

Descriptor Term:
PROHIBITION AGAINST DISCRIMINATION,
HARASSMENT AND BULLYING

Descriptor Code:
1.7100

Legal References: 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; Equal Employment Opportunity Commission's "Final Amended Guidelines on Discrimination Because of Sex"; Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. 621 et seq.; Family Educational Rights and Privacy Act, 20 U.S.C. 1232g The Rehabilitation Act of 1973, 29 U.S.C. -705(20), -706(8), -794, 34 C.F.R. pt. 104; the Americans With Disabilities Act, 42 U.S.C. 12101 et seq., 28 C.F.R. pt. 35; *Racial Incidents and Harassment Against students at Educational Institutions; Investigative Guidance*, U.S. Department of Education, Office for Civil Rights (2001); Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, U.S. Department of Education, Office of Civil Rights (2001); *Oncale v. Sundowner Offshore Services*, 523 U.S. 75 (1998); G.S. 115C-335.5, -407.9 through -401.12; G.S. 126-16; State Board of Education Policy HRS-A-007.

Cross References: 1.7200/4.3501/7.1512 Discrimination, Harassment, Bullying and Other Harassment Complaint Procedures; 4.3600 Code of Student Conduct; 7.1600 Employee Student Relations

A. Prohibited Behaviors and Consequences

1. Discrimination, Harassment and Bullying

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

Students are expected to comply with the behavior standards established by board policy and the student code of conduct. Employees are expected to comply with board policy and school system regulations. Volunteers and visitors on school property or at school sponsored activities or activities in which the board is involved or participating are also expected to comply with board policy and established school rules and procedures.

Any violation of this policy is serious and school officials shall promptly take appropriate action.

Students will be disciplined in accordance with the school's Code of Student Conduct (see policy 4.3600).

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

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

When considering if a response to violations of this policy beyond the individual level is appropriate, school administrators should consider the nature and severity of the misconduct to determine whether a classroom, school-wide or school system-wide response is necessary. Such classroom, school-wide or school system wide responses may include staff training, discrimination, harassment and bullying prevention programs and other measures deemed appropriate by the superintendent to address the behavior.

2. Retaliation

The board prohibits reprisal or retaliation against any person for

- (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.

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

B. Application of Policy

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

This policy shall apply to, but is not limited to, behavior that takes place in the following circumstances:

- 1. in any school building or on any school premises owned or operated by the board during or after school hours;
- 2. on any bus or other vehicle owned or operated by the board during or after school hours;
- 3. at any bus stop;
- 4. during or at any school function, extracurricular activity or other school activity or event sponsored by any school within this school system or in which any school within this school system is involved or represented;
- 5. at any time or place when the individual is subject to the authority of school personnel;
- 6. while the individual is using school electronic communications;
- 7. at any time or place while the individual is using personal electronic communications and either of A. 1. through 6. or A. 8. applies; or
- 8. any time or place when the behavior of the individual has an effect on maintaining order and discipline in schools, appropriate staff and student relations, appropriate relationships between students, and an appropriate and positive learning environment for students.

C. Definitions

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

- 1. "Discrimination" means any act that unreasonably and unfavorably differentiates treatment of others based solely on their membership in a socially distinct group or

category, such as race, ethnicity, sex, religion, age, or disability. Discrimination may be intentional or unintentional.

2. "Bullying and Harassing Behavior" includes any single act or pattern of gestures or written, electronic communication or transmission or verbal communications, or any physical act or any threatening communication that:
 - a) places a student or 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.

Bullying and harassing behavior may also include unwanted, unwelcome and uninvited behavior that a reasonable person would consider demeaning, threatening, or offensive to the victim and which results in a hostile environment for the victim.

"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 may 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 any individual's association with a person who has or is perceived to have a differentiating characteristic, such as race, color, religion, ancestry, national origin, gender, socioeconomic status, academic status, gender identity, physical appearance, sexual orientation, or mental physical, developmental or sensory disability. Examples of behavior that may constitute bullying or harassment include, but are not limited to, verbal taunts, name-calling and put-downs, epithets, derogatory comments or slurs, lewd propositions, 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. Legitimate age-appropriate pedagogical techniques are not considered harassment or bullying.

3. "Sexual harassment" is one form of harassment. Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature constitute sexual harassment when:
 - a) submission to the conduct is made, either explicitly or implicitly, a term or condition of an individual's employment, academic progress, or completion of a school-related activity; or
 - b) submission to or rejection of such conduct is used as the basis for employment decisions affecting such individual, or in the case of a student, submission to or rejection of such conduct is used in evaluating the individual's performance within a course of study or other school-related activity; or
 - c) such conduct is sufficiently severe, persistent or pervasive so that it has the purpose or effect of unreasonably interfering with an employee's work or performance or a student's educational performance, limiting a student's ability to participate in or benefit from an educational program or environment, or creating an abusive, intimidating, hostile, or offensive work or educational environment.

Sexually harassing conduct includes, but is not limited to:

- a) deliberate, unwelcome touching that has sexual connotations or is of a sexual nature;
- b) suggestions or demands for sexual involvement accompanied by implied or overt promises or preferential treatment or threats;
- c) pressure for sexual activity;
- d) continued or repeated offensive sexual flirtations, advances or propositions;
- e) continued or repeated verbal remarks about an individual's body;
- f) sexually degrading words used toward an individual or to describe an individual;
or
- g) the display of sexually suggestive drawings, objects, pictures, written materials or body parts.

Acts of verbal, nonverbal, electronic or physical aggression, intimidation or hostility based on sex, but not involving sexual activity or language, may be combined with incidents of sexually harassing conduct to determine if the incidents of sexually harassing conduct are sufficiently serious to create a sexually hostile environment.

- 4. "Gender-based harassment" is also a type of harassment. Gender-based harassment may include acts of verbal, nonverbal or physical aggression, intimidation or hostility based on sex or sex-stereotyping but not involving conduct of a sexual nature.
- 5. "Electronic communication" includes, but is not limited to, communications or transmissions through employee and student emails, text messaging, instant messaging, chat rooms, blogging, websites and social networking websites (i.e. MySpace, Facebook).
- 6. It is possible for harassment, bullying, sexual harassment and gender based harassment to occur in various situations. For example, it may occur between fellow students or co-workers, between supervisors and subordinates, between employees and students, or imposed by non-employees, including visitors, employees and/or students. Harassment or bullying may occur between members of the opposite sex or the same sex.

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

Employees are required to report any actual or suspected violations of this policy. Student, parents, volunteers, visitors or others are strongly encouraged to report any actual or suspected incidents of discrimination, harassment or bullying. All reports should be made in accordance with policies 4.3501/7.1512 and reported to one of the school official identified in that policy. Reports may be made anonymously and all reports shall be investigated in accordance with that policy.

E. Training and Programs

The board directs the superintendent to establish training and other programs for employees and volunteers 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.

To the extent funds are appropriated for this purpose, the board shall provide additional training for 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) train school employees to be alert to locations where such behavior may occur, including locations within school buildings, at school bus stops, and on and through electronic devices and the Internet

F. Notice

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

G. Coordinators

The superintendent or his/her designee shall publish the names, office addresses and phone numbers of the "Title IX coordinator" (for sex discrimination), "Section 504 coordinator" (for discrimination of the basis of disability) and the "ADA coordinator" (also for discrimination on the basis of disability) in a manner intended to ensure that employees, applicants, students, parents and other individuals who participate in the school system programs are aware of the coordinators. The coordinators shall coordinate the school system's efforts to comply with and carry out its Title IX, Section 504 and ADA responsibilities, which include investigating any complaints communicated to school officials alleging noncompliance with Title IX, Section 504 or the ADA or alleging actions which would be prohibited by those laws.

H. Records and Reporting

The superintendent or his/her designee and any employee investigating a complaint under this section shall maintain confidential records of complaints or reports of discrimination, harassment or bullying which identify the names of any individuals accused of such offenses and the resolution of such reports or complaints. The superintendent shall also maintain records of training and corrective action or other steps taken by the district to help provide an environment free of discrimination, harassment and bullying.

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

I. Evaluation

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