victim and, if the potential victim is a student or minor, provide notice to the parents.

Any information sharing by, with, or between members of the threat assessment teams will be done in accordance with the federal Family Educational Rights and Privacy Act (FERPA)and any other applicable state or federal law.31(See policy2125/7315, Confidential Information).Members of a threat assessment team who are not school system employees must sign a written agreement to

adhere to the responsibilities and requirements of FERPA before having access to student records.

4. Threat Assessment Protocols

In consultation with CSS guidance and with established threat assessment teams within the school system, the superintendent shall develop, implement, and update threat assessment protocols and procedures that comply with the requirements of G.S.

115C-105.65. At a minimum, these protocols and procedures will delineate the roles and duties to be performed by designated threat assessment team members, the expertise and training of professionals who will serve on threat assessment teams, the steps to be followed in the threat assessment process, including the implementation of interventions, supports, and community services, the time frame required to responsibly act upon reported concerns, and the engagement of school resource officers and/or law enforcement in the threat assessment process, and the process of documenting reports of threats and threat assessment activities. The protocols and procedures will differentiate between assessment and intervention at the elementary, middle, and high school levels, as appropriate.

The superintendent or designee shall send a copy of this policy and the threat assessment protocols and procedures to CSS when approved or revised.33Inaddition, the superintendent shall ensure that quantitative data on the activities of all threat assessment teams is reported to CSS as required by G.S. 115C-105.65(g) and CSS guidance.

Legal References: 29 C.F.R. part 1904; G.S. 14-208.18; 95-129(1); 115C-36, -47, -105.49, -105.51, -105.53, -105.54, -105.65, -166, -167, -288, -289.1, -307, -390.3, -391.1, -521, -524, -525; 13 N.C.A.C. 7A .0301; 16 N.C.A.C. 6E .0107; State Board of Education Policy SCFC-005

Cross References: Discrimination and Harassment Prohibited by Federal Law (policy 1710/4020/7230), Title IX Sexual Harassment Discrimination – Prohibited Conduct and Reporting Process Grievance Procedures (policy 1725/4035/7236), Title IX Sexual Harassment Grievance Process (policy 1726/4036/7237), Confidential Information (policy 2125/7315), School Improvement Plan (policy 3430), Staff-Student Relations (policy 4040/7310), Student Sex Offenders (policy 4260), Student Behavior Policies (4300 series), Bullying and Harassing Behavior Prohibited (policy 4329/7311), School Volunteers (policy 5015), Visitors to the Schools (policy 5020), Registered Sex Offenders (policy 5022), Weapons and Explosives Prohibited (policy 5027/7275), Public Records – Retention, Release, and Disposition (policy 5070/7350), Relationship with Law Enforcement (policy 5120), Discrimination and Harassment in the Workplace (policy 7232), Occupational Exposure to Hazardous Chemicals in Science Laboratories

(policy 7265), Staff Responsibilities (policy 7300), Security of Facilities (policy 9220)

Other Resources: *Practical Information on Crisis Planning: A Guide for Schools and Communities*, U.S. Department of Education, Office of Safe and Drug-Free Schools (January 2007), available at http://www2.ed.gov/admins/lead/safety/crisisplanning.html

Adopted: March 6, 2000
Updated: July 1, 2009
Updated: August 2, 2010
Updated: January 19, 2011
Updated: July 12, 2011
Updated: December 6, 2011
Updated: January 14, 2013
Updated: December 9, 2013
Updated: January 11, 2016
Updated: December 14, 2017
Updated: December 3, 2018
Updated: December 7, 2020
Updated: June 7, 2021
Updated: January 10, 2022
Updated: January 10, 2023

DISCRIMINATION AND HARASSMENT PROHIBITED BY FEDERAL LAW

Policy Code: **1710/4020/7230**

The board acknowledges the dignity and worth of all students and employees and strives to create a safe, orderly, caring, and inviting school environment to facilitate student learning and achievement. The board prohibits discrimination on the basis of race, sex, color, national origin, religion, disability, or age (40 or older), in its education program, which includes all operations, services, and activities of the school system, and will provide equal access to the Boy Scouts and other designated youth groups as required by law. In the context of employment, the board prohibits discrimination based on race, sex, color, national origin, religion, disability, age (40 or older), military affiliation, genetic information, or other unlawful grounds.

~~The board will not tolerate any form of unlawful discrimination or harassment in any of its education activities or programs.~~ All forms of prohibited discrimination and harassment are subject to this policy except ~~the following, for which the board has established more specific policies.~~

for ~~D~~discrimination and harassment on the basis of sex in violation of Title IX of the Education Amendments Act of 1972. Such discrimination and harassment is addressed separately in policies~~y~~ 1720/4030/7235, Title IX Nondiscrimination on the Basis of Sex, and 1725/4035/7236, Title IX Sex Discrimination-Prohibited Conduct and Grievance Procedures. Allegations of discrimination or harassment in violation of Title IX will be addressed using the processes established in policy 1725/4035/7236.

- ~~Discrimination and harassment in employment is addressed in policy 7232, Discrimination and Harassment in the Workplace.~~

~~In addition, the process set out in this policy for bringing complaints does not apply to the following.~~

- ~~Complaints of sexual harassment will be brought in accordance with the processes established in policies 1725/4035/7236, Title IX Sexual Harassment – Prohibited Conduct and Reporting Process, and 1726/4036/7237, Title IX Sexual Harassment Grievance Process.~~

- ~~Employee allegations of discrimination or harassment will be addressed using the process established in policy 7232, Discrimination and Harassment in the Workplace.~~

- Though claims of discrimination or harassment on the basis of disability, as specified in policy 1730/4022/7231, Nondiscrimination on the Basis of Disabilities, are

subject to this policy, ~~A~~allegations regarding or related to the identification, evaluation, educational placement, or free appropriate public education of a student under Section 504 or the IDEA may be raised through the system of procedural safeguards established under policy 1730/4022/7231~~, Nondiscrimination on the Basis of Disabilities,~~ (for Section 504 complaints) or in accordance with the procedures described in *Parents Rights & Responsibilities in Special Education*, published by the NC Department of Public Instruction (for IDEA complaints).

The board encourages all individuals who believe that they have been discriminated against or harassed in violation of this policy or who have reliable information that another person has been discriminated against or harassed in violation of this policy to report such conduct as soon as possible through the process provided in Section B below. The board takes seriously all reports of unlawful discrimination and harassment and directs school officials to take prompt action to investigate and remedy violations of this policy. The superintendent is responsible for providing effective notice of this policy to students, parents, and employees.

~~The board encourages students, visitors, and other non-employee individuals who believe that they may have been discriminated against or harassed in violation of this policy, (including on the basis of disability, as specified in policy 1730/4022/7231, Nondiscrimination on the Basis of Disabilities), to report such conduct as soon as possible through the process provided in Section B of this policy. Employees who believe that they may have been discriminated against or harassed should report through the process provided in policy 7232, Discrimination and Harassment in the Workplace. Individuals who have witnessed or who have reliable information that another person has been subject to unlawful discrimination or harassment may report the conduct to an individual designated in Section B of this policy.~~

~~Any report made through the process established in this policy may be made anonymously, except mandatory employee reports.~~

A. PROHIBITED BEHAVIOR

Students, school system employees, volunteers, and visitors are expected to behave in a civil and respectful manner. The board expressly prohibits unlawful discrimination and harassment as defined below by students, employees, board members, volunteers, or visitors. "Visitors" includes parents and other family members and individuals from the community, as well as vendors, contractors, and other persons doing business with or performing services for the school system.

1. Discrimination

Discrimination is any act or failure to act, whether intentional or unintentional, by an employee or agent of the school system that unreasonably

and unfavorably differentiates treatment of others based solely on ~~their membership in a~~ one or more of the legally- protected ~~class~~ characteristics listed in the first paragraph of this policy so as to interfere with or limit their ability to participate in or benefit from the services, activities, or privileges offered by the school system's education program. ~~For purposes of this policy, the legally protected classes are race, color, national origin, religion, and disability.~~

2. Harassment

~~Prohibited h~~Harassment is deliberate unwelcome conduct directed at another person or group of persons based on ~~their membership in a~~ one or more of the legally protected characteristics ~~class~~ listed in the first paragraph of this policy that creates a hostile environment or adversely affects a school system employee's employment. Harassment does not have to include intent to harm, be motivated by animus, be directed at a specific target, or involve repeated incidents. Harassment creates a hostile environment when (1) the conduct is sufficiently severe, pervasive, or persistent so as to interfere with or limit a person's ability to participate in or benefit from the services, activities, or opportunities offered by the school system or (2) the conduct is so severe or pervasive that an employee finds his or her working conditions to be abusive and a reasonable person in the employee's position would conclude that the working conditions were abusive.

Examples of behavior that may constitute harassment include, but are not limited to, acts of disrespect, intimidation, or threats, such as verbal taunts, name-calling and put-downs, ~~epithets,~~ derogatory epithets, comments or slurs, imitating a person's disability-based limitations, mocking a person's accent, making fun of a person's religious garments, jewelry, or displays, exclusion 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 hate symbols or derogatory posters or cartoons. Harassment may occur through electronic means, such as through the Internet, email, ~~or~~ text message, or video calls.

Petty slights, annoyances, simple teasing, offhand comments or isolated incidents (unless extremely serious) are not harassment under this policy. Legitimate age-appropriate pedagogical techniques are not considered harassment, nor are reasonable performance management actions taken to direct and control how work is performed or to monitor and give feedback on work performance. The exercise of legitimate authority administered in a professional and constructive manner is not harassment under this policy.

3. Application of the Policy

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) through the use of school system technological resources; (6) at any time or place when the individual is subject to the authority of school personnel; or (~~6~~7) at any time or place when the behavior has a direct and immediate effect on maintaining order and discipline in the schools or has consequences in the workplace contributing to a hostile work environment.

This policy will not be construed to allow school officials to punish student expression or speech based on undifferentiated fear or apprehension of a disturbance or out of a desire to avoid the discomfort and unpleasantness that may accompany an unpopular viewpoint.

B. REPORTING DISCRIMINATION OR HARASSMENT

1. Reporting Suspected Discrimination or Harassment

~~1.~~ Any person who believes that he or she has been discriminated against or harassed in violation of this ~~policy by any student, employee, or other person under the supervision and control of the school system,~~ or any third person who knows or suspects conduct that may constitute discrimination or harassment in violation of this policy should inform a school official designated in Section C below. Reports also may be made anonymously, including through the anonymous tip line.

2. Mandatory Reporting by School Employees

Any employee who witnessed or who has reliable information or reason to believe that another person ~~student or other individual~~ may have been discriminated against or harassed in violation of this policy must report the offense immediately to an appropriate individual designated in Section C below. Any doubt about whether particular conduct is possible discrimination or harassment under this policy, or any other policy of the board must be resolved in favor of reporting the conduct.

Employees who observe an incident of harassment are expected to intervene to stop the conduct in situations in which they have supervisory control over the perpetrator and it is safe to do so. If an employee knows of an incident involving discrimination or harassment and the employee fails to report the conduct or take proper action or knowingly provides false information in regard to the incident, the employee will be subject to disciplinary action up to, and including, dismissal.

3. Preliminary Inquiry

School officials may make a preliminary inquiry when a report is received to understand what occurred and to determine whether further action under this policy or otherwise is necessary.

C. COMPLAINTS OF DISCRIMINATION AND HARASSMENT

1. Making a Complaint of Discrimination and Harassment

1. Any person ~~student, visitor, or other non-employee individual~~ who believes he or she is the victim of unlawful discrimination or harassment in violation of this policy, or any person who has witnessed or who has reliable information that another person has been subject to ~~unlawful~~ discrimination or harassment ~~under~~ in violation of this policy, may request that school officials investigate and redress any such unlawful conduct by making ~~make~~ a formal written complaint to any of the following persons:

a. the principal or assistant principal of the school ~~at which~~ either the alleged victim or alleged perpetrator attends ~~or is employed~~;

b. the principal, assistant principal, or site supervisor at the location where either the alleged victim or alleged perpetrator is employed

c. the senior human resources official (or if the senior human resources official is the alleged perpetrator, the superintendent) if the alleged victim or alleged perpetrator is an employee or applicant for employment;

~~b.~~d. the Section 504 coordinator or the ADA coordinator for claims of discrimination on the basis of a disability; or

~~c.~~e. for claims of other forms of prohibited discrimination, the applicable civil rights coordinator as established in Section I of this policy.

If a written complaint alleges that the perpetrator is an employee, the school official receiving the complaint shall notify the senior human resources official without delay.

2. Addressing Complaints

2. A written complaint alleging that a student~~,~~ employee, or applicant for employment has been discriminated against or harassed will be addressed in accordance with this policy.

~~A written complaint alleging that an employee has been discriminated against or harassed will be addressed in accordance with policy 7232, Discrimination and Harassment in the Workplace.~~

A written complaint alleging that a person who is not a student ~~or~~ employee, or applicant for employment has been discriminated against or harassed will be addressed in accordance with the general process for resolving complaints provided in policy 1742/5060, Responding to Complaints, not this policy.

~~1.~~3. Time Period for Making a Complaint

Alleged discrimination or harassment should be reported as soon as possible but no later than 30 days after disclosure or discovery of the facts giving rise to the complaint. Complaints submitted after the 30-day period may be investigated; however, individuals should recognize that delays in reporting may significantly
impair the ability of school officials to investigate and respond to such complaints.

D. SCHOOL OFFICIALS' RESPONSE TO REPORTS ANO COMPLAJNTS OF DISCRIMINATION OR HARASSMENT

1. Investigation

School officials shall investigate all formal written complaints received. Reports of discrimination or harassment that are not followed by a formal written complaint may be investigated ~~at the discretion of school officials~~ when necessary to remedy violations of this policy and may be investigated even if the alleged victim does not seek action by school officials.

a. The principal or designee or site supervisor will be the investigator when the alleged perpetrator is a student or third party. The senior human resources official or designee will be the investigator when the alleged perpetrator is an employee. The superintendent may determine that individual circumstances warrant the assignment of a different investigator.

Notwithstanding the above designations, (1) if the alleged perpetrator is the senior human resources official, the superintendent will be the investigator, and (2) if the alleged perpetrator is the superintendent or a

member of the board, the board chair shall direct the board attorney to investigate, unless the board chair determines that outside counsel should be engaged to investigate.

b. As applicable, the investigator shall immediately notify the Section 504, ADA, or other relevant coordinator of the complaint, and, as appropriate, may request assistance from the coordinator in conducting the investigation.

c. If the investigator, after interviewing the complaining party and/or the alleged victim and consulting with the board attorney, determines that the allegations submitted, even if factual, do not constitute discrimination or harassment as defined in this policy or policy 1730/4022/7231, Nondiscrimination on the Basis of Disabilities, school officials shall address the matter outside the scope of this policy. Information regarding the investigator's determination and ~~the process~~ any further avenues for addressing the complaint will be provided to the complaining party.

d. Any investigation conducted must be impartial, prompt, and thorough. The investigator shall investigate the facts and circumstances related to the allegation(s) of discrimination or harassment and give the alleged perpetrator an opportunity to respond to the allegations.

The investigator shall consider all the evidence collected, the context in which the alleged incidents occurred, the age and maturity of the parties, and any other relevant circumstances, and in consultation with the board attorney as appropriate, shall determine whether the alleged act(s) constitutes a violation of this policy, policy l 730/4022/7231, Nondiscrimination on the Basis of Disabilities, and/or any other board policy or expected standard of student or employee behavior.

e. The complaint and investigation will be kept confidential to the extent possible and consistent with law. Information may be shared only with individuals who need the information in order to investigate and address the complaint appropriately and those with a legal right to access the information.

2. Investigator's Findings

a. If the investigator finds that discrimination occurred, the investigator shall take or recommend steps to address the discrimination.

b. If the investigator finds that harassment occurred ~~and created a hostile environment~~, the investigator shall assign or recommend appropriate disciplinary consequences for the perpetrator and/or take or recommend other reasonable measures to eliminate ~~the~~ any hostile environment or rectify any wrongful change in employment and prevent ~~its~~ the recurrence of harassment.

c. If the investigator finds that the conduct did not violate this policy but violated policy 4329/7311, Bullying and Harassing Behavior Prohibited, or another board policy or expected standard of conduct, the investigator shall assign or recommend discipline or other action appropriate to the violation.

d. The investigator shall make a record of the evidence and findings of the investigation and the assigned or recommended discipline and/or other remedial action and provide a copy to the appropriate civil rights coordinator. If the investigator recommends a disciplinary consequence or remedial action that is beyond his or her authority, the investigator shall provide a copy of the record to the superintendent for further action.

e. The investigator shall inform the alleged victim and alleged perpetrator of the outcome of the investigation.

3. Steps to Reasonably End Discrimination or Harassment

a. The superintendent is responsible for taking or causing appropriate action to be taken in response to discrimination and harassment in violation of this policy. Appropriate action must include:

1. reasonable, timely, age-appropriate corrective action intended to end the discrimination or harassment and prevent it from recurring;

11. as needed, reasonable steps to address the effects of the discrimination or harassment on the victim; and

111. as needed, reasonable steps to protect the victim from retaliation as a result of the complaint.

b. Appropriate steps to end discrimination and harassment may include, but are not limited to, separating the parties, providing counseling for the parties, and/or taking disciplinary action against a perpetrator determined to have violated this policy. The superintendent may take non-punitive measures to end or prevent instances of discrimination or harassment regardless of whether any individual has

been found responsible for the discrimination or harassment. The superintendent also may implement or direct the implementation of classroom-wide, school-wide, or school system-wide responses such as additional staff training, harassment prevention programs, and other measures reasonably calculated to end the behavior, eliminate a hostile environment and its effects if one has been created, and prevent recurrence of the behavior.

c. The applicable civil rights coordinator shall encourage victims of discrimination and harassment to report any subsequent problems and may conduct follow-up inquiries as warranted to determine if there have been any new incidents of discrimination or harassment or any instances of retaliation.

E. APPEALS

1. Appeals to the Superintendent

~~1.~~ ~~If t~~The alleged victim ~~is dissatisfied with the outcome of the investigation, he or she~~ may appeal the investigator's decision to the superintendent (unless the alleged perpetrator is the superintendent, in which case the alleged victim may appeal directly to the board in accordance with the next ~~paragraph~~ subsection). The appeal must be submitted in writing within three ~~school~~ business days of receiving the notice of the outcome of the investigation. The superintendent may review the documents, conduct any further investigation necessary, or take any other steps the superintendent determines to be appropriate in order to respond to the complaint. The superintendent shall provide a written response within 10 business days after receiving the appeal, unless further investigation is needed.

2. Appeals to the Board

~~2.~~ Student victims or their parents may appeal the superintendent's decision to the board in accordance with subsection E.5.a of policy 1740/4010, Student and Parent Grievance Procedure. Victims who are ~~E~~employees or applicant for employment may appeal the superintendent's decision to the board in accordance with subsection E.4.a of policy 1750/7220, Grievance Procedure for Employees.

3. Discipline Rights Provided by Law

~~3.~~ Any student or employee subject to discipline for violating this policy will be accorded all rights provided by law.

F. RETALIATION PROHIBITED

The board prohibits retaliation against any person for making a report or complaint of a violation of this policy, supporting someone for reporting or intending to report a violation of this policy, or participating in the investigation of a reported violation of this policy. No reprisals will be taken by the board against a complaining party or other individual who makes a good faith report of discrimination or harassment. Any person who is found to have engaged in retaliation will be subject to discipline, up to and including dismissal. Acts of retaliation may also be subject to policy 1760/7280, Prohibition Against Retaliation.

G. TRAINING AND PROGRAMS

The board directs the superintendent to establish training and other programs that are designed to prevent discrimination and harassment and to foster an environment of understanding and respect for all members of the school community. Information about the prohibited conduct and complaint procedure in this policy ~~and those in policies 1725/4035/7236, Title IX Sexual Harassment Prohibited Conduct and Reporting Process, and 1726/4036/7237, Title IX Sexual Harassment Grievance Process,~~ must be included in the training plan.

As funds are available, the board will provide students, employees, and volunteers who have significant contact with students with additional training regarding the board's efforts to address discrimination and harassment and will create programs to address these issues. The training or programs should (1) provide examples of behavior that constitutes discrimination or harassment; (2) teach employees to identify groups that may be the target of discrimination or harassment; and (3) train school employees to be alert to locations where such behavior may occur, including locations within school buildings, at school bus stops, on cell phones, and on the Internet.

See policy 1720/4030/7235, Title IX Nondiscrimination on the Basis of Sex, for information regarding additional training requirements specific to sex discrimination prohibited under Title IX of the Education Amendments Act of 1972.

H. RECORDS

The superintendent or designee shall maintain confidential records of complaints or reports of discrimination or harassment. The records must identify the names of all individuals accused of such offenses and the resolution of such complaints or reports. The superintendent also shall maintain records of training conducted and corrective action(s) or other steps taken by the school system to provide an environment free of discrimination and harassment.

I. CONTACTS FOR INQUIRIES

The superintendent has appointed individuals to coordinate the school system's efforts to comply with and carry out its responsibilities under federal nondiscrimination laws, including investigating any complaints communicated to school officials alleging noncompliance with those laws. Inquiries about the application of the nondiscrimination laws addressed in this policy may be referred to the designated civil rights coordinator and/or the ~~Assistant Secretary for Civil Rights in the~~ Office for Civil Rights at the U.S. Department of Education or the Equal Employment Opportunities Commission.

The contact information for the designated civil rights coordinators is as follows.

a. The Section 504 Coordinator: Jack Cagle
Office Address: 441 Page Street, Troy, NC 27371
Email Address: jack.cagle@montgomery.kl2.nc.us Phone Number: (910) 576-6511

b. The ADA Coordinator: Dr. Takeda LeGrand
Office Address: 441 Page Street, Troy, NC 27371
Email Address: takeda.legrand@montgomery.kl2.nc.us
Phone Number: (910) 576-6511

c. The Age Discrimination Coordinator: Dr. Takeda LeGrand
Office Address: 441 Page Street, Troy, NC 27371
Email Address: takeda.legrand@montgomery.kl2.nc.us
Phone Number: (910) 576-6511

d. The Coordinator for Other Non-discrimination Laws: Dr. Takeda LeGrand
Office Address: 441 Page Street, Troy, NC 27371
Email Address: takeda.legrand@montgomery.kl2.nc.us
Phone Number: (910) 576-6511

~~The contact information for the U.S. Department of Education Office for Civil Rights with jurisdiction over North Carolina is as follows.~~

~~4000 Mary land Ave, SW~~
~~Washington, DC 20202-1475~~
~~Telephone: 202-453-6020 TDD: 800-877-8339~~
~~FAX: 202-453-6021 Email: OCR.DC@ed.gov~~

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; Boy Scouts of America Equal Access Act, 20 U.S.C. 7905, 34 C.F.R. pt. I 08; Individuals with Disabilities Education Act, 20 U.S.C. 1400 *et seq.;* Rehabilitation Act of 1973, 29 U.S.C. 705(20), 794, 34 C.F.R. pt. 104; Title II of the Genetic Information Nondiscrimination Act of 2008; Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d *et 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; Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. 4301 et seq,; *Racial Incidents and Harassment Against Students at Educational Institutions; Investigative Guidance*, U.S. Department of Education, Office for Civil Rights (1994), available at https://www2.ed.gov/about/offices/list/ocr/docs/race394.html; ~~*Notice of Non-Discrimination,*~~ ~~U.S. Department of Education, Office for Civil Rights (2010);~~ *Dear Colleague Letter* (Harassment and Bullying), U.S. Department of Education, Office for Civil Rights (2010), available at http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.pdf; Enforcement Guidance on Harassment in the Workpalce, U.S. Equal Employment Opportunity Commission (April 2024), available at https://www.eeoc.gov/laaws/guidance/enforcement-guidance-harassment workplace?utm_content=&utm_medium=emal&utm_name=&utm_source=govdelivery&utm_term=; G.S. l 15C-407.15 through -407.18; 126-16; 16 N.C.A.C. 6E .0107; *Parent Rights & Responsibilities in Special Education*, (N.C. Dept. of Public Instruction, Exceptional Children Division), available at https://www.dpi.nc.gov/districts-schools/classroom-resources/exceptional-children/parent-resources#dispute-resolution ~~https://ec.ncpublicschools.gov/parent-resources/parents-rights-hand-book~~

Cross References: Title IX Nondiscrimination on the Basis of Sex (policy l 720/4030/7235), Title IX Sex~~ual~~ Discrimination ~~Harassment~~- Prohibited Conduct and ~~Reporting Process~~ Grievance Procedures (policy l 725/4035/7236), ~~Title IX Sexual Harassment Grievance Process (policy l 726/4036/7237),~~ Nondiscrimination on the Basis of Disabilities (policy 1730/4022/7231), Student and Parent Grievance Procedure (policy 1740/4010), Responding to Complaints (policy 1742/5060), Grievance Procedure for Employees (policy 1750/7220), Prohibition Against Retaliation (policy 1760/7280), Hearings Before the Board (policy 2500), Staff-Student Relations (policy 4040/7310), School Plan for Management of Student Behavior (policy 4302), Bullying and Harassing Behavior Prohibited (policy 4329/7311), Visitors to the Schools (policy 5020), Community Use of Facilities (policy 5030)~~, Discrimination and Harassment in the Workplace (policy 7232)~~

Adopted: December 7, 2020
Updated: June 7, 2021
Updated: December 5, 2023

The school system does not discriminate on the basis of sex (including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, ~~childbirth,~~ sexual orientation, ~~and~~ or gender identity) and prohibits sex discrimination, including sex-based harassment, in ~~it's~~ the education programs ~~or activities~~ as~~nd~~ ~~is~~ required by Title IX of the Education Amendments Act of 1972 and federal regulations. Throughout this policy, the term "education program" refers to all operations, services, and activities of the school system, including admissions and employment. The board also prohibits school system employees from implementing any policy, practice, or procedure, or from taking any employment action, on the basis of sex: (1) concerning the current, potential, or past parental, family, or marital status of a student, employee, or applicant for employment, which treats persons differently; or (2) that is based upon whether an employee or applicant for employment is the head of household or principal wage earner in such employee's or applicant's family unit. ~~to not discriminate in such a manner. This requirement extends to admission and employment. The board will not tolerate discrimination on the basis of sex, including any fom1 of sexual harassment as that term is defined under Title **IX, in** any program or activity of the school system.~~

A. INQUIRIES ABOUT TITLE IX

The board has designated a Title IX coordinator to coordinate its efforts to comply with its responsibilities under Title IX and its implementing regulations. Inquiries about the application of Title IX and its implementing federal regulations may be referred to the Title **IX** coordinator and/or ~~the Assistant Secretary for Civil Rights in~~ the Office for Civil Rights at the U.S. Department of Education.

The contact information for the Title IX coordinator is as follows.

The Title IX Coordinator is: Dr. Takeda LeGrand
Office Address: 441 Page Street, Troy, NC 27371
Email Address: takeda.legrand@montgomery.k12.nc.us
Phone Number: 910-576-6511

~~The contact information for the Office for Civil Rights with jurisdiction over North Carolina is as follows.~~

~~4000 Maryland Ave, SW~~
~~Washington, DC 20202-1475~~
~~Telephone: 202-453-6020 TDD: 800-877-8339~~
~~FAX: 202-453-6021 Email: OCR.DC@ed.gov~~

B. RESOLUTION OF GRIEVANCES

The board has established grievance procedures that provide for the prompt and equitable resolution of complaints alleging discrimination on the basis of sex ~~(other than sexual harassment)~~ in ~~a program or activity of the school system~~ the education program in violation of Title IX ~~occurring against a person in the United States. Students and parents or guardians.~~ Individuals may report such alleged sex discrimination through the ~~processes~~ procedures

provided in policy 1725/4035/7236, Title IX Sec Discrimination-Prohibited Conduct and Grievance Procedures. ~~1740/4010, Student and Parent Grievance Procedure. Employees and applicants may use the process provided in policy 1750/7220, Grievance Procedure for Employees.~~

~~The board has adopted additional means for reporting sexual harassment specifically. Any person may report alleged sexual harassment in the education program or activities of the school system occurring against a person in the United States in accordance with policy 1725/4035/7236, Title IX Sexual Harassment Prohibited Conduct and Reporting Process. Those who believe they have been sexually harassed may also file a formal complaint of sexual harassment in accordance with policy 1726/4036/7237, Title IX Sexual Harassment Grievance Process, to initiate a prompt and equitable resolution through a formal investigation and adjudication or through an informal resolution process. The board encourages students, employees, and applicants to first make a report of sexual harassment in accordance with policy 1725/4035/7236 before filing a formal complaint.~~

The Title IX coordinator shall monitor the education program for barriers to reporting information about conduct that reasonably may constitute sex discrimination under Title IX and its regulations and take steps reasonably calculated to address any such barriers.

C. RETALIATION PROHIBITED

Retaliation against any person for the exercise of rights under Title IX or to interfere with those rights in any way is strictly prohibited and will subject the perpetrator to disciplinary action. The identity of any person who has made a report or complaint of sex discrimination ~~or sexual harassment~~ or who is the alleged perpetrator of sex discrimination or sexual harassment will be confidential unless otherwise required or permitted by law. Individuals may report alleged retaliation through the processes provided in policy 1725/4035/7236, Title IX Sex Discrimination – Prohibited Conduct and Grievance Procedures. ~~Complaints alleging retaliation may be filed according to the grievance processes established in policies 1740/4010 and 1750/7220. Acts of retaliation may also be subject to policy 1760/7280, Prohibition Against Retaliation.~~

D. NOTICE OF ~~THE BOARD'S POLICY OF~~ NONDISCRJMINA TION BASED ON SEX

The superintendent is responsible for providing a notice of nondiscrimination ~~the board's nondiscrimination policy~~ to students and their parents or legal guardians, employees, and applicants for admission or employment. ~~The superintendent shall also ensure that each principal or site supervisor makes a copy of this policy available to those persons. In addition, the following must be posted on the school system website and included in all student and employee handbooks:~~ The notice of nondiscrimination will contain the following information: (1) a statement that the school system does not discriminate ~~of the board's policy of nondiscrimination~~ on the basis of sex and prohibits sex discrimination in the education program, including in admission and employment, as required by Title

IX and its regulation; (2) contact information for the Title IX coordinator; and (3) a statement that Title IX inquiries may be referred to the Title IX coordinator~~, or to~~ the Office for Civil Rights, or both; ~~Assistant Secretary for Civil Rights.~~ (4) how to locate this policy and the grievance procedures fro sex discrimination complaints (1725/4025/7236, Title IX Sex Discrimination – Prohibited Conduct and Grievance Procedures); and (5) how to report information about conduct that may constitute sex discrimination and how to make a complaint of sex discrimination. All the information in the notice of nondiscrimination will be prominently displayed on the school system website and included in any school system handbook, catalog, announcement, bulletin, and application form made available to students, parents or guardians, employees, or applicants for admission or employment, unless the format or size of the publication makes it necessary to instead (1) include a statement that the school system prohibits sex discrimination in the education program and that individuals may report concerns or questions to the Title IX coordinator and (2) provide the location of the notice of nondiscrimination on the school system website.

E. TRAINING

In accordance with the requirements of Title IX, all school system employees must be trained on: (1) the school system's obligation to address sex discrimination in the education program; (2) the scope of conduct that constitutes sex discrimination, including the definition of sex-based harassment; and (3) all applicable notification and information requirements under 34 C.F.R. 106.40(b)(2) and 106.44.In addition to the training applicable to all employees, employees with certain Title IX roles must undergo additional Title IX trainings specific to their responsibilities. All individuals who serve as investigators or decisionmakers for sex discrimination complaints or other persons who are responsible for implementing the sex discrimination grievance procedures or have the authority to modify or terminate supportive measures must be trained as required by 34 C.F.R. 106.8(d)(2). Facilitators of the informal resolution process for sex discrimination complaints must be trained on the rules and practices associated with the informal resolution process and on how to serve impartially, including by avoiding conflicts of interest and bias. The Title IX coordinator and any designees must receive the training provided to the investigators and to the informal resolution process facilitators as well as training on their specific responsibilities, on the school system's record keeping system and related requirements, and on any other topics as necessary to coordinate the school system's Title IX compliance.

Legal References: Title IX of the Education Amendments Act of 1972, 20 U.S.C. 1681 *et seq.;* 34 C.F.R. Part 106~~; *Grimm v. Gloucester County School Board*, 972 F.3d 586 (4th Cir. 2020)~~

Cross References: Title IX Sex~~ual Harassment~~ Discrimination - Prohibited Conduct and Grievance Procedures ~~Reporting Process~~ (policy 1725/4035/7236)~~, Title IX Sexual Harassment Grievance Process (policy 1726/4036/7237), Student and Parent Grievance Procedure (policy 1740/4010), Responding to Complaints (policy 1742/5060), Grievance Procedure for Employees (policy 1750/7220), Prohibition Against Retaliation (policy 1760/7280), Staff-Student Relations (policy 4040/7310)~~

~~Other Resources: *Enforcement of Title IX of the Education Amendments of 1972 with Respect to Discrimination Based on Sexual Orientation and Gender Identity in Light of Bostock v. Clayton County*, U.S. Department of Education, Office for Civil Rights (2021)~~

Adopted: November 2, 2020

Updated: March 1, 2021
Updated: July 18, 2022
Updated: December 5, 2023

TITLE IX SEX DISCRIMINATION – PROHIBITED CONDUCT AND GRIEVANCE PROCEDURES

Policy Code: **1725/4035/7236**

The board acknowledges the dignity and worth of all students and employees and strives to create a safe, orderly, caring, and inviting school environment to facilitate student learning and achievement. As provided in policy 1720/4030/7235, Title IX Nondiscrimination on the Basis of Sex, the board prohibits sex discrimination, including sex-based harassment, in the education program of the school system. Throughout this policy, references to the "education program" include all operations, services, and activities of the school system.

This policy provides a process for students, employees, and others to report sex discrimination prohibited by Title IX for response by school officials. All incidents of conduct that could constitute sex discrimination under this policy are to be reported and treated in accordance with this policy, even if the incidents may also constitute violations of other board policies or standards of conduct.

Conduct that involves discrimination on the basis of sex but that does not meet the definition of sex discrimination prohibited by this policy may nevertheless violate other board policies or established standards of conduct and will be treated accordingly. See, for example, policy 4329/7311, Bullying and Harassing Behavior Prohibited, policy 1710/4020/7230, Discrimination and Harassment Prohibited by Federal Law, and policy 4040/7310, Staff-Student Relations. Nothing in this policy is intended to limit discipline for violations of other board policies in such circumstances when appropriate and consistent with law. In addition, nothing in this policy is intended to limit reports to law enforcement when warranted.

A. PROHIBITED BEHAVIOR

Students, school system employees, volunteers, and visitors are expected to behave in a civil and respectful manner. The board expressly prohibits sex discrimination, including sex-based harassment and retaliation, by students, employees, board members, volunteers, or visitors in the education program. "Visitors" includes parents and other family members and individuals from the community, as well as vendors, contractors, and other persons doing business with or performing services for the school system.

1. Sex Discrimination

   Sex discrimination occurs when, as a result of any act or failure to act, someone is treated differently and unfavorably on the basis of sex (including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, gender identity, or parental, family, or marital status) in the education program. Sex discrimination includes, but is not limited to, sex-based harassment.

2. Sex-Based Harassment

Sex-based harassment, which is a type of sex discrimination, is defined as sexual harassment and other sex-based conduct that is one of the following, as described below: quid pro quo harassment, hostile environment harassment, sexual assault, dating violence, domestic violence, or stalking.

a. Quid Pro Quo Harassment

Quid pro quo harassment occurs when an employee, contractor, or other agent of the school system explicitly or impliedly conditions the provision of an educational service or other aid or benefit of the school system on an individual's participation in unwelcome sexual conduct.

b. Hostile Environment Harassment

Hostile environment harassment is unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the education program (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

1) the degree to which the conduct affected the complainant's ability to access the education program;

2) the type, frequency, and duration of the conduct;

3) the parties' ages, roles within the education program, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;

4) the location of the conduct and the context in which the conduct occurred; and

5) other sex-based harassment in the education program.

c. Sexual Assault, Dating or Domestic Violence, Stalking

Sexual assault, dating violence, domestic violence, and stalking are defined as follows:

1) sexual assault means an offense classified as a sex offense under the uniform crime reporting system of the Federal Bureau of Investigation (i.e., rape, fondling, incest, and statutory rape);

2) dating violence means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with

the victim, with the existence of such a relationship determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship;

3) domestic violence means felony or misdemeanor crimes committed by a person who (i) is a current or former spouse or intimate partner of the victim under North Carolina family or domestic violence laws, or a person similarly situated to a spouse of the victim; (ii) is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner; (iii) shares a child in common with the victim; or (iv) commits acts against a youth or adult victim who is protected from those acts under North Carolina family or domestic violence laws; and

4) stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or suffer substantial emotional distress.

Examples of sex-based conduct that would be considered sex-based harassment if the conduct satisfies the criteria above include, but are not limited to: unwelcome sexual advances; requests for sexual favors; and other verbal or physical conduct of a sexual nature, such as 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; the display of sexually suggestive drawings, objects, pictures, or written materials; posting sexually suggestive pictures of a person without the person's consent; and forwarding pornographic material depicting a classmate or other member of the school community. Acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex characteristics, sex stereotypes, pregnancy or related conditions, gender identity, or sexual orientation but not involving conduct of a sexual nature may also constitute sex-based harassment. Sex-based harassment may be committed in person or through various mediums including via e-mail, text message, Internet message boards, interactions on social media, or other electronic media.

3. Retaliation

Retaliation, including peer retaliation, will be treated as a type of sex discrimination for purposes of this policy. Retaliation means intimidation, threats, coercion, or discrimination against any person by the board, a student, or an employee or agent of the school system for the purpose of interfering with any right or privilege secured by Title IX or because the person has reported information, made a

complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under Title IX, including in an informal resolution process, in grievance procedures, and in any other actions taken in compliance with the school system's obligations under Title IX.

B. DEFINITIONS

The following additional definitions apply in this policy.

1. Complaint

   A complaint is a written or oral request that objectively can be understood as a request for school officials to investigate and make a determination about alleged sex discrimination.

2. Complainant

   The complainant is the individual who is alleged in a report or complaint to have been subjected to sex discrimination prohibited by this policy. The complainant may be a student or a school system employee or may be another person who was participating or attempting to participate in the school system's educational program when the alleged sex discrimination occurred.

3. Confidential Employee

   A confidential employee is an employee who may have some communications that are privileged or confidential under federal or State law, such as a school counselor or nurse. The employee's confidential status, for purposes of this policy, is only with respect to information received while the employee is functioning within the scope of the employee's duties to which privilege or confidentiality applies and does not impact any requirements to report certain conduct to law enforcement or otherwise as required by policies 4040/7310, Student-Staff Relations, and 4240/7312, Child Abuse and Related Threats to Child Safety.

   The superintendent shall ensure that all students and employees are notified of how to contact school system confidential employees.

4. Days

   Days are business days unless specified otherwise.

5. Parent

   The term parent refers to a parent, guardian, or other authorized legal representative with the legal right to act on behalf of a student or other minor.

6. Party

   Party means a complainant or respondent.

7. Report

   A report is an oral or written notification of alleged sex discrimination.

8. Respondent

   The respondent is the person who is alleged in a report or complaint to have engaged in sex discrimination prohibited by this policy.

   When a complaint alleges that a board policy or practice discriminates based on sex in violation of this policy, the board is not considered to be a respondent and the requirements in this policy related to a respondent do not apply.

C. REPORTS OF SEX DISCRIMINATION

1. Reporting Suspected Sex Discrimination

   Any person who believes he or she has been subject to sex discrimination in the school system's education program in violation of this policy or who has information about conduct that reasonably may constitute sex discrimination prohibited by this policy is encouraged to report the matter to the Title IX coordinator. Reports may also be made to a principal, teacher, counselor, assistant principal, teacher assistant, or any other school employee. Reports may be made anonymously, including through the anonymous tip line, but school officials may be limited in their ability to respond if the report does not identify the complainant.

2. Mandatory Reporting by School Employees and Board Members

   Any school system employee or board member who has information about conduct that reasonably may constitute sex discrimination prohibited by this policy must immediately notify the Title IX coordinator. Employees and board members should provide as much detail about the alleged sex discrimination as is known. Any doubt about whether conduct may reasonably constitute sex discrimination must be resolved in favor of reporting the conduct. An employee who does not promptly report conduct as required by this subsection, or who knowingly provides false information about the incident, will be subject to disciplinary action, up to and including dismissal.

   Confidential employees are exempt from the requirement that employees must report to the Title IX coordinator. However, confidential employees must explain to any person who informs the confidential employee of conduct that reasonably may constitute sex discrimination: (1) of the employee's status as confidential for

these purposes, including the circumstances in which the employee is not required to notify the Title IX coordinator about conduct that reasonably may constitute sex discrimination; (2) how to contact the Title IX coordinator and how to make a complaint of sex discrimination; and (3) that the Title IX coordinator may be able to offer and coordinate supportive measures, as well as initiate an informal resolution process or an investigation under the grievance procedures.

The mandatory reporting required by this subsection is in addition to required reporting under policies 4040/7310, Student-Staff Relations, and 4240/7312, Child Abuse and Related Threats to Child Safety, where the conduct at issue requires a report under either of those policies.

3. Time Period for Making a Report

Reports by students and third parties can be made at any time. During non-business hours, reports can be made by using the contact information for the Title IX coordinator provided on the school system's website and in policy 1720/4030/7235, Title IX Nondiscrimination on the Basis of Sex. A report should be made as soon as possible after disclosure or discovery of the facts giving rise to the report. Delays in reporting may impair the ability of school officials to investigate and respond to any subsequent complaint.

School employees and board members with knowledge of conduct that reasonably may constitute sex discrimination must report that information immediately, as provided in subsection C.2 above.

4. Title IX Coordinator Response to Alleged Sex Discrimination

The Title IX coordinator, whenever notified of conduct that he or she reasonably determines may constitute sex discrimination prohibited under Title IX and this policy, must promptly take the following actions:

a. treat the complainant and respondent equitably;

b. offer and coordinate supportive measures as described in Section I of this policy, as appropriate, for the complainant;

c. notify the complainant and, if the complainant is a student, the complainant's parent, of the grievance procedures and, if appropriate, the informal resolution process as described in Section H of this policy;

d. if the complainant is unknown, notify the individual who reported the conduct of the grievance procedures and, if appropriate, the informal resolution process;

e. notify the principal of the report and, if an employee is the complainant or

respondent, the senior human resources official or designee; and

f. take any other appropriate prompt and effective steps to end any sex discrimination, prevent its recurrence, and remedy its effects.

In addition, if the complainant or respondent is a student with a disability, the Title IX coordinator shall comply with the requirements of Section K, below.

D. COMPLAINTS OF SEX DISCRIMINATION

1. Submitting Complaints of Sex Discrimination

A request for school officials to investigate an allegation of sex discrimination prohibited by this policy may be made by submitting an oral or written complaint to the Title IX coordinator.

Complaints of sex discrimination, including sex-based harassment, may be submitted by the complainant or the parent of a student complainant. In addition, for complaints of sex discrimination other than sex-based harassment, any student or employee or any other person who was participating or attempting to participate in the school system's education program at the time of the alleged sex discrimination may submit the complaint.

2. Complaints Initiated by the Title IX Coordinator

If no complaint is submitted within five days of the Title IX coordinator receiving notice of conduct that he or she reasonably determines may constitute sex discrimination or if any or all of the allegations in a complaint are withdrawn, and an informal resolution process is not underway, the Title IX coordinator must determine whether to initiate a complaint. In making the determination, the Title IX coordinator, in consultation with the board attorney if necessary, shall consider all the factors described in 34 C.F.R. 106.44(f)(1)(v)(A) and any other relevant factors. If the Title IX coordinator determines that the conduct as alleged presents an imminent and serious threat to the health or safety of the complainant or other person or that the conduct as alleged prevents the school system from ensuring equal access on the basis of sex to its education program, the Title IX coordinator shall initiate a complaint after notifying the complainant and, if the complainant is a student, the complainant's parent of the intent to initiate the complaint and shall appropriately address reasonable concerns about the complainant's safety or the safety of others, including by providing supportive measures consistent with Section I of this policy.

A decision by the Title IX coordinator to initiate a complaint is not to be construed as (1) supportive of the complainant or in opposition to the respondent; (2) an indication of whether the allegations are credible or have merit; or (3) an indication of whether there is evidence sufficient to determine responsibility. Initiating a

complaint does not make the Title IX coordinator a complainant or party to the complaint nor relieve the Title IX coordinator from any responsibilities under this policy.

The Title IX coordinator shall document the decision of whether to initiate a complaint and the reasons for that decision.

3. Consolidation of Complaints

Complaints against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, may be consolidated and investigated as one complaint when the allegations of sex discrimination arise out of the same facts or circumstances, unless consolidation would violate the Family Educational Rights and Privacy Act. When more than one complainant or more than one respondent is involved, references in this policy include the plural, as applicable.

E. TEMPORARY REMOVAL OF RESPONDENT FROM SCHOOL OR EMPLOYMENT

Any respondent is subject to removal from the education program, or any part of the program, on an emergency basis if a school-based threat assessment team conducts an individualized safety and risk analysis and determines that removal is justified because the person poses an imminent and serious health or safety threat to any person arising from the allegations of sex discrimination. A removal under this subsection includes a transfer of a student to an alternative education program consistent with policy 3470/4305, Alternative Learning Programs/Schools. A schedule change and/or removing a student from an extracurricular activity is also considered a removal under this subsection where such action would not otherwise constitute a supportive measure.

Any such removal must be consistent with federal and state law, including any applicable law protecting the rights of individuals with disabilities. The respondent shall receive notice of the removal and an opportunity to challenge the decision in an informal hearing with the superintendent or designee immediately following the removal.

An employee respondent may be placed on administrative leave during the pendency of the grievance procedures if consistent with applicable state and federal laws.

F. GRIEVANCE PROCEDURES FOR COMPLAINTS OF SEX DISCRIMINATION

The board provides these grievance procedures for the resolution of complaints of sex discrimination submitted or initiated in accordance with Section D, above.

1. General Principles

a. Equitable Treatment

During the pendency of the grievance procedures, the school system will treat complainants and respondents equitably. No person with a conflict of interest or bias for or against the complainant or respondent individually or generally may act as the Title IX coordinator, investigator, or decisionmaker.

b. Presumption of Non-Responsibility/Innocence

The respondent will be presumed not responsible for the alleged sex discrimination until a determination is made at the conclusion of the grievance procedures. No disciplinary consequence or other action that is not a supportive measure may be imposed for a violation of this policy unless the respondent agrees to a specific disciplinary consequence or action in an informal resolution or has been determined to be responsible for the sex discrimination at the conclusion of the grievance procedures. Notwithstanding the limitation just described, respondents are subject to temporary removal as described above in Section E.

c. Privacy

School officials involved in the grievance procedures shall take reasonable steps to protect the privacy of the parties and witnesses throughout the grievance procedures, including requiring the parties and witnesses to maintain the confidentiality of information and evidence obtained solely through the grievance proceedings. However, no steps will be imposed that restrict the ability of the parties to (1) obtain and present evidence, including by speaking to witnesses; (2) consult with their family members, confidential resources, or advisors; or (3) otherwise prepare for or participate in the grievance procedures.

d. Timeliness

The number of days indicated at each step of the grievance procedures should be considered a maximum, and every effort should be made to expedite the process.

Reasonable extensions of timeframes may be made on a case-by-case basis for good cause. If an extension is necessary, the parties will receive written notice of the extension and the reason for the extension prior to the end of the original timeframe. School system officials shall make reasonable efforts to keep the parties apprised of progress being made during any extension period. Delays that interfere with the exercise of the party's legal rights are not permitted.

Failure by a party to appeal a decision within the specified time limit will be considered acceptance of the decision at the current step, unless the party

has notified the appropriate school system official of a delay and the reason for the delay and the official has consented to the delay in writing.

2. Dismissal of a Complaint

Within five days of a complaint being submitted, the Title IX coordinator shall review the allegations and make a determination whether to dismiss the complaint without further investigation.

A decision not to dismiss the complaint at this stage does not prevent the Title IX coordinator or investigator from dismissing the complaint at any point in the grievance procedures if it is determined that a permissible reason exists.

a. Permissible Reasons for Dismissal

A complaint may be dismissed if:

1) the school system is unable to identify the respondent after taking reasonable steps to do so;

2) the respondent is not participating in the education program and is not employed by the school system;

3) the complainant voluntarily withdraws any or all of the allegations in the complaint, the Title IX coordinator declines to initiate a complaint, and the Title IX coordinator determines that, without the complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute prohibited sex discrimination even if proven; or

4) the Title IX coordinator determines the conduct alleged in the complaint, even if proven, would not constitute prohibited sex discrimination. Before dismissing the complaint on this basis, the Title IX coordinator shall make reasonable efforts to clarify the allegations with the complainant.

b. Notifications Upon Dismissal

Upon dismissal of a complaint, the Title IX coordinator shall promptly notify the complainant and, if the complainant is a student, the complainant's parent of the dismissal, the basis for the dismissal, and that the dismissal may be appealed. If the dismissal occurs after the respondent has been notified of the allegations, the Title IX coordinator shall provide the same notification to the respondent and, if the respondent is a student, the respondent's parent promptly after notification to the complainant, or simultaneously if notification is in writing.

c. Bases for Appealing a Dismissal

Dismissals may be appealed on the following bases:

1) procedural irregularity that would change the outcome;

2) new evidence that would change the outcome and that was not reasonably available when the dismissal was made; or

3) the Title IX coordinator or investigator had a conflict of interest or bias for or against the complainant or respondent generally or individually that would change the outcome.

d. Appeal Process for Dismissals

1) Appeal to the Superintendent

The complainant or the parent of a student complainant may appeal the dismissal of the complaint to the superintendent (unless the superintendent was the respondent or took part in the investigation of the allegations or dismissal of the complaint, in which case an appeal may be made directly to the board in accordance with subsection F.2.d.2 below). The appeal must be submitted in writing within three days of receiving notice of the dismissal of the complaint.

The superintendent shall implement appeal procedures equally for the parties. Within three days of receiving an appeal of the dismissal, the superintendent shall notify the parties and, if they are students, their parents of the appeal, including notice of the allegations if notice was not previously provided to the respondent. The superintendent shall then provide the parties a reasonable and equal opportunity to make a written statement in support of or challenging the outcome. Within 10 days of receiving the appeal, the superintendent shall make a decision on the appeal and notify the parties and, if they are students, their parents in writing of the decision and the rationale for the decision.

2) Appeal to the Board

Employees and applicants for employment may appeal the superintendent's decision to the board in accordance with subsection E.4.a of policy 1750/7220, Grievance Procedure for Employees. Students, their parents, and other non-employees/applicants may appeal the superintendent's decision to the board in accordance with

subsection E.5.a of policy 1740/4010, Student and Parent Grievance Procedure.

e. Steps Taken After a Dismissal

When a complaint is dismissed, the Title IX coordinator shall, at a minimum:

1) offer supportive measures to the complainant, as appropriate;

2) if the respondent has been notified of the allegations, offer supportive measures to the respondent, as appropriate; and

3) take other prompt and effective steps, as necessary, to prevent future sex discrimination within the education program.

3. Notice of Allegations

If the Title IX coordinator decides not to dismiss the complaint or if the complainant successfully appeals a dismissal, the Title IX coordinator shall promptly provide known parties and, if they are students, their parents with a notice of allegations that includes the following:

a. the grievance procedures and the informal resolution process, as described in this policy;

b. sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), the conduct alleged to constitute sex discrimination, and the date(s) and location(s) of the alleged incident(s);

c. a statement that retaliation is prohibited; and

d. a statement that (1) the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of this evidence and (2) if provided a description of the evidence, the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party.

If, in the course of an investigation, the investigator decides to investigate additional allegations of sex discrimination by the respondent toward the complainant that are not included in the initial notice or that are included in a complaint that is consolidated, the investigator shall promptly notify the parties of the additional allegations.

4. Initiating an Investigation

After providing the notification of allegations, the Title IX coordinator shall offer and coordinate supportive measures as described in Section I of this policy, as appropriate, for the parties. The Title IX coordinator shall also assign the complaint to the appropriate investigator, who will conduct an investigation.

The investigator is ordinarily determined as described below; however, the Title IX coordinator, in consultation with the superintendent, may determine that conflict of interest, bias, or other individual circumstances warrant the assignment of a different investigator.

a. If the respondent is a student, the investigator is the principal or designee of the school with jurisdiction over the incident.

b. If the respondent is an employee or applicant for employment, the investigator is the senior human resources official or designee.

c. If the respondent is neither a student nor an employee/applicant for employment, the investigator is the principal of the school/site supervisor at which the complainant is enrolled or employed.

d. Notwithstanding the above designations, (1) if the respondent is the senior human resources official, the superintendent shall investigate the complaint; and (2) if the respondent is the superintendent or a board member, the Title IX coordinator shall immediately notify the board chair who shall direct the board attorney to investigate, unless the board chair determines that outside counsel should be engaged to investigate.

The investigator may request assistance from the Title IX coordinator to conduct the investigation.

5. Conducting an Investigation

a. General Process

The investigation must be adequate, prompt, reliable, and impartial. Investigations should be concluded within 10 days of an investigator being assigned a complaint. The burden is on the investigator, not on the parties, to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.

The investigator shall question all relevant parties and witnesses and adequately assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex discrimination. Credibility determinations will not be based on a person's

status as a complainant, respondent, or witness.

The investigator shall review all evidence gathered through the investigation, including both evidence that tends to support the allegations (inculpatory evidence) and evidence that tends to refute the allegations (exculpatory evidence) and determine what evidence is relevant and what evidence is impermissible regardless of relevance.

b. Impermissible Evidence

The following types of evidence, and questions seeking that evidence, are impermissible (i.e., will not be accessed or considered, except to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used) at any stage of the grievance procedures, including appeals, regardless of whether the evidence is relevant:

1) evidence provided to a confidential employee or evidence that is otherwise protected under a privilege recognized by federal or State law, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;

2) a party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the school system obtains that party's or witness's voluntary, written consent for use in the grievance procedures; and

3) evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to alleged sex-based harassment. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to alleged sex-based harassment or preclude determination that sex-based harassment occurred.

c. Equal Opportunities

The investigator shall provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and permissible.

The investigator shall provide each party with an equal opportunity to

access either the relevant, permissible evidence or an accurate description of this evidence. If the investigator provides a description of the relevant, permissible evidence, the investigator shall provide the parties with an equal opportunity to access such evidence upon the request of any party. The investigator shall provide a reasonable opportunity to respond to the evidence or accurate description of the evidence and shall take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the grievance procedures. Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint are authorized.

6. Investigator's Determination

After completing the investigation, the investigator shall objectively evaluate all relevant, permissible evidence and, in consultation with the board attorney as appropriate, shall use the preponderance of the evidence standard of proof to determine whether the alleged conduct constitutes a violation of this policy.

Within five days of the investigation's completion, the investigator shall notify the parties and, if the parties are students, their parents in writing of the determination whether sex discrimination occurred, including the rationale for such determination, and the procedures for the parties to appeal. The investigator also shall provide to the Title IX coordinator a record of the evidence, findings of the investigation, and recommended disciplinary consequences, remedies, and/or other responses. If there is a determination that sex discrimination occurred, the Title IX coordinator shall take appropriate action to address the discrimination as described in Section G, below.

7. Appeals

If either party is dissatisfied with the investigator's determination of whether sex discrimination occurred, the party or, if the party is a student, the party's parent may appeal to the superintendent (unless the superintendent is the respondent or took part in the investigation, in which case an appeal may be made directly to the board in accordance with the next paragraph). The appeal must be submitted in writing within three days of receiving the notice of the outcome of the investigation. The superintendent shall review the record of the evidence, findings of the investigation, and recommended disciplinary consequences, remedies, and/or other responses. The superintendent may also conduct any further investigation necessary or take any other steps to respond. The superintendent shall provide a written response within 10 days of receiving the appeal.

Employees and applicants for employment may appeal the superintendent's decision to the board in accordance with subsection E.4.a of policy 1750/7220, Grievance Procedure for Employees. Students, their parents, and other non-

employees/applicants may appeal the superintendent's decision to the board in accordance with subsection E.5.a of policy 1740/4010, Student and Parent Grievance Procedure.

G. DISCIPLINARY CONSEQUENCES, REMEDIES, AND OTHER RESPONSES TO ADDRESS SEX DISCRIMINATION

The Title IX coordinator is responsible for taking or causing appropriate action to be taken in response to sex discrimination in violation of this policy. Upon a determination that sex discrimination occurred, the Title IX coordinator shall, as appropriate: (1) coordinate with the principal or other relevant school official the imposition of any disciplinary consequences on a respondent, including notification to the complainant of any such disciplinary consequences; (2) coordinate the provision and implementation of remedies to the complainant and other people the investigator identifies as having had their equal access to the education program limited or denied by sex discrimination; and (3) take other appropriate, prompt, and effective steps to ensure that sex discrimination does not continue or recur within the education program.

1. Disciplinary Consequences

   No disciplinary consequences will be imposed until any appeals have been exhausted.

   a. Disciplinary Consequences for Students

      The disciplinary consequences for student violations of this policy will be imposed by the principal, superintendent, or other designated school official in accordance with the Code of Student Conduct. 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 to expulsion.

      A student recommended for a long-term suspension or expulsion will have all applicable rights accorded by board policy and state law.

      This policy will not be construed to allow school officials to punish student expression or speech based on undifferentiated fear or apprehension of a disturbance or out of a desire to avoid the discomfort and unpleasantness that may accompany an unpopular viewpoint.

   b. Disciplinary Consequences for Employees

      The disciplinary consequences for employee violations of this policy will be imposed by the principal, superintendent, board, or other designated school official. Based on the nature and severity of the offense and the circumstances surrounding the incident, the employee will be subject to

discipline up to and including dismissal.

An employee recommended for suspension, demotion, or dismissal will have all applicable rights accorded by board policy and state law.

c. Disciplinary Consequences for Other Infractions

1) False Statements

False or malicious complaints of sex discrimination and false statements made in bad faith in the course of any grievance procedure conducted pursuant to this policy are subject to disciplinary action, up to and including dismissal for an employee and long-term suspension for a student. However, no discipline will be imposed for making a false statement solely on a determination of whether sex discrimination occurred.

2) Other Conduct

Nothing in this policy will preclude the school system from taking disciplinary action against a student or employee when the evidence does not establish sex discrimination as defined in this policy, but the conduct violates other board policy and/or the Code or Student Conduct or expected standards of employee behavior. However, no discipline will be imposed for engaging in consensual sexual conduct based solely on a determination of whether sex discrimination occurred.

d. Consequences for Other Respondents

Volunteers and visitors who engage in sex discrimination will be directed to leave school property and/or be reported to law enforcement, as appropriate, in accordance with policy 5020, Visitors to the Schools. A third party under the supervision and control of the school system will be subject to termination of contracts/agreements, restricted from access to school property, and/or subject to other consequences, as appropriate.

2. Remedies

Remedial measures may be provided, as appropriate, to complainants or other persons who had their equal access to or participation in the education program limited or denied by sex discrimination in violation of this policy. Such measures may include counseling, mental health services referral, extensions of deadlines or other course-related adjustments, other academic resources or support, modifications of work or class schedules, escort services, change in student parking location, mutual or one-way restrictions on contact between the parties, changes in

work locations, leaves of absence, increased security and monitoring, and other measures determined by school officials to be necessary to restore or preserve the person's equal access to the education program.

3. Other Steps

The Title IX coordinator may take other measures to end or prevent instances of sex discrimination regardless of whether any individual has been found responsible for the sex discrimination. The Title IX coordinator may implement or coordinate the implementation of classroom-wide, school-wide, or school system-wide responses such as additional staff training, discrimination prevention programs, and other measures reasonably calculated to end prohibited behavior, eliminate a hostile environment and its effects if one has been created, and prevent recurrence of the behavior.

The Title IX coordinator shall encourage complainants to report any subsequent problems and may conduct follow-up inquiries as warranted to determine if there have been any new incidents of sex discrimination or any instances of retaliation.

H. INFORMAL RESOLUTION

At any time prior to determining whether sex discrimination occurred, the Title IX coordinator may offer the complainant and respondent an informal resolution process. An informal resolution process will not be offered if: (1) there are allegations that an employee engaged in sex-based harassment of a student; (2) the alleged conduct would present a future risk of harm to others; or (3) the Title IX coordinator determines that other circumstances make informal resolution inappropriate. If an informal resolution process is used, the Title IX coordinator shall, to the extent necessary, take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the education program.

An informal resolution process will not be used unless both the complainant and the respondent have voluntarily consented to its use. No school system employee shall require or pressure a complainant or respondent to participate in an informal resolution process. No individual will be required to waive the right to an investigation and determination of a complaint as a condition of participation in the education program or the exercise of any other right.

Before the initiation of an informal resolution process, the parties must receive notice that explains: (1) the allegations; (2) the requirements of the informal resolution process; (3) that, prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and to initiate or resume the grievance procedures; (4) that agreement to a resolution at the conclusion of the informal resolution process precludes the parties from initiating or resuming grievance procedures arising from the same allegations; (5) the potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties; and

(6) what information the school system will retain and whether and how the school system could disclose such information for use in grievance procedures if grievance procedures are initiated or resumed.

The superintendent, in consultation with the Title IX coordinator, shall assign a school system employee to facilitate the informal resolution process. The facilitator will not be the same person as the investigator in the grievance procedures. The facilitator must have received appropriate training and must not have a conflict of interest or bias for or against the complainant or respondent generally or individually.

I. SUPPORTIVE MEASURES

Supportive measures are defined as individualized measures offered as appropriate, as reasonably available, and at no cost to the parties to: (1) restore or preserve that party's access to the education program, including measures that are designed to protect the safety of the parties or the educational environment; or (2) provide support during the grievance procedures or during the informal resolution process. Supportive measures must not unreasonably burden a party to the complaint and may not be imposed for punitive or disciplinary reasons.

Supportive measures may vary depending on what is reasonably available. These measures may include but are not limited to: counseling; extensions of deadlines and other course-related adjustments; campus escort services; increased security and monitoring of certain areas of the campus; restrictions on contact applied to one or more parties; leaves of absence; changes in class, work, or extracurricular or any other activity, regardless of whether a comparable alternative exists; and training and education programs related to sex-based harassment.

Supportive measures may, as appropriate, be modified or terminated by the Title IX coordinator at the conclusion of the grievance procedures or informal resolution process or may continue beyond that point. A party whose supportive measure was denied, modified, or terminated may appeal the decision to the superintendent or designee within five days of the decision. The superintendent may modify or reverse the decision upon determining that the action was inconsistent with the definition of supportive measures as described above. In addition, a party may petition the Title IX coordinator for modification or termination of a supportive measure applicable to them if circumstances change materially and may appeal the decision of the Title IX coordinator to the superintendent within five days.

School employees shall not disclose information about supportive measures to persons other than the person to whom they apply unless necessary to provide the supportive measure or restore or preserve a party's access to the education program or when advised by the superintendent or board attorney that an exception is permitted by law.

J. PROHIBITED DISCLOSURES OF PERSONALLY IDENTIFIABLE INFORMATION

School system employees shall not disclose personally identifiable information obtained in the course of complying with this policy, except in the following circumstances: (1) when prior written consent has been obtained from a person with the legal right to consent to the disclosure; (2) when the information is disclosed to a parent with the legal right to receive disclosures on behalf of the person whose personally identifiable information is at issue; (3) to carry out the purposes of this policy, including action taken to address conduct that reasonably may constitute sex discrimination prohibited by this policy; (4) as required by federal law or regulation or the terms and conditions of a federal award, including a grant award or other funding agreement; or (5) to the extent such disclosures are not otherwise in conflict with Title IX, when required by State law or when permitted under the Family Educational Rights and Privacy Act.

K. STUDENTS WITH DISABILITIES

When the complainant or respondent is a student with a disability, the Title IX coordinator will consult with one or more members of the student's Individualized Education Program team, as appropriate, and/or one or more members of the student's Section 504 team, as appropriate, throughout the implementation of the grievance procedures and the provision of any supportive measures to determine how to comply with the requirements of the Individuals with Disabilities Education Act and/or Section 504 of the Rehabilitation Act of 1973.

L. RECORDS

The Title IX coordinator shall create and maintain for a period of seven years:

1. for each complaint of sex discrimination, records documenting the informal resolution process or grievance procedures and the resulting outcome;

2. for each notification the Title IX coordinator receives of information about conduct that reasonably may constitute sex discrimination, records documenting the actions taken by the school system to meet its obligations under Title IX; and

3. all materials used to provide the training described in policy 1720/4030/7235, Title IX Nondiscrimination on the Basis of Sex.

Legal References: Family Educational Rights and Privacy Act, 20 U.S.C. 1232g, h, 34 C.F.R. pt. 99; Individuals with Disabilities Education Act, 20 U.S.C. 1400 *et seq.*; 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 *et seq.*, 34 C.F.R. pt. 100; Title IX of the Education Amendments Act of 1972, 20 U.S.C. 1681 *et seq.*, 34 C.F.R. pt. 106; *Gebser v. Lago Vista Independent School District*, 524 U.S. 274 (1998); *Davis v. Monroe County Board of Education*, 526 U.S. 629 (1999); G.S. 115C-335.5

Cross References: Discrimination and Harassment Prohibited by Federal Law (policy 1710/4020/7230), Title IX Nondiscrimination on the Basis of Sex (policy 1720/4030/7235), Alternative Learning Programs/Schools (policy 3470/4305), Staff-Student Relations (policy

4040/7310), Child Abuse and Related Threats to Child Safety (policy 4240/7312), Bullying and Harassing Behavior Prohibited (policy 4329/7311), Visitors to the Schools (policy 5020)

Adopted:

A. STUDENTS

1. Nondiscrimination

The board will provide all pregnant and parenting students with the same educational instruction as other students or its equivalent. ~~Pregnant and parenting s~~Students will not be discriminated against or excluded from school or from any program, class, or extracurricular activity based on the students' current, potential, or past pregnancy or related conditions or because they are ~~pregnant or~~ parenting students. For purposes of this policy, "pregnancy or related conditions" means pregnancy, childbirth, termination of pregnancy, or lactation; medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

2. General Requirements

School administrators shall provide assistance and support to encourage pregnant and parenting students to remain enrolled in school and graduate. In accordance with state law, school system officials shall use, as needed, supplemental funds from the At-Risk Student Services allotment to support programs for pregnant and parenting students. Students who are pregnant or parenting will be given excused absences from school for pregnancy and related conditions for the length of time the students' physicians find medically necessary- and for absences due to the illness or medical appointment during school hours of a child of whom the student is the custodial parent. Homework and make-up work will be made available to pregnant and parenting students to ensure that they have the opportunity to keep current with assignments and avoid losing course credit because of their absence from school. To the extent necessary, a homebound teacher will be assigned.

3. Providing Title IX Coordinator Contact and Other Information

When a student or student's parent or guardian informs any school system employee of the student's pregnancy or related conditions, the employee shall promptly provide that person with the Title IX coordinator's contact information and inform that person that the Title IX coordinator can coordinate specific actions to prevent sex discrimination and ensure the student's equal access to the school system's education program or activity. The employee does not need to provide such information if the employee reasonably believes that the Title IX coordinator has already been notified of the student's pregnancy or related conditions.

4. Specific Actions to Prevent Discrimination and Ensure Equal Access

Once a student or student's parent or guardian notifies the Title IX coordinator of the

student's pregnancy or related conditions, the Title IX coordinator must coordinate the following specific actions designed to promptly and effectively prevent sex discrimination and ensure access to the school system's education program or activity:

a. inform the student (and, if applicable, the student's parent or guardian) of the school system's Title IX obligations under 34 C.F.R.106.40(b)(1) through (5) and 34 C.F.R. 106.44(j) and provide the school system's notice of nondiscrimination on the basis of sex (see policy 1720/4030/7235, Title IX Nondiscrimination on the Basis of Sex);

b. consult with the student in order to offer, based on the student's individualized needs, reasonable modifications6to school system policies, practices, or procedures, as necessary, and implement each reasonable modification offered by the school system and accepted by the student;

c. allow the student to voluntarily access any separate and comparable portion of the school system's education program or activity provided that the separate portion is comparable to that offered to students who are not pregnant and who do not have related conditions;

d. allow the student to voluntarily take a leave of absence from the school system education program or activity to cover, at a minimum, the period of time deemed medically necessary by the student's licensed health care provider and when the student returns following the voluntary absence, reinstate the student to the academic status and, as practicable, to the extracurricular status the student held when the absence began; and

e. ensure that the student can access, as needed, a lactation space, other than a bathroom, that is clean, shielded from view, free from intrusion by others, and may be used for expressing breast milk or breastfeeding.

Supporting documentation or certifications will not be required except as permitted by law.

B. EMPLOYEES

The board prohibits discrimination in employment on the basis of current, potential, or past pregnancy~~, childbirth,~~ or related ~~medical~~ conditions. Pregnancy or related conditions will be treated as any other temporary medical conditions for all job-related purposes. ~~(See also policy 7232, Discrimination and Harassment in the Workplace.) Pregnant and nursing employees will be provided accommodations as required by law.~~

1. Reasonable Accommodation for Pregnancy-Related Limitations

In accordance with the Pregnant Workers Fairness Act, qualifying applicants and employees with known limitations related to pregnancy, childbirth, or related medical conditions will be provided reasonable accommodations, unless the accommodation demonstrably would impose an undue hardship on the operation of the school system. No adverse action will be taken against an applicant or employee for requesting or using a reasonable accommodation.

The superintendent shall ensure that appropriate procedures are in place to implement this

requirement.

2. Break Time to Express Milk

~~For one year~~ ~~a~~After the birth of an employee's child, the employee will be provided reasonable break times to express breast milk for the child or breastfeed as needed ~~each time the employee has need to express milk.~~ The principal at each school and the site supervisor at other school system buildings and facilities will designate a place, other than a bathroom, that the employee may use to express milk or breastfeed. Any designated place must be functional as a space for expressing milk or breastfeeding, shielded from view, and free from intrusion from others.

Legal References: Consolidated Appropriations Act, P.L. 117-328, div. II-Pregnant Workers Fairness Act, 29 C.F.R. pt. 1636; Fair Labor Standards Act, as amended, 29 U.S.C. 201, et seq.; 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 Act of 1972, 20 U.S.C. 1681 et seq., 34 C.F.R. pt. 106; G.S. 115C-375.5

Cross References: Title IX Nondiscrimination on the Basis of Sex (policy 1720/4030/7235), Equal Educational Opportunities (policy 4001), Attendance (policy 4400)~~, Discrimination and Harassment in the Workplace (policy 7232)~~

Issued: August 1, 2007
Updated: December 1, 2009
September 30, 2020
March 31, 2023

BULLYING AND HARASSING BEHAVIOR PROHIBITED

Policy Code: **4329/7311**

The board is committed to providing a safe, inviting, and civil educational environment for all students, employees, and other members of the school community. The board expects all students, employees, volunteers, and visitors to behave in a manner consistent with that goal. The board recognizes that bullying and harassing behavior creates an atmosphere of intimidation and fear, detracts from the safe environment necessary for student learning, and may lead to more serious misconduct or to violence. Accordingly, the board prohibits all forms of bullying and harassing behavior, including encouragement of such behavior, by students, employees, volunteers, and visitors. "Visitors" includes parents and other family members and individuals from the community, as well as vendors, contractors, and other persons doing business with or performing services for the school system.

This policy prohibits bullying and harassing behavior, or the encouragement of bullying or harassing 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) through the use of school system technological resources; (6) at any time or place when the student, employee, or other person is subject to the authority of school personnel; or (~~6~~7) at any time or place when the bullying has a direct and immediate effect on maintaining order and discipline in the schools.

This policy is not intended to prohibit expression of religious, philosophical, social, or political views, provided that the expression does not substantially disrupt the educational environment.

A. RELATIONSHIP TO OTHER POLICIES

This policy applies to bullying and harassing behavior that is not otherwise prohibited by the following board policies that address discriminatory harassment in violation of federal law:

- Discrimination and Harassment Prohibited by Federal Law, policy 1710/4020/7230 (prohibiting harassment based on federally protected characteristics, such as race, color, national origin, sex, disability, age (40 or older) ~~or,~~ religion, military affiliation, or genetic information)

- Title IX Sex~~ual~~ Discrimination ~~Harassment~~ – Prohibited Conduct and ~~Reporting Process~~ Grievance Procedures, policy 1725/4035/7236 (prohibiting sex-based~~ual~~ harassment)

- ~~Discrimination and Harassment in the Workplace, policy 7232 (prohibiting harassment of employees and applicants based on race, color, national origin, sex, age, disability, military affiliation, or genetic information)~~

Individuals who wish to report bullying or harassing behavior that is based on sex, race, color, national origin, disability, religion, or other personal characteristic addressed by the policies above should refer to and follow the reporting processes provided in those policies.

Conduct that may constitute discriminatory harassment under federal law must be addressed first in accordance with the requirements of the applicable policy(ies) listed above. If subsequently, the conduct is determined not to rise to the level of discriminatory harassment prohibited by those policies, the conduct may be addressed under this policy. Conduct that does not rise to the level of bullying or harassing behavior as defined and prohibited in this policy may nevertheless violate other board policies or school rules.

B. CONDUCT THAT IS CONSIDERED BULLYING OR HARASSING BEHAVIOR

1. Bullying is deliberate conduct intended to harm another person or group of persons. It is characterized by repeated unwanted aggressive behavior that typically involves a real or perceived imbalance of power, such as a difference in physical size, strength, social standing, intellectual ability, or authority. It may consist of either physical, verbal, or nonverbal behavior. Cyberbullying is a form of bullying that is carried out using electronic communication media, such as words, action, or conduct conveyed through email, instant messages, text messages, tweets, blogs, photo or video sharing, chat rooms, or websites, and may exist in the absence of a power imbalance typical of other forms of bullying.

2. Harassing behavior is conduct that is intimidating, hostile, or abusive, or is unwelcome conduct of a sexual nature. Harassing behavior may violate this policy even if no harm is intended to the target and no power imbalance is evident.

3. Bullying or harassing behavior includes conduct that is, or reasonably appears to be, motivated by actual or perceived differentiating personal characteristics, or by a person's association with someone who has or is perceived to have a differentiating personal characteristic. Differentiating personal characteristics include, but are not limited to race, color, religion, ancestry, national origin, gender, socioeconomic status, academic status, gender identity, physical appearance, sexual orientation, or mental, physical, developmental, or sensory disability. Bullying and harassing behavior can violate this policy regardless of a student's motivation.

4. Examples of behavior that may constitute bullying or harassing behavior are repeated acts of disrespect, intimidation, or threats, such as verbal taunts, name-calling and put-downs, epithets, derogatory or lewd comments, spreading rumors, extortion of money or possessions, implied or stated threats, assault, offensive touching, physical interference with normal work or movement, visual insults, such as derogatory posters or cartoons, and sharing intimate photos or video of a person or sharing photos or videos that may subject a person to ridicule or insult.

5. Other behaviors that may constitute bullying or harassing behavior under this policy

are deliberate, unwelcome touching that has sexual connotations or is of a sexual nature, pressure for sexual activity, offensive sexual flirtations, advances or propositions, 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.

6. These examples are not exhaustive but are intended to illustrate the wide range of behavior that may constitute bullying and harassing behavior.

7. Conduct such as the following is not considered bullying or harassing behavior: legitimate pedagogical techniques, the exercise of legitimate authority, and academic or work performance monitoring and evaluation.

C. WHEN BULLYING OR HARASSING BEHAVIOR VIOLATES THIS POLICY

Not all conduct that may be described as bullying or harassing behavior violates this policy. Bullying or harassing behavior violates this policy when any pattern of repeated gestures or written, electronic, or verbal communications, or any physical act or threatening communication:

1. places a student, an employee, or other person in actual and reasonable fear of harm to their person or property; or

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 bullying or harassing behavior and the conduct is objectively severe or pervasive enough that a reasonable person would agree that it is bullying or harassing behavior.

The definition of bullying and harassing behavior in this section is intended to be no less inclusive than the definition of bullying and harassing behavior in G.S. 115C-407.15.

Bullying or harassing behavior based on sex, race, color, national origin, disability, ~~or~~ religion, age (40 or older), military affiliation, or genetic information may also constitute discriminatory harassment in violation of federal law and other board policies as described in Section A, above.

D. REPORTING BULLYING AND HARASSING BEHAVIOR

1. Reports by Students and/or Parents and Guardians

   a. The board encourages students or parents/guardians of students who have been the victim of or who have witnessed bullying or harassing behavior in violation of this policy to immediately report such incidents to a teacher,

counselor, coach, assistant principal, or the principal.

b. Reports may be made orally or in writing and may be made anonymously.

c. All reports of serious violations and complaints made under this policy will be investigated expeditiously. Anonymous reports will be investigated to the extent reasonably possible under the circumstances.

d. If, at any time, school officials determine that the alleged bullying or harassing behavior appears to be based on sex, race, color, national origin, disability, ~~or~~ religion, age (40 or older), military affiliation, or genetic information, the matter will be investigated in accordance with the applicable policy listed in Section A above.

2. Mandatory Reporting by School Employees

An employee who witnesses or who has reliable information that a student or other individual has been bullied or harassed in violation of this policy must report the incident to his or her supervisor or to the building principal immediately. If sex-based~~ual~~ harassment is suspected, the employee also must report the incident to the Title IX coordinator. An employee who does not promptly report possible bullying or harassing behavior will be subject to disciplinary action.

3. Reporting by Other Third Parties

Other members of the school community may report incidents of bullying or harassment to the school principal or the superintendent or designee.

4. Reporting False Allegations

It is a violation of board policy to knowingly report false allegations of bullying or harassing behavior. A student or employee found to knowingly report or corroborate false allegations will be subject to disciplinary action.

~~E.~~ REPORTS OF BULLYING OR HARASSING BEHAVIOR BASED ON A FEDERALLY PROTECTED CHARACTERISTIC ~~SEX, RACE, COLOR, NATIONAL ORIGIN, DISABILITY, OR RELIGION~~

Bullying or harassing behavior that is based on a federally protected characteristic, such as sex, race, color, national origin, disability, ~~or~~ religion, age (40 or older), military affiliation, or genetic information, may constitute discriminatory harassment that is a violation of the individual's civil rights. A school employee who receives a report of bullying or harassing behavior that may constitute sex-based~~ual~~ harassment must immediately contact the Title IX coordinator. If the reported behavior appears to be based on any other ~~such personal~~ federally protected characteristic, the employee must immediately notify the appropriate civil rights coordinator designated in policy 1710/4020/7230, Discrimination and Harassment Prohibited by Federal Law. Uncertainty as to whether alleged bullying or

harassing behavior is based on ~~sex, race, color, national origin, disability, or religion~~ a federally protected characteristic should be resolved by notifying the Title IX Coordinator.

F. RESPONSE TO REPORTS OF BULLYING OR HARASSING BEHAVIOR

1. Reports of bullying and harassing behavior or the encouragement of such behavior under this policy will be investigated promptly by the principal or the principal's designee and addressed in accordance with this policy and policy 4340, School-Level Investigations. If the principal is the alleged perpetrator, the superintendent will designate an appropriate investigator.

2. If at any time before, during, or after the investigation under this policy, the principal or designee determines or suspects that the alleged bullying or harassing behavior is based on sex, race, color, national origin, disability, or religion, the principal or designee shall notify the appropriate civil rights coordinator and proceed in accordance with the applicable board policy as described in Section A, above. However, referral to the civil rights coordinator will not preclude appropriate disciplinary consequences for a violation of this policy if, following the designated investigation and resolution process under the appropriate board policy, the behavior is determined not to constitute discriminatory harassment in violation of federal law.

3. No reprisals or retaliation of any kind are permitted as a result of good faith reports of bullying or harassing behavior. An employee who engages in reprisal or retaliation will be subject to disciplinary action, up to and including dismissal. A student who does so is subject to disciplinary consequences as provided in Section G, below.

G. CONSEQUENCES

1. Students

   The disciplinary consequences for violations of this policy should take into consideration the frequency of incidents, the developmental age of the student involved, and the severity of the conduct and must be consistent with the Code of Student Conduct. The superintendent or designee shall list in the Code of Student Conduct the specific range of consequences that may be imposed on a student for violations of this policy.

   A student who is convicted under G.S. 14-458.2 of cyberbullying a school employee will be transferred to another school. If there is no other appropriate school within the school system, the student will be transferred to a different class or assigned to a teacher who was not involved as a victim of the cyberbullying. The superintendent may modify the required transfer of an individual student on a case-by-case basis and shall provide a written statement of this modification in the student's record.

2. Employees

Employees who violate this policy will be subject to disciplinary action, up to and including dismissal.

3. Others

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. A third party under the supervision and control of the school system will be subject to termination of contracts/agreements, restricted from school property, and/or subject to other consequences, as appropriate.

H. OTHER INTERVENTIONS

Interventions designed to remediate the impact of a violation of this policy and to restore a positive school climate will be provided as determined necessary by school officials.

I. NOTICE

This policy must be provided to employees, students, and parents, guardians, and caregivers at the beginning of each school year. Notice of this policy must be included in the Code of Student Conduct and in all student and employee handbooks. Principals are encouraged to post a copy or summary of this policy in each classroom and in a prominent location within the school building and to make an age-appropriate summary of the policy available to elementary students. Information about this policy must also be incorporated into employee training programs.

J. RECORDS

The superintendent or designee shall maintain confidential records of complaints or reports of bullying or harassing behavior under this policy. The records must identify the names of all individuals accused of such offenses and the resolution of such complaints or reports. The superintendent also shall maintain records of any remedial interventions or other steps taken by the school system to provide an environment free of bullying.

Legal References: G.S. 14-458.2; 115C-105.51, -366.4, -407.15 through -407.18

Cross References: Discrimination and Harassment Prohibited by Federal Law (policy 1710/4020/7230), Title IX Sex~~ual~~ Discrimination ~~Harassment~~ – Prohibited Conduct and Grievance Procedures ~~Reporting Process~~ (policy 1725/4035/7236), School-Level Investigations (policy 4340), Visitors to the Schools (policy 5020)~~, Discrimination and Harassment in the Workplace (policy 7232)~~

Adopted: November 2, 2020
Updated: January 10, 2022

GOVERNING PRINCIPLE – PARENTAL INVOLVEMENT

Policy Code: **1300**

A system of excellent schools involves parents in decisions regarding their own children, the educational program, and the schools. Unless otherwise stated in specific policies, references to "parents" also include persons acting in the place of parents, such as legal guardians or legal custodians. The board's vision for involving parents is expressed through the following board policies:

Governing Principles.....(policy 1100)
Parental Involvement.....(policy 1310/4002)
Title I Parent and Family Engagement.....(policy 1320/3560)
Discrimination and Harassment Prohibited by Federal Law .....(policy 1710/4020/7230)
Title IX Nondiscrimination on the Basis of Sex .....(policy 1720/4030/7235)
Title IX Sex~~ual~~ Discrimination ~~Harassment~~ –
Prohibited Conduct and Grievance Procedures ~~Reporting Process~~ .....(policy 1725/4035/7236)
~~Title IX Sexual Harassment Grievance Process.....(policy 1726/4036/7237)~~
Nondiscrimination on the Basis of Disabilities.....(policy 1730/4022/7231)
Student and Parent Grievance Procedure .....(policy 1740/4010)
Responding to Complaints .....(policy 1742/5060)
Public Participation at Board Meetings.....(policy 2310)
Policy Development .....(policy 2410)
Curriculum Development.....(policy 3100)
Innovation in Curriculum and Instruction.....(policy 3110)
Selection of Instructional Materials .....(policy 3200)
Parental Inspection of and Objection to Instructional Materials.....(policy 3210)
Technology Responsible Use.....(policy 3225/4312/7320)
School Trips .....(policy 3320)
Evaluation of Student Progress .....(policy 3400)
Students at Risk of Academic Failure.....(policy 3405)
Student Promotion and Accountability .....(policy 3420)
School Improvement Plan .....(policy 3430)
Class Rankings.....(policy 3450)
Alternative Learning Programs/Schools.....(policy 3470/4305)
Religious-Based Exemptions from School Programs .....(policy 3510)
Special Education Programs/Rights of Students with Disabilities.....(policy 3520)
Comprehensive Health Education Program .....(policy 3540)
Counseling Program.....(policy 3610)
Extracurricular Activities and Student Organizations.....(policy 3620)
Equal Educational Opportunities.....(policy 4001)
Age Requirements for Initial Entry.....(policy 4100)
Discretionary Admission.....(policy 4130)
School Assignment.....(policy 4150)
Release of Students from School .....(policy 4210)
Student Insurance Program .....(policy 4220)

Student Behavior Policies ..... (policy 4300)
School Plan for Management of Student Behavior ..... (policy 4302)
Bullying and Harassing Behavior Prohibited ..... (policy 4329/7311)
School-Level Investigations ..... (policy 4340)
Parental Involvement in Student Behavior Issues ..... (policy 4341)
Removal of Student During the Day ..... (policy 4352)
Long-Term Suspension, 365-Day Suspension, Expulsion ..... (policy 4353)
Student Discipline Hearing Procedures ..... (policy 4370)
Attendance ..... (policy 4400)
Student Fees ..... (policy 4600)
Student Records ..... (policy 4700)
Surveys of Students ..... (policy 4720)
Parent Organizations ..... (policy 5010)
School Volunteers ..... (policy 5015)
Visitors to the Schools ..... (policy 5020)
Registered Sex Offenders ..... (policy 5022)
Student Health Services ..... (policy 6120)
Administering Medicines to Students ..... (policy 6125)
Bus Routes ..... (policy 6321)
Student Assignment to Buses ..... (policy 6322)
Naming Facilities ..... (policy 9300)

Legal References: G.S. 115C-36

Cross References: Governing Principles (policy 1100), Board and Superintendent Relations (policy 2010), Policy Development (policy 2410)

Adopted: March 6, 2000
Updated: June 29, 2009
Updated: December 8, 2014
Updated: June 5, 2017
Updated: December 7, 2020
Updated: July 18, 2022

GOVERNING PRINCIPLE –
SAFE, ORDERLY, AND INVITING ENVIRONMENT *Policy Code:* **1500**

A system of excellent schools creates and maintains a safe and orderly environment where staff and students are focused on and excited about learning. The board's vision for creating and maintaining a safe, orderly, and inviting environment is expressed through the following board policies:

School Safety .....(policy 1510/4200/7270)
Discrimination and Harassment Prohibited by Federal Law .....(policy 1710/4020/7230)
Title IX Nondiscrimination on the Basis of Sex .....(policy 1720/4030/7235)
Title IX Sex~~ual~~ Discrimination ~~Harassment~~ –
Prohibited Conduct and ~~Reporting Process~~ Grievance Procedures .....(policy 1725/4035/7236)
Nondiscrimination on the Basis of Disabilities.....(policy 1730/4022/7231)
School Trips .....(policy 3320)
School Improvement Plan .....(policy 3430)
Conflict Resolution .....(policy 3431)
Alternative Learning Programs/Schools.....(policy 3470/4305)
Citizenship and Character Education .....(policy 3530)
Focus on Students.....(policy 4000)
Release of Students from School .....(policy 4210)
Communicable Diseases – Students.....(policy 4230)
Student Sex Offenders.....(policy 4260)
Student Behavior Policies .....(policy 4300)
Authority of School Personnel .....(policy 4301)
School Plan for Management of Student Behavior.....(policy 4302)
Integrity and Civility .....(policy 4310)
Disruptive Behavior .....(policy 4315)
Tobacco Products – Students .....(policy 4320)
Drugs and Alcohol .....(policy 4325)
Gang-Related Activity.....(policy 4328)
Bullying and Harassing Behavior Prohibited.....(policy 4329/7311)
Theft, Trespass, and Damage to Property .....(policy 4330)
Assaults and Threats .....(policy 4331)
Weapons, Bomb Threats, Terrorist Threats, and Clear Threats to Safety.....(policy 4333)
Use of Unmanned Aircraft (Drones).....(policy 4334/5035/7345)
Criminal Behavior.....(policy 4335)
Student Searches .....(policy 4342)
Student Discipline Records.....(policy 4345)
Short-Term Suspension.....(policy 4351)
Removal of Student During the Day.....(policy 4352)
Long-Term Suspension, 365-Day Suspension, Expulsion.....(policy 4353)
Requests for Readmission of Students Suspended for 365 Days or Expelled .....(policy 4362)
Visitors to the Schools .....(policy 5020)
Registered Sex Offenders.....(policy 5022)

Smoking and Tobacco Products ..... (policy 5026/7250)
Weapons and Explosives Prohibited ..... (policy 5027/7275)
News Media Relations ..... (policy 5040)
Emergency Closings ..... (policy 5050)
Relationship with Other Governmental Agencies ..... (policy 5100)
Relationship with Law Enforcement ..... (policy 5120)
Collections and Solicitations ..... (policy 5220)
Operation of School Nutrition Services ..... (policy 6220)
Goals of Student Transportation Services ..... (policy 6300)
Safety and Student Transportation Services ..... (policy 6305)
Drivers ..... (policy 6315)
Bus Routes ..... (policy 6321)
Transportation Service/Vehicle Contracts ..... (policy 6340)
Organization of Equipment, Materials, and Supplies Services ..... (policy 6510)
Hazardous Materials ..... (policy 6540)
~~Discrimination and Harassment in the Workplace ..... (policy 7232)~~
Drug-Free and Alcohol-Free Workplace ..... (policy 7240)
Drug and Alcohol Testing of Commercial Motor Vehicle Operators ..... (policy 7241)
Staff Responsibilities ..... (policy 7300)
School Administrator Contracts ..... (policy 7425)
Planning to Address Facility Needs ..... (policy 9000)
Facility Design ..... (policy 9020)
Care and Maintenance of Facilities ..... (policy 9200)
Care and Maintenance of Grounds and Outdoor Equipment ..... (policy 9210)
Security of Facilities ..... (policy 9220)

Legal References: G.S. 115C-36

Cross References: Governing Principles (policy 1100), Board and Superintendent Relations (policy 2010), Policy Development (policy 2410)

Adopted: March 6, 2000
Updated: July 1, 2009
Updated: December 2, 2019
Updated: December 7, 2020
Updated: July 18, 2022

GOVERNING PRINCIPLE – PROFESSIONAL DEVELOPMENT

Policy Code: **1600**

A system of excellent schools provides continuous professional development and training to help personnel gain the skills and knowledge needed to meet State Board and local board expectations, especially as they relate to improving student performance. The board's vision for professional development, including its relationship to improving student success, is expressed through the following board policies.

School Safety .....(policy 1510/4200/7270)
Professional and Staff Development .....(policy 1610/7800)
Discrimination and Harassment Prohibited by Federal Law .....(policy 1710/4020/7230)
Title IX Nondiscrimination on the Basis of Sex……(policy 1720/4030/7235)
~~Title IX Sexual Harassment Grievance Process.....(policy 1726/4036/7237)~~
Lesson Planning .....(policy 3120)
Evaluation of Instructional Programs.....(policy 3140)
Technology in the Educational Program.....(policy 3220)
Use of Personal Technology to Conduct School Business.....(policy 3228/7323)
Copyright Compliance .....(policy 3230/7330)
School Improvement Plan .....(policy 3430)
Alternative Learning Programs/Schools.....(policy 3470/4305)
Comprehensive Health Education Program .....(policy 3540)
Injury and Loss Prevention.....(policy 4201/7271)
Child Abuse and Related Threats to Child Safety .....(policy 4240/7312)
Bullying and Harassing Behavior Prohibited.....(policy 4329/7311)
Emergency Epinephrine Auto-Injector Devices .....(policy 5024/6127/7266)
Public Records – Retention, Release, and Disposition .....(policy 5070/7350)
Student Health Services .....(policy 6120)
Administering Medicines to Students .....(policy 6125)
Network Security.....(policy 6524)
Hazardous Materials.....(policy 6540)
Drug and Alcohol Testing of Commercial Motor Vehicle Operators.....(policy 7241)
Occupational Exposure to Bloodborne Pathogens .....(policy 7260)
Occupational Exposure to Hazardous Chemicals in Science Laboratories.....(policy 7265)
Teacher Contracts.....(policy 7410)
School Administrator Contracts.....(policy 7425)
Evaluation of Licensed Employees .....(policy 7810)
Evaluation of Non-Licensed Employees.....(policy 7815)

Legal References: G.S. 115C-36, -47

Cross References: Governing Principles (policy 1100), Board and Superintendent Relations (policy 2010), Policy Development (policy 2410)

Adopted: March 6, 2000
Updated: June 29, 2009

Updated: December 2, 2019
Updated: July 6, 2020
Updated: December 7, 2020
Updated: July 18, 2022

GOVERNING PRINCIPLE – REMOVAL OF BARRIERS

Policy Code: **1700**

A system of excellent schools prohibits illegal discrimination and harassment of staff and students, encourages tolerance and respect, and seeks to eliminate or lessen other barriers that may impede a student's ability or opportunity to learn, including economic disadvantages, poor nutrition, ill-health, and lack of transportation. The board's vision for removing barriers is expressed in the following board policies:

Discrimination and Harassment Prohibited by Federal Law .....(policy 1710/4020/7230)
Title IX Nondiscrimination on the Basis of Sex .....(policy 1720/4030/7235)
Title IX Sex~~ual~~ Discrimination ~~Harassment~~ –
Prohibited Conduct and Grievance Procedures ~~Reporting Process~~.....(policy 1725/4035/7236)
~~Title IX Sexual Harassment Grievance Process.....(policy1726/4036/7237)~~
Nondiscrimination on the Basis of Disabilities.....(policy 1730/4022/7231)
Student and Parent Grievance Procedure .....(policy 1740/4010)
Grievance Procedure for Employees.....(policy 1750/7220)
School Trips .....(policy 3320)
Testing and Assessment Program .....(policy 3410)
Counseling Program.....(policy 3610)
Equal Educational Opportunities.....(policy 4001)
Tuition for Discretionary Admissions.....(policy 4135)
Bullying and Harassing Behavior Prohibited.....(policy 4329/7311)
Student Fees .....(policy 4600)
Support Services.....(policy 6000)
Goals of Student Health Services.....(policy 6100)
Student Health Services .....(policy 6120)
Goals of School Nutrition Services.....(policy 6200)
Operation of School Nutrition Services .....(policy 6220)
Free and Reduced Price Meal Services.....(policy 6225)
Goals of Student Transportation Services.....(policy 6300)
Participation by Historically Underutilized Businesses .....(policy 6402)
Vendor Lists .....(policy 6442)
~~Discrimination and Harassment in the Workplace.....(policy 7232)~~
Crowdfunding on Behalf of the School System.....(policy 7360/8225)
Facility Design .....(policy 9020)
Bidding for Construction Work.....(policy 9120)
Participation by Minority Businesses.....(policy 9125)

Legal References: G.S. 115C-36

Cross References: Governing Principles (policy 1100), Board and Superintendent Relations (policy 2010), Policy Development (policy 2410)

Adopted: March 6, 2000

Updated: January 12, 2010
Updated: December 2, 2019
Updated: December 7, 2020
Updated: July 18, 2022

A. OPPORTUNITIES TO ADDRESS CONCERNS AND COMPLAINTS

The board is committed to providing an effective means for parents and the community to voice concerns and complaints. The board also strives to resolve concerns and complaints whenever possible. To this end, the board has established the following processes:

1. informal resolutions of specific concerns (see Section B, General Process, below);

2. public hearings and public comments at board meetings on subjects of concern to parents and the community (policy 2310, Public Participation at Board Meetings);

3. a procedure for parental concerns regarding the curriculum (policy 3210, Parental Inspection of and Objection to Instructional Materials);

4. specific processes for addressing disciplinary consequences (policies in the 4300 series);

5. processes as provided by law for students with disabilities (policies 1730/4022/7231, Nondiscrimination on the Basis of Disabilities, 3520, Special Education Programs/Rights of Students with Disabilities, and 4307, Disciplinary Action for Exceptional Children/Students with Disabilities);

6. a grievance procedure for addressing concerns regarding specific decisions, especially when there are concerns that board policy or law has been misapplied, misinterpreted, or violated (policy1740/4010, Student and Parent Grievance Procedure); and

7. procedures for reporting and resolving complaints of discrimination, harassment, or bullying on the basis of sex, disability, or other personal characteristic (policies 1710/4020/7230, Discrimination and Harassment Prohibited by Federal Law; 1720/4030/7235, Title IX Nondiscrimination on the Basis of Sex; 1725/4035/7236, Title IX Sexual ~~Harassment~~ Discrimination– Prohibited Conduct and Grievance Procedures ~~Reporting Process~~; ~~1726/4036/7237, Title IX Sexual Harassment Grievance Process;~~ and 4329/7311, Bullying and Harassing Behavior Prohibited).

Numerous other policies provide opportunities for parental input, including policy 1310/4002, Parental Involvement.

B. GENERAL PROCESS

Complaints that are not specifically designated to be addressed in other policies should be addressed in the following manner.

1. The complaint should be received and addressed at the level closest to which the complaint originated. For example, a complaint regarding a classroom issue should be heard first by the teacher. A complaint regarding the school in general should be addressed first by the principal.

2. Any board member or employee receiving a complaint should verify that the complaint has been appropriately referred to him or her and if not, assist the complainant by identifying the appropriate personnel to receive the complaint.

3. Once appropriately referred, if the complainant is not satisfied with the response to the complaint, the complainant should be informed of the options for further review of the complaint.

4. A complaint or series of complaints that raise significant issues about the educational program or the operation of the schools is an opportunity to further examine the success of the school system in meeting its goals and objectives. When feasible, a group representing various perspectives and interests, such as teachers, administrators, students, and parents, should discuss the issue and make recommendations to appropriate personnel or to the board.

The superintendent shall communicate the requirements in this policy to board members and employees on a regular basis.

Legal References: G.S. 115C-36, -47

Cross References: Parental Involvement (policy 1310/4002), Discrimination and Harassment Prohibited by Federal Law (policy 1710/4020/7230), Title IX Nondiscrimination on the Basis of Sex (policy 1720/4030/7235), Title IX Sex~~ual~~ Discrimination ~~Harassment~~ – Prohibited Conduct and ~~Reporting Process~~ Grievance Procedures (policy 1725/4035/7236), ~~Title IX Sexual Harassment Grievance Process (policy 1726/4036/7237),~~ Nondiscrimination on the Basis of Disabilities (policy 1730/4022/7231), Student and Parent Grievance Procedure (policy 1740/4010), Public Participation at Board Meetings (policy 2310), Parental Inspection of and Objection to Instructional Materials (policy 3210), Special Education Programs/Rights of Students with Disabilities (policy 3520), Student Behavior Policies (4300 series), Disciplinary Action for Exceptional Children/Students with Disabilities (policy 4307), Bullying and Harassing Behavior Prohibited (policy 4329/7311)

Adopted: March 6, 2000
Updated: June 29, 2009
Updated: August 3, 2010
Updated: December 7, 2015
Updated: December 7, 2020

Board members and employees are expected to be honest and ethical in the performance of their duties and to comply with applicable federal, state, and local laws, policies, and regulations. The board encourages employees to report possible financial improprieties, ethical violations, and other illegal practices and intends that employees who report such matters in good faith will not be subject to retaliation or other adverse employment consequences.

If an employee reasonably believes that (1) there has been a violation of federal, state, or local law, policy, or regulation, public policy, or an individual's ethical duties and (2) the violation is due to a practice, policy, act, or omission of the board of education, an individual board member, a school system employee, or an entity/person with whom the school system has a business relationship, the employee should report that matter in accordance with policy 1750/7220, Grievance Procedure for Employees, unless a policy with a more specific reporting or complaint procedure applies. Any complaint alleging a violation by the superintendent or the board should be filed with the board chair for investigation. The board chair will report the complaint to the board, and the board will authorize a prompt and thorough investigation or other action as necessary.

The board prohibits and will not tolerate any form of reprisal, retaliation, or discrimination against any employee who (1) in good faith, has made or intends to make a report of wrongdoing described in this policy; or (2) has refused to carry out a directive which may constitute a violation of federal, state, or local law, policy, or regulation, or poses a substantial or specific danger to public health and safety.

To be protected by this policy, employees who report violations or suspected violations must be acting in good faith based on a reasonable belief that the reported information represents wrong doing of the sort described in this policy. The protection extends to those whose allegations are made in good faith but prove to be mistaken. The board reserves the right to discipline employees who know or have reason to believe that the report is inaccurate. Further, except as otherwise required by law, the provisions of this policy apply only to those situations in which an employee brings the alleged unlawful activity, policy, or practice to the attention of school officials or the board and provides school officials or the board with a reasonable opportunity to investigate and correct the alleged wrong doing to the attention of school officials or the board with reasonable opportunity to investigate and correct the alleged wrong doing. If necessary, school officials or the board may specify reasonable steps to protect the complaining employee from retaliation.

Each employee will receive a copy of this policy and will sign a statement verifying his or her receipt and understanding of this policy.

Legal References: Sarbanes-Oxley Act, 18 U.S.C. 1513(e); G.S. 115C-335.5; 126-5(c5), -84, -85, -86, -87, -88

Cross References: Discrimination and Harassment Prohibited by Federal Law (policy 1710/4020/7230), ~~Title IX Sexual Harassment – Prohibited Conduct and Reporting Process (policy 1725/4035/7236), Title IX Sexual Harassment Grievance Process (policy 1726/4036/7237),~~ Nondiscrimination on the Basis of Disabilities (policy 1730/4022/7231), Grievance Procedure for Employees (policy 1750/7220), Code of Ethics for School Board Members (policy 2120), Board Member Conflict of Interest (policy 2121), Ethics and the Purchasing Function (policy 6401/9100), ~~Discrimination and Harassment in the Workplace (policy 7232),~~ Staff Responsibilities (policy 7300), Employee Conflict of Interest (policy 7730)

Issued: July 15, 2005

Adopted: April 2009
Updated: May 4, 2010
Updated: June 6, 2016
Updated: December 7, 2020
Updated: June 5, 2024

Board hearings, unless otherwise specified by law or board policy, will be informal. Legal rules of evidence will not apply. The board may designate a panel of two or more board members to hear and act on behalf of the board unless otherwise required by law.

For hearings held to appeal a decision of school personnel, the superintendent shall ensure that notice is provided and a record of the hearing is made as required by G.S. 115C-45(c). The board chairperson, or board member serving as chairperson of a board panel, will establish any other hearing procedures to be followed in a particular hearing.

Board hearings will be conducted in accordance with the Open Meetings Law and all other applicable laws and board policies.

Legal References: G.S. 115C-36, -45(c); 143-318.11

Cross References: Discrimination and Harassment Prohibited by Federal Law (policy 1710/4020/7230), Title IX Sex Discrimination-Prohibited Conduct and Grievance Procedures (policy 1725/4035/7236) ~~Title IX Sexual Harassment Grievance Process (policy 1726/4036/7237),~~ Student and Parent Grievance Procedure (policy 1740/4010), Grievance Procedure for Employees (policy 1750/7220), Remote Participation in Board Meetings (policy 2302), Compliance with the Open Meetings Law (policy 2320), Long-Term Suspension, 365-Day Suspension, Expulsion (policy 4353), Requests for Readmission of Students Suspended for 365 Days or Expelled (policy 4362), Teacher Contracts (policy 7410), School Administrator Contracts (policy 7425), Classified Personnel: Suspension and Dismissal (policy 7940)

Adopted: March 6, 2000
Updated: April 6, 2009
Updated: July 6, 2020
Updated: December 7, 2020

The board expects all employees to maintain the highest professional, moral, and ethical standards in their interactions with students. Employees are required to provide an atmosphere conducive to learning through consistently and fairly applied discipline and established and maintained professional boundaries. Employees are expected to motivate each student to perform to his or her capacity while modeling the behavior expected of students in staff-student relationships.

The interactions and relationships between staff and students must be based upon cooperation, mutual respect, and an understanding of the appropriate boundaries between adults and students inside and outside of the educational setting. Employees are expected to demonstrate good judgment and to avoid the appearance of impropriety in their interactions with students. Employees must consult their supervisor any time they suspect or are unsure whether conduct is inappropriate or otherwise constitutes a violation of this or other board policy.

For the purposes of this policy, the terms "staff" and "employees" include independent contractors, school safety officers, and volunteers, but do not include student employees or student volunteers.

A. ROMANTIC RELATIONSHIPS AND SEXUAL CONTACT PROHIBITED

All employees are prohibited from dating, courting, or entering into a romantic relationship or having sexual contact with any student enrolled in the school system regardless of the student's age. Employees engaging in such inappropriate conduct will be subject to disciplinary action, up to and including dismissal, and may be subject to criminal action as provided in G.S. 14-202.4 and 14-27.32. Further, school system personnel shall provide no assistance to an employee in finding another job, beyond the routine transmittal of personnel or administrative files, if the employee engaged in sexual misconduct with a minor or a student in violation of the law.

B. RESTRICTIONS ON ELECTRONIC COMMUNICATIONS

1. In accordance with policy 7335, Employee Use of Social Media, employees are prohibited from communicating with current students through non-school-controlled social media without parental permission except to the extent that the employee and student have an appropriate relationship which originated outside of the school setting. Any communication through social media authorized under policy 7335 must meet the professional standards established in this policy and must otherwise be consistent with law and all other board policy.

2. Instant messages will be treated as a form of communication through social media subject to the terms of policy 7335 and subsection B.1 above, regardless of whether the messaging service is actually provided through a social media service or otherwise.

3. Employees are prohibited from engaging in other forms of one-to-one electronic

communications (e.g., voice, voice mail, email, texting, and photo or video transmission) with students without written prior approval of the employee's supervisor and the student's parent. This rule shall not apply, however, if one or more of the following circumstances exist:

a. the communication (1) is for an educational purpose, (2) is conducted through a school system-provided platform which archives all such communications for a period of at least three years (this requirement does not apply to telephone or voice mail communications), or is conducted via an electronic video-conferencing platform (e.g., Zoom, Webex, Google Meet) that has been approved by the superintendent or designee for instructional use, and (3) occurs after the employee has given prior notice to his or her supervisor or designee that such communications will occur and when they will occur;

b. the communication serves an educational purpose and is simultaneously copied or transmitted to the employee's supervisor or designee and, upon request, to the parent or guardian;

c. the communication is necessary in a bona fide emergency, provided the communication is disclosed to the supervisor and parent or guardian as soon as reasonably possible; or

d. the communication derives from a relationship or association outside of the school setting and occurs with the consent of the parent or guardian, provided such communication does not otherwise violate this or other board policy.

Any one-to-one electronic communication permitted by this subsection must meet the professional standards established in this policy and must otherwise be consistent with law and all other board policies.

4. It is the duty of every employee to notify his or her supervisor of any unsolicited one-to-one communication, in any form, electronic or otherwise, received from a student when the communication lacks a clear educational purpose. School counselors are excluded from this requirement only to the extent that it conflicts with their professional duties.

5. Violations of this subsection will be considered unprofessional behavior subject to discipline, up to and including dismissal. Factors that may be relevant to the determination of an appropriate disciplinary response to unauthorized communications with students include, but are not limited to:

a. the content, frequency, subject, and timing of the communication(s);

b. whether the communication(s) was appropriate to the student's age and

maturity level;

c. whether the communication(s) could reasonably be viewed as a solicitation of sexual contact or the courting of a romantic relationship, including sexual grooming;

d. whether there was an attempt to conceal the communication(s) from the employee's supervisor and/or the student's parent or guardian;

e. whether the communication(s) created a disruption of the educational environment; and

f. whether the communication(s) harmed the student in any manner.

C. REPORTING INAPPROPRIATE CONDUCT

1. Reporting by Employees

Any employee who has reason to believe any of the following shall immediately report that information to the superintendent or designee:

a. that another employee is involved in a romantic or other inappropriate relationship or has had sexual contact with a student;

b. that another employee has engaged in other behavior prohibited by this policy; or

c. that the employee has witnessed behavior by another employee that has the appearance of impropriety, whether or not the behavior may have a valid purpose.

An employee who fails to inform the superintendent or designee as provided in this subsection may be subject to disciplinary action, up to and including dismissal.

2. Reporting by Students

Any student who believes that he or she or another student has been subject to misconduct that violates this policy should immediately report the situation to the principal, school counselor, or the Title IX coordinator designated in policy 1720/4030/7235, Title IX Nondiscrimination on the Basis of Sex.

3. Report of Criminal Misconduct

Any principal who has reason to believe that a student has been the victim of criminal conduct shall immediately report the incident in accordance with policy 4335, Criminal Behavior.

4. Report to State Superintendent of Public Instruction

   In accordance with Section F of policy 7130, Licensure, administrator shall report to the State Board of Education certain misconduct by licensed employees involving a student ands, resulting in dismissal, disciplinary action, or resignation.

   This reporting requirement applies in addition to any duty to report suspected child abuse in accordance with state law and policy 4240/7312, Child Abuse and Related Threats to Child Safety, as applicable.

Legal References: Elementary and Secondary Education Act, 20 U.S.C. 7926; Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 *et seq.*, 34 C.F.R. pt. 106; G.S. 14-27.32, -202.4; 115C-47(18), -270.35(b); 16 N.C.A.C. 6C, .0601, .0602, .0604, .0608; State Board of Education Policy EVAL-014

Cross References: Governing Principle – Removal of Barriers (policy 1700), Title IX Nondiscrimination on the Basis of Sex (policy 1720/4030/7235), Title IX Sex~~ual~~ Discrimination ~~Harassment~~ – Prohibited Conduct and ~~Reporting Process~~ Grievance Procedures (policy 1725/4035/7236), ~~Title IX Sexual Harassment Grievance Process (policy 1726/4036/7237),~~ Student and Parent Grievance Procedure (policy 1740/4010), Child Abuse and Related Threats to Child Safety (policy 4240/7312), Bullying and Harassing Behavior Prohibited (policy 4329/7311), Criminal Behavior (policy 4335), School Volunteers (policy 5015), Licensure (policy 7130), Staff Responsibilities (policy 7300), Employee Use of Social Media (policy 7335)

Adopted: April 10, 2000
Updated: April 6, 2009
Updated: August 3, 2010
Updated: December 7, 2015
Updated: November 7, 2016
Updated: December 4, 2017
Updated: December 2, 2019
Updated: July 6, 2020
Updated: December 7, 2020
Updated: June 7, 2021
Updated: June 5, 2024

The board recognizes the importance of incorporating current technology tools, including new methods of electronic communication, into the classroom to enhance student learning. It further recognizes the importance of employees, students, and parents engaging, learning, collaborating, and sharing in digital environments as part of 21st Century learning. The board strives to ensure that electronic communication tools incorporated into the school curriculum are used responsibly and safely. As practicable, the board will provide access to secure social media tools and board approved technologies for use during instructional time and for school-sponsored activities in accordance with policies 3220, Technology in the Educational Program, and 3225/4312/7320, Technology Responsible Use.

The board acknowledges that school employees may engage in the use of social media during their personal time. School employees who use social media for personal purposes must be mindful that they are responsible for their public conduct even when not acting in their capacities as school system employees. All school employees, including student teachers and independent contractors, shall comply with the requirements of this policy when using electronic social media for personal purposes. In addition, all school employees must comply with policy 4040/7310, Staff-Student Relations, when communicating with individual students through other electronic means, such as through voice, email, text-messaging, or video-conferencing platforms.

A. DEFINITIONS

1. Social Media

   For the purposes of this policy, "social media" refers to the various online technology tools that enable people to communicate easily over the Internet to share information and resources. It includes, but is not limited to: personal websites, blogs, wikis, social networking sites, online forums, virtual worlds, video-sharing websites, and any other Internet-based applications which allow the exchange of user-generated content. For purposes of this policy, it also includes any form of instant or direct messaging available through such applications. Examples of social media include Web 2.0 tools, Facebook, Twitter, LinkedIn, Flickr, YouTube, Instagram, Google+, and social media components of learning management systems such as Moodle or Edmodo. The use of video-conferencing platforms such as Zoom, Webex, and Google Meet is subject to policy 4040/7310, Staff-Student Relations.

2. School-Controlled Social Media

   "School-controlled social media" are social media networks, tools, or activities that are under the direct control and management of the school system and that create an archived audit trail.

3. Personal Social Media

"Personal social media" means any social media networks, tools, or activities that are not school-controlled.

B. SOCIAL MEDIA COMMUNICATIONS INVOLVING STUDENTS

Employees are to maintain professional relationships with students at all times in accordance with policies 4040/7310, Staff-Student Relations, and 7300, Staff Responsibilities. The use of electronic media for communicating with students and parents is an extension of the employee's workplace responsibilities. Accordingly, the board expects employees to use professional judgment when using social media or other electronic communications and to comply with the following.

1. All electronic communications with students who are currently enrolled in the school system must be school-related and within the scope of the employees' professional responsibilities, unless otherwise authorized by this policy or policy 4040/7310, Staff-Student Relations.

2. School employees may use only school-controlled social media or approved video-conferencing platforms to communicate directly with current students about school-related matters. (For expectations regarding communication with students through video-conferencing platforms or other forms of electronic communication, e.g., email or texts, see policy 4040/7310, Staff-Student Relations.)

3. Employees are prohibited from knowingly communicating with current students through personal social media without parental permission. An Internet posting on a personal social media website intended for a particular student will be considered a form of direct communication with that student in violation of this policy unless the parent has consented to the communication. However, an employee may communicate with a student using personal social media to the extent the employee and student have a family relationship or other type of appropriate relationship which originated outside of the school setting. For example, an employee may have a relationship with a niece or nephew, a student who is the child of an adult friend, a student who is a friend of the employee's child, or a member or participant in the same civic, social, recreational, sport, or religious organization.

4. An employee seeking to utilize and/or establish a non-school-controlled social media website for instructional or other school-related purposes must have prior written approval from the principal and the superintendent or designee and must verify that the social media application's terms of service meet the requirements of policies 3220, Technology in the Educational Program, 3225/4312/7320, Technology Responsible Use, and 3227/7322, Web Page Development. If the website collects personal information from students under the age of 13, the use will not be approved unless the applicable requirements of the Children's Online Privacy Protection Act (COPPA) are met. The employee shall ensure that the website does not include or link to the employee's personal social media footprint. The site must be used for school-related purposes only.

C. EMPLOYEE PERSONAL USE OF SOCIAL MEDIA

The board respects the right of employees to use social media as a medium of self-expression on their personal time. As role models for the school system's students, however, employees are responsible for their public conduct even when they are not performing their job duties as employees of the school system. Employees will be held to the same professional standards in their public use of social media and other electronic communications as they are for any other public conduct. Further, school employees remain subject to applicable state and federal laws, board policies, administrative regulations, and the Code of Ethics for North Carolina Educators, even if communicating with others concerning personal and private matters. If an employee's use of social media interferes with the employee's ability to effectively perform his or her job duties, the employee is subject to disciplinary action, up to and including termination of employment.

Employees are responsible for the content on their social media sites, including content added by the employee, the employee's "friends," or members of the public who can access the employee's site, and for Web links on the employee's site. Employees shall take reasonable precautions, such as using available security settings, to manage students' access to the employees' personal information on social media websites and to prevent students from accessing materials that are not age-appropriate.

School employees are prohibited from accessing social networking websites for personal use during instructional time.

D. POSTING TO SOCIAL MEDIA SITES

Employees who use social media for personal purposes must be aware that the content they post may be viewed by anyone, including students, parents, and community members. Employees shall observe the following principles when communicating through social media.

1. Employees shall not post confidential information about students, employees, or school system business.

2. Employees shall not accept current students as "friends" or "followers" or otherwise connect with students on personal social media sites without parental permission, unless the employee and student have a family relationship or other type of appropriate relationship which originated outside of the school setting.

3. Employees shall not knowingly allow students access to their personal social media sites that discuss or portray sex, nudity, alcohol, or drug use or other behaviors associated with the employees' private lives that would be inappropriate to discuss with a student at school.

4. Employees may not knowingly grant students access to any portions of their

personal social media sites that are not accessible to the general public without parental permission, unless the employee and student have a family relationship or other type of appropriate relationship which originated outside of the school setting.

5. Employees shall be professional in all Internet postings related to or referencing the school system, students or their parents, and other employees.

6. Employees shall not use profane, pornographic, obscene, indecent, lewd, vulgar, or sexually offensive language, pictures, or graphics, or other communication that could reasonably be anticipated to cause a substantial disruption to the school environment.

7. Employees shall not use the school system's logo or other copyrighted material of the system on a personal social media site without express, written consent from the board.

8. Employees shall not post identifiable images of a student or student's family on a personal social media site without permission from the student and the student's parent or legal guardian. Employees may post such images on a school-controlled social media site only with prior permission of the employee's supervisor and in accordance with the requirements of federal and state privacy laws and policy 4700, Student Records.

9. Employees shall not use Internet postings to libel or defame the board, individual board members, students, or other school employees.

10. Employees shall not use Internet postings to harass, bully, or intimidate students or other employees in violation of policies 1710/4020/7030, Discrimination and Harassment Prohibited by Federal Law, 1725/4035/7236, Title IX Sex~~ual Harassment~~ Discrimination – Prohibited Conduct and ~~Reporting Process~~ Grievance Procedures, and 4329/7311, Bullying and Harassing Behavior Prohibited, ~~and 7232, Discrimination and Harassment in the Workplace~~, or state and federal laws.

11. Employees shall not post content that negatively impacts their ability to perform their jobs.

12. Employees shall not use Internet postings to engage in any other conduct that violates board policy or administrative procedures or state and federal laws.

E. CONSEQUENCES

School system personnel shall monitor online activities of employees who access the Internet using school technological resources. Additionally, the superintendent or designee may periodically conduct public Internet searches to determine if an employee has engaged in conduct that violates this policy. Any employee who has been found by the superintendent to have violated this policy may be subject to disciplinary action, up to and

including dismissal.

The superintendent shall establish and communicate to employees guidelines that are consistent with this policy.

Legal References: U.S. Const. amend. I; Children's Internet Protection Act, 47 U.S.C. 254(h)(5); Electronic Communications Privacy Act, 18 U.S.C. 2510-2522; Family Educational Rights and Privacy Act, 20 U.S.C. 1232g; 17 U.S.C. 101 *et seq.*; 20 U.S.C. 6777; G.S. 115C-325(e) (applicable to career status teachers), -325.4 (applicable to non-career status teachers); 16 N.C.A.C. 6C .0601, .0602; State Board of Education Policy EVAL-014

Cross References: Discrimination and Harassment Prohibited by Federal Law (policy 1710/4020/7230), Title IX Sex~~ual Harassment~~ Discrimination – Prohibited Conduct and ~~Reporting Process~~ Grievance Procedures (policy 1725/4035/7236), Technology in the Educational Program (policy 3220), Technology Responsible Use (policy 3225/4312/7320), Web Page Development (policy 3227/7322), Copyright Compliance (policy 3230/7330), Staff-Student Relations (policy 4040/7310), Bullying and Harassing Behavior Prohibited (policy 4329/7311), Student Records (policy 4700), ~~Discrimination and Harassment in the Workplace (policy 7232),~~ Staff Responsibilities (policy 7300)

Adopted: February 12, 2012
Updated: January 14, 2013
Updated: June 3, 2014
Updated: December 7, 2015
Updated: December 7, 2020

Personnel files, which may consist of paper or electronic records, will be maintained in the human resources office for all employees as provided by law. The superintendent and all supervisors are directed to ensure that all appropriate employment-related information is submitted to the files. Employees will be provided with all procedural protections as provided by law.

The superintendent has overall responsibility for granting or denying access to personnel records consistent with this policy.

A. RECORDS MAINTAINED

The following records must be maintained in the personnel file:

1. evaluation reports made by the administration;

2. commendations for and complaints against the employee (see Section C);

3. written suggestions for corrections and improvements made by the administration;

4. certificates;

5. employee's standard test scores;

6. employee's academic records;

7. application forms;

8. any request to the State Board of Education to revoke the employee's teaching license; and

9. other pertinent records or reports.

B. CERTAIN EMPLOYEE RECORDS MAINTAINED SEPARATELY

The following employee information must be kept separate from the employee's general personnel information, in accordance with legal and/or board requirements.

1. Pre-Employment Information

   Letters of reference about an employee obtained before his or her employment and, for teachers, any other pre-employment information collected, must be filed separately from the employee's general personnel information and must not be made available to the employee.

2. Criminal Record Check

Data from a criminal history check must be maintained in a locked, secure location separate from the employee's personnel file. The superintendent shall designate which school officials have a need to know the results of the criminal history check. Only those officials so designated may obtain access to the records.

3. Medical Information

Employee medical information, including the following, must be kept in a separate confidential file and may be subject to special disclosure rules:

a. health certificates (see policy 7120, Employee Health Certificate);

b. drug test results, except that drug use or alcohol use contrary to board policy or law also may be documented in the employee's personnel file (see policy 7241, Drug and Alcohol Testing of Commercial Motor Vehicle Operators);

c. information related to an employee's communicable disease/condition or possible occupational exposure to bloodborne pathogens (see policies 7260, Occupational Exposure to Bloodborne Pathogens, and 7262, Communicable Diseases – Employees);

d. medical information related to leave under the Family and Medical Leave Act (see policy 7520, Family and Medical Leave); and

e. genetic information, as defined by the Genetic Information Nondiscrimination Act of 2008.

4. Complaints/Reports of Harassment or Discrimination

The superintendent or designee shall maintain records of all reports and complaints of harassment and discrimination and the resolution of such complaints. Allegations of harassment or discrimination must be kept confidential to the extent possible. Employees involved in the allegations will be identified only to individuals who need the information to investigate or resolve the matter, or to ensure that due process is provided to the accused employee (see policies 1710/4020/7230, Discrimination and Harassment Prohibited by Federal Law, 1720/4030/7235, Title IX Nondiscrimination on the Basis of Sex, 1725/4035/7236, Title IX Sex~~ual Harassment~~ Discrimination – Prohibited Conduct and ~~Reporting Process~~ Grievance Procedures, and 4329/7311, Bullying and Harassing Behavior Prohibited ~~1726/4036/7237, Title IX Sexual Harassment Grievance Process, and 7232, Discrimination and Harassment in the Workplace).~~

If the allegations are substantiated through investigation, the superintendent or designee shall ensure that the provisions of Section C, below, are followed to the extent that they do not conflict with the rights of any individual.

C. PLACEMENT OF RECORDS IN PERSONNEL FILE

All evaluations, commendations, complaints, or suggestions for correction or improvement must be placed in the employee's central office personnel file after the following requirements are met:

1. the comment is signed and dated by the person who made the evaluation, commendation, complaint, or suggestion;

2. if the comment is a complaint, the employee's supervisor has attempted to resolve the issue raised therein and documentation of such efforts is attached with the supervisor's recommendation to the superintendent as to whether the complaint contains any invalid, irrelevant, outdated, or false information; and

3. the employee has received a copy of the evaluation, commendation, complaint, or suggestion five days before it is placed in the file.

All written complaints that are signed and dated must be submitted regardless of whether the supervisor considers the complaint to be resolved.

The supervisor is expected to use good judgment in determining when a document should be submitted to the file immediately and when a delay is justified, such as when there exists a plan of improvement that is frequently revised. However, all evaluations, commendations, complaints, or suggestions for correction or improvement should be submitted by the end of the school year or in time to be considered in an evaluation process, whichever is sooner. The supervisor or principal should seek clarification from the associate superintendent of human resources as necessary to comply with this policy.

The employee may offer a denial or explanation of the evaluation, commendation, complaint, or suggestion, and any such denial or explanation will become part of his or her personnel file, provided that it is signed and dated.

The superintendent may exercise statutory authority not to place in an employee's file a letter of complaint that contains invalid, irrelevant, outdated, or false information, or a letter of complaint when there is no documentation of an attempt to resolve the issue.

As provided in policy 7900, Resignation, if a career employee who has been recommended for dismissal under the applicable state law resigns without the written consent of the superintendent, then: (1) the superintendent shall report the matter to the State Board of Education; (2) the employee shall be deemed to have consented to the placement of the written notice of the superintendent's intention to recommend dismissal in the employee's personnel file; and (3) the employee shall be deemed to have consented to the release to prospective employers, upon request, of the fact that the superintendent has reported this employee to the State Board of Education. For purposes of this provision, "career

employee" means (1) a teacher or an administrator with career status, or (2) an administrator or a non-career status teacher during the term of his or her contract.

D. ACCESS TO PERSONNEL FILE

1. Every employee has the right to inspect his or her personnel file, including any portions of the file maintained in electronic format only, during regular working hours, provided that three days' notice is given to the human resources office.

2. The following persons may be permitted to access a personnel file without the consent of the employee about whom the file is maintained:

    a. school officials involved in the screening, selection, or evaluation of the individual for employment or other personnel action;

    b. members of the board of education, if the examination of the file relates to the duties and responsibilities of the board member;

    c. the board attorney;

    d. the superintendent and other supervisory personnel;

    e. the hearing officer in a demotion or dismissal procedure regarding the employee; and

    f. law enforcement and the District Attorney to assist in the investigation of a report made to law enforcement pursuant to G.S. 115C-288(g) or regarding an arson; an attempted arson; or the destruction of, theft from, theft of, embezzlement from, or embezzlement of any personal or real property owned by the board. Five days' written notice will be given to the employee prior to such disclosure.

3. No other person may have access to a personnel file except under the following circumstances:

    a. when an employee gives written consent to the release of his or her records, which specifies the records to be released and to whom they are to be released;

    b. pursuant to a subpoena or court order;

    c. when the board has determined, and the superintendent has documented, that the release or inspection of information is essential to maintaining the integrity of the board or the quality of services provided by the board; or

d. the superintendent or designee determines that disclosure to a court of law, or a state or federal administrative agency having a quasi-judicial function, is necessary to adequately defend against a claim filed by a current or former employee against the board or a school official or employee for any alleged act or omission arising during the course and scope of his or her official duties or employment. Such disclosures will be limited to those confidential portions of the personnel file of the employee who filed the claim and only to the extent necessary for the defense of the board.

4. Each request for consent to release records must be handled separately.

5. It is a criminal violation for an employee or board member to do either of the following:

a. knowingly, willfully, and with malice, permit any unauthorized person to have access to information contained in a personnel file; or

b. knowingly and willfully examine, remove, or copy a personnel file that he or she is not specifically authorized to access pursuant to G.S. 115C-321.

E. INFORMATION AVAILABLE TO PARENTS OF STUDENTS ATTENDING TITLE I SCHOOLS

The following information about a student's teacher(s) or paraprofessional(s) providing services to a student must be provided upon request to the parent of a student attending a Title I school:

1. whether the teacher has met North Carolina qualification and licensing criteria for the grade level(s) and subject area(s) in which the teacher provides instruction;

2. whether the teacher is teaching under emergency or other provisional status through which North Carolina qualification or licensing criteria have been waived;

3. whether the teacher is teaching in the field of discipline of his or her certification; and

4. the qualifications of any paraprofessional providing services to the student.

F. PUBLIC INFORMATION

1. The following information contained in an employee's personnel file must be open to inspection upon request by members of the general public:

a. name;

b. age;

c. the date of original employment or appointment;

d. the terms of any past or current contract by which the employee is employed, whether written or oral, to the extent that the board has the written contract or a record of the oral contract in its possession;

e. current position;

f. title;

g. current salary (includes pay, benefits, incentives, bonuses, deferred compensation, and all other forms of compensation paid to the employee);

h. the date and amount of each increase or decrease in salary with the board;

i. the date and type of each promotion, demotion, transfer, suspension, separation, or other change in position classification with the board;

j. the date and general description of the reasons for each promotion with the board;

k. the date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the board, and if the disciplinary action was a dismissal, a copy of the written notice of the final decision of the board setting forth the specific acts or omissions that are the basis of the dismissal; and

l. the office or station to which the employee is currently assigned.

2. The name of a participant in the North Carolina Address Confidentiality Program is not a public record, is not open to inspection, and must be redacted from any records released.

3. Volunteer records are not considered public records.

4. Under no circumstances will the following be released pursuant to a public records request or as part of any employee directory:

a. personal identifying information, as defined in policy 4705/7825, Confidentiality of Personal Identifying Information; or

b. the name, address, or telephone number of a participant in the North Carolina Address Confidentiality Program.

G. REMOVAL OF RECORDS

An employee may petition the board to remove any information from his or her personnel file that the employee deems invalid, irrelevant, or outdated.

Legal References: Genetic Information Nondiscrimination Act of 2008, 42 U.S.C. 2000ff *et seq.*; Elementary and Secondary Education Act, 20 U.S.C. 6312(e)(1)(A); 34 C.F.R. 200.61; G.S. 115C-36, -47(18), -209.1, -288(g), -319 to -321, -325(b) and (o) (applicable to career status teachers), -325.2 and -325.9 (applicable to non-career status teachers); 143B-931; 16 N.C.A.C. 6C .0313

Cross References: Discrimination and Harassment Prohibited by Federal Law (policy 1710/4020/7230), Title IX Nondiscrimination on the Basis of Sex (policy 1720/4030/7235), Title IX Sex~~ual Harassment~~ Discrimination – Prohibited Conduct and ~~Reporting Process~~ Grievance Procedures (policy 1725/4035/7236), ~~Title IX Sexual Harassment Grievance Process (policy 1726/4036/7237),~~ Confidential Information (policy 2125/7315), North Carolina Address Confidentiality Program (policy 4250/5075/7316), Confidentiality of Personal Identifying Information (policy 4705/7825), Public Records – Retention, Release, and Disposition (policy 5070/7350), Employee Health Certificate (policy 7120), ~~Discrimination and Harassment in the Workplace (policy 7232),~~ Drug and Alcohol Testing of Commercial Motor Vehicle Operators (policy 7241), Occupational Exposure to Bloodborne Pathogens (policy 7260), Communicable Diseases – Employees (policy 7262), Family and Medical Leave (policy 7520), Petition for Removal of Personnel Records (policy 7821), Resignation (policy 7900)

Adopted: May 1, 2000
Updated: April 6, 2009
Updated: April 13, 2010
Updated: December 8, 2010
Updated: December 5, 2011
Updated: June 2, 2014
Updated: March 2, 2015
Updated: December 5, 2016
Updated: December 7, 2020
Updated: January 10, 2022