

**PROHIBITION AGAINST
DISCRIMINATION, HARASSMENT,
AND BULLYING**

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

The board acknowledges the dignity and worth of all students and employees and strives to create a safe, orderly, caring and inviting school environment to facilitate student learning and achievement. The board prohibits discrimination on the basis of race, color, national origin, sex (including gender, gender identity, pregnancy, and sexual orientation), religion, disability, or age (over 40) and will provide equal access to the Boy Scouts and other designated youth groups as required by law. The board will not tolerate any form of unlawful discrimination, harassment, or bullying in any of its educational or employment activities or programs. Any violation of this policy will be considered serious and school officials shall promptly take appropriate action to address the violation.

All forms of prohibited discrimination, harassment, and bullying, except for sexual harassment under Title IX of the Education Amendments of 1972 (“Title IX”) are subject to this policy and policy 1720/4015/7225, Discrimination, Harassment, and Bullying Complaint Procedure. Title IX sexual harassment is addressed in policy 1725/4035/7236, Title IX Sexual Harassment – Prohibited Conduct and Reporting Process and policy 1726/4036/7237, Title IX Sexual Harassment – Grievance Process.

Allegations regarding or related to the identification, evaluation, educational placement, or free appropriate public education of a student under Section 504 of the Rehabilitation Act of 1973, as amended (“Section 504”) or the Individuals with Disabilities in Education Act (“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 the *Parents’ Rights Handbook*, published by the North Carolina Department of Public Instruction (for IDEA complaints).

A. Prohibited Behaviors

1. Discrimination, Harassment and Bullying

Students, school system employees, volunteers and visitors are expected to behave in a civil and respectful manner. The board expressly prohibits unlawful discrimination, harassment and bullying 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 or organizations doing business with or performing services for the school system.

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

2. Retaliation

The board prohibits reprisal or retaliation against any person who takes any of the following actions in good faith: (a) reporting or intending to report violations of this policy, (b) supporting someone for reporting or intending to report a violation of this policy, or (c) participating in the investigation of reported violations of this policy. The board also prohibits any actions intended to intimidate or dissuade a person from reporting a violation of this policy.

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

B. Application of Policy

This policy applies to behavior that takes place: (1) in any school building or on any school premises before, during, or after school hours; (2) on any bus or other vehicle as part of any school activity; (3) at any bus stop; (4) during any school-sponsored activity or extracurricular activity; (5) at any time or place when the individual is subject to the authority of school personnel; or (6) at any time or place when the behavior has a direct and immediate effect on maintaining order and discipline in the schools.

C. Definitions

For purposes of this policy, the following definitions apply:

1. Discrimination

Discrimination means any act of failure to act that unreasonably and unfavorably differentiates treatment of others based solely on their membership in a socially distinct group or category, such as race, color, national origin, sex (including gender, gender identity, pregnancy, and sexual orientation), religion, disability, or age (over 40). Discrimination may be intentional or unintentional.

2. Harassment and Bullying

Harassment or bullying behavior is deliberate conduct intended to harm another person or group of persons. Such conduct violates this policy when any pattern of gestures of written, electronic, or verbal communications, or any physical act or any threatening communication that:

- a) Places a student or school employee in actual and reasonable fear of harm to his or her person or damage to his or her property; or
- b) Creates or is certain to create a hostile environment by substantially interfering with or impairing a student's educational performance, opportunities or benefits, or by adversely altering the conditions of an employee's employment.

“Hostile environment” means that the victim subjectively views the conduct as harassment or bullying and that the conduct is objectively severe or pervasive enough that a reasonable person would agree that it is harassment or bullying. A hostile environment may be created through pervasive or persistent misbehavior or a single incident, if sufficiently severe.

Harassment and bullying include, but are not limited to, behavior described above that is reasonably perceived as being motivated by any actual or perceived differentiating characteristic or motivated by an individual’s association with a person who has or is perceived to have a differentiating characteristic, such as race, color, national origin, sex (including gender, gender identity, pregnancy, and sexual orientation), religion, disability, age (over 40), physical appearance, socioeconomic status, or academic status.

Examples of behavior that may constitute bullying or harassment include, but are not limited to, acts of disrespect, intimidation, threats, such as verbal taunts, name-calling and put-downs, epithets, derogatory comments or slurs, lewd propositions, 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 derogatory posters or cartoons. Harassment and bullying may occur through electronic means (“cyberbullying”), such as through the Internet, emailing, or text messaging, or by use of personal websites to support deliberate and repeated behavior intended to cause harm to persons or groups. Legitimate age-appropriate pedagogical techniques are not considered harassment or bullying. The grade level, age and maturity level of the student must be considered in determining if an action constitutes bullying and/or harassment.

Harassment, including sexual or gender-based harassment, is not limited to specific situations or relationships. Harassment may occur between fellow students or co-workers, between supervisors and subordinates, between employees and students, or between non-employees, including visitors, and employees or students. Harassment may occur between members of the opposite sex or the same sex. Gender-based harassment and sexual harassment are types of harassment. Gender-based harassment may include acts of verbal, nonverbal or physical aggression, intimidation or hostility based on sex or sex-stereotyping but not involving conduct of a sexual nature. Sexual harassment may include unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature. Sexual harassment may violate this policy and/or policy 1725/4035/7236.

D. Reporting and Investigating Complaints of Discrimination, Harassment or Bullying

Any person who believes that he or she has been discriminated against, harassed, or bullied 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, harassment, or bullying should inform a school official designated to receive such complaints, as described in this policy and policy 1720/4015/7225, Discrimination, Harassment, and Bullying Complaint Procedure.

Any person who believes that he or she has been sexually harassed by any student, employee, or other person under the control of the school system, or any third person who knows or suspects conduct that may constitute sexual harassment should report such conduct to the school system's Title IX Coordinator.

Any employee who has witnessed, or who has reliable information that another person may have been subjected to discrimination, harassment, or bullying in violation of this policy has a duty to report such conduct in accordance with policy 1720/4015/7225. Employees who observe an incident of harassment or bullying 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, harassment, or bullying 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.

E. Responding to Occurrences of Discrimination, Harassment, or Bullying

1. Consequences for Perpetrator

a) Disciplinary Consequences for Students

Students will be disciplined for violations of this policy in accordance with the school's student behavior management plan. Based on the nature and severity of the offense, the student will be subject to disciplinary actions ranging from positive behavioral interventions up to, and including, expulsion. In addition, the violation may also be reported to law enforcement, as appropriate.

Incidents of misbehavior that do not rise to the level of discriminatory harassment or bullying may violate acceptable standards of student behavior, including, but not limited to, the expectation that students will demonstrate civility and integrity in their actions and interactions with others. See policy 4310, Integrity and Civility. The consequences for such behavior will be consistent with applicable board policy and the Code of Student Conduct.

b) Disciplinary Consequences for Employees

Employees who violate this policy will be subject to disciplinary action, up to, and including, dismissal. In addition, the violation may also be reported to law enforcement, as appropriate. Nothing in this policy will preclude the school system from taking disciplinary action against an employee when the evidence does not establish unlawful discrimination, harassment, or bullying, but the conduct otherwise violates board policy or expected standards of employee behavior.

c) Consequences for Other Perpetrators

Volunteers and visitors who violate this policy will be directed to leave school property and/or reported to law enforcement, as appropriate. 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.

2. Consideration of Need for More Extensive Response

When considering if a response beyond the individual level is appropriate, school administrators shall consider the nature and severity of the misconduct to determine whether a classroom, school-wide, or school system-wide response is necessary. Such classroom, school-wide or school system-wide responses may include additional staff training, harassment and bullying prevention programs, and other measures deemed appropriate by the superintendent to address the behavior. The actions taken must be reasonably calculated to end the behavior, eliminate a hostile environment and its effects if one has been created, and prevent recurrence of the behavior.

F. Training and Programs

The board directs the superintendent to establish training and other programs that are designed to help eliminate unlawful discrimination, harassment, and bullying and to foster an environment of understanding and respect for all members of the school community. Information about this policy and the related complaint procedure must be included in the training plan.

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

G. Notice

The superintendent is responsible for providing effective notice to students, parents, and employees of the procedures for reporting and investigating complaints of discrimination, harassment, and bullying established in policy 1720/4015/7225, Discrimination, Harassment, and Bullying Complaint Procedure. The superintendent must ensure that each school principal provides a copy of this policy and policy 1720/4015/7225 to students, employees, and parents or other responsible care givers at the beginning of each school year. In addition, both policies must be posted on the school system website, and copies of the policy must appear in all student and employee handbooks and in any school system publication that sets forth the comprehensive rules, procedures, and standards of conduct for students and employees.

H. Coordinators

The superintendent has appointed the following individuals to coordinate the school system's efforts to comply with and carry out its responsibilities under non-discrimination laws. These responsibilities include investigating any complaints communicated to school officials alleging noncompliance with Title VI of the Civil Rights Act, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act, the Americans with Disabilities Act ("ADA"), the Age Discrimination Act, and/or the Boy Scouts Act, or alleging actions which could be protected by these laws.

1. Title IX Coordinator
2. Section 504 Coordinator

3. ADA Coordinator
4. Age Discrimination Coordinator
5. Coordinator for Other Non-discrimination Laws

I. Records and Reporting

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

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

J. Evaluation

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

Legal References: Age Discrimination in Employment Act of 1967, 29 V.S.C. 621 et seq.; Americans With Disabilities Act, 42 U.S.C. 12101 et seq., 28 C.F.R. pt. 35; Rehabilitation Act of 1973, 29 U.S.C. 705(20), -794, 34 C.F.R. pt. 104; Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d 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; Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 et seq., 34 C.F.R. pt. 106; *Racial Incidents and Harassment Against Students at Educational Institutions; Investigative Guidance*, U.S. Department of Education, Office for Civil Rights (2001); *Notice of Non-Discrimination*, U.S. Department of Education, Office for Civil Rights (2010); *Dear Colleague Letter (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>; *Oncale v. Sundowner Offshore Services*, 523 U.S. 75 (1998); G.S. 115C-335.5, 407.15 through-407.18; 126-16; State Board of Education Policy SSCH-000.

Cross References: Discrimination, Harassment and Bullying Complaint Procedure (policy 1720/4015/7225), Nondiscrimination on the Basis of Disabilities (1730/4022/7231), 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 (1760/7280), School Plan for Management of Student Behavior (policy 4302), Professional Employees: Demotion and Dismissal (7930), Classified Personnel: Suspension and Dismissal (7940)

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