

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.

All forms of prohibited discrimination and harassment are subject to this policy except for 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 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.

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, 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 (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.

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 one or more of the legally-protected 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.

2. Harassment

Harassment is deliberate unwelcome conduct directed at another person or group of persons based on one or more of the legally protected characteristics 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, 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, 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 (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

Any person who believes that he or she has been discriminated against or harassed in violation of this policy 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 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 or Harassment

Any person who believes he or she is the victim of 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 discrimination or harassment in violation of this policy, may request that school officials investigate and redress any such unlawful conduct by making a formal written complaint to any of the following persons:

- a. the principal or assistant principal of the school either the alleged victim or alleged perpetrator attends;
- 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;
- d. the Section 504 coordinator or the ADA coordinator for claims of discrimination on the basis of a disability; or
- 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

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 a person who is not a student, 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.

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 AND COMPLAINTS 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 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 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 1730/4022/7231, 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, the investigator shall assign or recommend appropriate disciplinary consequences for the perpetrator and/or take or recommend other reasonable measures to eliminate any hostile environment or rectify any wrongful change in employment and prevent 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:

- i. reasonable, timely, age-appropriate corrective action intended to end the discrimination or harassment and prevent it from recurring;
 - ii. as needed, reasonable steps to address the effects of the discrimination or harassment on the victim; and
 - iii. 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

The alleged victim 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 subsection). The appeal must be submitted in writing within three 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

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 employees or 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.

3. Discipline Rights Provided by Law

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 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 constitute 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 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 is: **[fill in before adopting this policy]**
Office Address: **[fill in before adopting this policy]**
Email Address: **[fill in before adopting this policy]**
Phone Number: **[fill in before adopting this policy]**
- b. The ADA Coordinator is: **[fill in before adopting this policy]**
Office Address: **[fill in before adopting this policy]**
Email Address: **[fill in before adopting this policy]**
Phone Number: **[fill in before adopting this policy]**
- c. The Age Discrimination Coordinator is: **[fill in before adopting this policy]**
Office Address: **[fill in before adopting this policy]**
Email Address: **[fill in before adopting this policy]**
Phone Number: **[fill in before adopting this policy]**
- d. The Coordinator for Other Non-discrimination Laws is: **[fill in before adopting this policy]**
Office Address: **[fill in before adopting this policy]**
Email Address: **[fill in before adopting this policy]**
Phone Number: **[fill in before adopting this policy]**

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. 108; 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>; *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 Workplace*, U.S. Equal Employment Opportunity Commission (April 2024), available at https://www.eeoc.gov/laws/guidance/enforcement-guidance-harassment-workplace?utm_content=&utm_medium=email&utm_name=&utm_source=govdelivery&utm_term=; G.S. 115C-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>

Cross References: Title IX Nondiscrimination on the Basis of Sex (policy 1720/4030/7235), Title IX Sex Discrimination – Prohibited Conduct and Grievance Procedures (policy 1725/4035/7236), 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)

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