

**DISCRIMINATION AND HARASSMENT
PROHIBITED BY FEDERAL LAW**

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

1 The board acknowledges the dignity and worth of all students and employees and strives to
2 create a safe, orderly, caring, and inviting school environment to facilitate student learning and
3 achievement. The board prohibits discrimination on the basis of race, sex, color, national origin,
4 religion, disability, or age (over 40), and will provide equal access to the Boy Scouts and other
5 designated youth groups as required by law.

6
7 The board will not tolerate any form of unlawful discrimination or harassment in any of its
8 education activities or programs. All forms of prohibited discrimination and harassment are
9 subject to this policy except the following, for which the board has established more specific
10 policies.

- 11
12 • Discrimination and harassment on the basis of sex is addressed in policy
13 1720/4030/7235, Title IX Nondiscrimination on the Basis of Sex.
- 14
15 • Discrimination and harassment in employment is addressed in policy 7232,
16 Discrimination and Harassment in the Workplace.

17
18 In addition, the process set out in this policy for bringing complaints does not apply to the
19 following.

- 20
21 • Complaints of sexual harassment will be brought in accordance with the processes
22 established in policies 1725/4035/7236, Title IX Sexual Harassment – Prohibited
23 Conduct and Reporting Process, and 1726/4036/7237, Title IX Sexual Harassment
24 Grievance Process.
- 25
26 • Employee allegations of discrimination or harassment will be addressed using the process
27 established in policy 7232, Discrimination and Harassment in the Workplace.
- 28
29 • Allegations regarding or related to the identification, evaluation, educational placement,
30 or free appropriate public education of a student under Section 504 or the IDEA may be
31 raised through the system of procedural safeguards established under policy
32 1730/4022/7231, Nondiscrimination on the Basis of Disabilities, (for Section 504
33 complaints) or in accordance with the procedures described in *Parents Rights &*
34 *Responsibilities in Special Education*, published by the NC Department of Public
35 Instruction (for IDEA complaints).

36
37 The board takes seriously all reports of unlawful discrimination and harassment and directs
38 school officials to take prompt action to investigate and remedy violations of this policy. The
39 superintendent is responsible for providing effective notice of this policy to students, parents,
40 and employees.

41
42 The board encourages students, visitors, and other non-employee individuals who believe that
43 they may have been discriminated against or harassed in violation of this policy, (including on

**DISCRIMINATION AND HARASSMENT
PROHIBITED BY FEDERAL LAW**

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

44 the basis of disability, as specified in policy 1730/4022/7231, Nondiscrimination on the Basis of
45 Disabilities), to report such conduct as soon as possible through the process provided in Section
46 B of this policy. Employees who believe that they may have been discriminated against or
47 harassed should report through the process provided in policy 7232, Discrimination and
48 Harassment in the Workplace. Individuals who have witnessed or who have reliable information
49 that another person has been subject to unlawful discrimination or harassment may report the
50 conduct to an individual designated in Section B of this policy.

51
52 Any report made through the process established in this policy may be made anonymously,
53 except mandatory employee reports.

54

55 **A. PROHIBITED BEHAVIOR**

56

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

63

64 1. Discrimination

65

66 Discrimination is any act or failure to act, whether intentional or unintentional, by
67 an employee or agent of the school system that unreasonably and unfavorably
68 differentiates treatment of others based solely on their membership in a legally-
69 protected class so as to interfere with or limit their ability to participate in or
70 benefit from the services, activities, or privileges offered by the school system’s
71 education program. For purposes of this policy, the legally protected classes are
72 race, color, national origin, religion, and disability.

73

74 2. Harassment

75

76 Prohibited harassment is deliberate unwelcome conduct directed at another person
77 or group of persons based on their membership in a legally protected class that
78 creates a hostile environment. Harassment does not have to include intent to
79 harm, be directed at a specific target, or involve repeated incidents. Harassment
80 creates a hostile environment when the conduct is sufficiently severe, pervasive,
81 or persistent so as to interfere with or limit a person’s ability to participate in or
82 benefit from the services, activities, or opportunities offered by the school system.

83

84 Examples of behavior that may constitute harassment include, but are not limited
85 to, acts of disrespect, intimidation, or threats, such as verbal taunts, name-calling
86 and put-downs, epithets, derogatory comments or slurs, exclusion from peer

**DISCRIMINATION AND HARASSMENT
PROHIBITED BY FEDERAL LAW**

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

87 groups, extortion of money or possessions, implied or stated threats, assault,
88 impeding or blocking movement, offensive touching, or any physical interference
89 with normal work or movement, and visual insults, such as derogatory posters or
90 cartoons. Harassment may occur through electronic means, such as through the
91 Internet, email, or text message. Legitimate age-appropriate pedagogical
92 techniques are not considered harassment.

93
94 3. Application of the Policy

95
96 This policy applies to behavior that takes place: (1) in any school building or on
97 any school premises before, during, or after school hours; (2) on any bus or other
98 vehicle as part of any school activity; (3) at any bus stop; (4) during any school-
99 sponsored activity or extracurricular activity; (5) at any time or place when the
100 individual is subject to the authority of school personnel; or (6) at any time or
101 place when the behavior has a direct and immediate effect on maintaining order
102 and discipline in the schools.

103
104 This policy will not be construed to allow school officials to punish student
105 expression or speech based on undifferentiated fear or apprehension of a
106 disturbance or out of a desire to avoid the discomfort and unpleasantness that may
107 accompany an unpopular viewpoint.

108
109 **B. REPORTING DISCRIMINATION OR HARASSMENT**

110
111 1. Any person who believes that he or she has been discriminated against or
112 harassed in violation of this policy by any student, employee, or other person
113 under the supervision and control of the school system, or any third person who
114 knows or suspects conduct that may constitute discrimination or harassment
115 should inform a school official designated in Section C below. Reports also may
116 be made anonymously through the anonymous tip line.

117
118 2. Mandatory Reporting by School Employees

119
120 Any employee who witnessed or who has reliable information or reason to believe
121 that a student or other individual may have been discriminated against or harassed
122 in violation of this policy must report the offense immediately to an appropriate
123 individual designated in Section C below. Any doubt about whether particular
124 conduct is possible discrimination or harassment under this policy or any other
125 policy of the board must be resolved in favor of reporting the conduct.

126
127 Employees who observe an incident of harassment are expected to intervene to
128 stop the conduct in situations in which they have supervisory control over the
129 perpetrator and it is safe to do so. If an employee knows of an incident involving

130 discrimination or harassment and the employee fails to report the conduct or take
131 proper action or knowingly provides false information in regard to the incident,
132 the employee will be subject to disciplinary action up to, and including, dismissal.
133

134 3. Preliminary Inquiry
135

136 School officials may make a preliminary inquiry when a report is received to
137 understand what occurred and to determine whether further action under this
138 policy or otherwise is necessary.
139

140 **C. COMPLAINTS OF DISCRIMINATION AND HARASSMENT**
141

142 1. A student, visitor, or other non-employee individual who believes he or she is the
143 victim of unlawful discrimination or harassment in violation of this policy, or any
144 person who has witnessed or who has reliable information that another person has
145 been subject to unlawful discrimination or harassment under this policy, may
146 make a formal written complaint to any of the following persons:
147

- 148 a. the principal or assistant principal of the school at which either the alleged
149 victim or alleged perpetrator attends or is employed;
- 150 b. the Section 504 coordinator or the ADA coordinator for claims of
151 discrimination on the basis of a disability; or
152
- 153 c. for claims of other forms of prohibited discrimination, the applicable civil
154 rights coordinator as established in Section I of this policy.
155

156
157 If a written complaint alleges that the perpetrator is an employee, the school
158 official receiving the complaint shall notify the senior human resources official
159 without delay.
160

161 2. A written complaint alleging that a student has been discriminated against or
162 harassed will be addressed in accordance with this policy.
163

164 A written complaint alleging that an employee has been discriminated against or
165 harassed will be addressed in accordance with policy 7232, Discrimination and
166 Harassment in the Workplace.
167

168 A written complaint alleging that person who is not a student or employee has
169 been discriminated against or harassed will be addressed in accordance with the
170 general process for resolving complaints provided in policy 1742/5060,
171 Responding to Complaints, not this policy.
172

173 3. Time Period for Making a Complaint
174

175 Alleged discrimination or harassment should be reported as soon as possible but
176 no later than 30 days after disclosure or discovery of the facts giving rise to the
177 complaint. Complaints submitted after the 30-day period may be investigated;
178 however, individuals should recognize that delays in reporting may significantly
179 impair the ability of school officials to investigate and respond to such
180 complaints.
181

182 **D. SCHOOL OFFICIALS' RESPONSE TO REPORTS AND COMPLAINTS OF DISCRIMINATION
183 OR HARASSMENT**
184

185 1. Investigation
186

187 School officials shall investigate all formal written complaints received. Reports
188 of discrimination or harassment that are not followed by a formal written
189 complaint may be investigated at the discretion of school officials and may be
190 investigated even if the alleged victim does not seek action by school officials.
191

192 a. The principal or designee or site supervisor will be the investigator when
193 the alleged perpetrator is a student or third party. The senior human
194 resources official or designee will be the investigator when the alleged
195 perpetrator is an employee. The superintendent may determine that
196 individual circumstances warrant the assignment of a different
197 investigator.
198

199 Notwithstanding the above designations, (1) if the alleged perpetrator is
200 the senior human resources official, the superintendent will be the
201 investigator, and (2) if the alleged perpetrator is the superintendent or a
202 member of the board, the board chair shall direct the board attorney to
203 investigate, unless the board chair determines that outside counsel should
204 be engaged to investigate.
205

206 b. As applicable, the investigator shall immediately notify the Section 504,
207 ADA, or other relevant coordinator of the complaint, and, as appropriate,
208 may request assistance from the coordinator in conducting the
209 investigation.
210

211 c. If the investigator, after interviewing the complaining party and/or the
212 alleged victim and consulting with the board attorney, determines that the
213 allegations submitted, even if factual, do not constitute discrimination or
214 harassment as defined in this policy or policy 1730/4022/7231,
215 Nondiscrimination on the Basis of Disabilities, school officials shall

**DISCRIMINATION AND HARASSMENT
PROHIBITED BY FEDERAL LAW**

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

- 216 address the matter outside the scope of this policy. Information regarding
217 the investigator's determination and the process for addressing the
218 complaint will be provided to the complaining party.
219
- 220 d. Any investigation conducted must be impartial, prompt, and thorough.
221 The investigator shall investigate the facts and circumstances related to the
222 allegation(s) of discrimination or harassment and give the alleged
223 perpetrator an opportunity to respond to the allegations.
224
- 225 The investigator shall consider all the evidence collected, the context in
226 which the alleged incidents occurred, the age and maturity of the parties,
227 and any other relevant circumstances, and shall determine whether the
228 alleged act(s) constitutes a violation of this policy, policy 1730/4022/7231,
229 Nondiscrimination on the Basis of Disabilities, and/or any other board
230 policy or expected standard of student or employee behavior.
231
- 232 e. The complaint and investigation will be kept confidential to the extent
233 possible and consistent with law. Information may be shared only with
234 individuals who need the information in order to investigate and address
235 the complaint appropriately and those with a legal right to access the
236 information.
237
- 238 2. Investigator's Findings
239
- 240 a. If the investigator finds that discrimination occurred, the investigator shall
241 take or recommend steps to address the discrimination.
242
- 243 b. If the investigator finds that harassment occurred and created a hostile
244 environment, the investigator shall assign or recommend appropriate
245 disciplinary consequences for the perpetrator and/or take or recommend
246 other reasonable measures to eliminate the hostile environment and
247 prevent its recurrence.
248
- 249 c. If the investigator finds that the conduct did not violate this policy but
250 violated policy 4329/7311, Bullying and Harassing Behavior Prohibited,
251 or another board policy or expected standard of conduct, the investigator
252 shall assign or recommend discipline or other action appropriate to the
253 violation.
254
- 255 d. The investigator shall make a record of the evidence and findings of the
256 investigation and the assigned or recommended discipline and/or other
257 remedial action and provide a copy to the appropriate civil rights
258 coordinator. If the investigator recommends a disciplinary consequence or

**DISCRIMINATION AND HARASSMENT
PROHIBITED BY FEDERAL LAW**

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

259 remedial action that is beyond his or her authority, the investigator shall
260 provide a copy of the record to the superintendent for further action.

261
262 e. The investigator shall inform the alleged victim and alleged perpetrator of
263 the outcome of the investigation.

264
265 3. Steps to Reasonably End Discrimination or Harassment

266
267 a. The superintendent is responsible for taking or causing appropriate action
268 to be taken in response to discrimination and harassment in violation of
269 this policy. Appropriate action must include:

270
271 i. reasonable, timely, age-appropriate corrective action intended to
272 end the discrimination or harassment and prevent it from recurring;

273
274 ii. as needed, reasonable steps to address the effects of the
275 discrimination or harassment on the victim; and

276
277 iii. as needed, reasonable steps to protect the victim from retaliation as
278 a result of the complaint.

279
280 b. Appropriate steps to end discrimination and harassment may include, but
281 are not limited to, separating the parties, providing counseling for the
282 parties, and/or taking disciplinary action against a perpetrator determined
283 to have violated this policy. The superintendent may take non-punitive
284 measures to end or prevent instances of discrimination or harassment
285 regardless of whether any individual has been found responsible for the
286 discrimination or harassment. The superintendent also may implement or
287 direct the implementation of classroom-wide, school-wide, or school
288 system-wide responses such as additional staff training, harassment
289 prevention programs, and other measures reasonably calculated to end the
290 behavior, eliminate a hostile environment and its effects if one has been
291 created, and prevent recurrence of the behavior.

292
293 c. The applicable civil rights coordinator shall encourage victims of
294 discrimination and harassment to report any subsequent problems and may
295 conduct follow-up inquiries as warranted to determine if there have been
296 any new incidents of discrimination or harassment or any instances of
297 retaliation.

298
299 **E. APPEALS**

300
301 1. If the alleged victim is dissatisfied with the outcome of the investigation, he or

302 she may appeal the decision to the superintendent (unless the alleged perpetrator
303 is the superintendent, in which case the alleged victim may appeal directly to the
304 board in accordance with the next paragraph). The appeal must be submitted in
305 writing within three school business days of receiving the notice of the outcome
306 of the investigation. The superintendent may review the documents, conduct any
307 further investigation necessary, or take any other steps the superintendent
308 determines to be appropriate in order to respond to the complaint. The
309 superintendent shall provide a written response within 10 days after receiving the
310 appeal, unless further investigation is needed.

- 311
- 312 2. Student victims may appeal the superintendent's decision to the board in
313 accordance with subsection E.5.a of policy 1740/4010, Student and Parent
314 Grievance Procedure. Employees may appeal the superintendent's decision to the
315 board in accordance with subsection E.4.a of policy 1750/7220, Grievance
316 Procedure for Employees.
- 317
- 318 3. Any student or employee subject to discipline for violating this policy will be
319 accorded all rights provided by law.
- 320

321 **F. RETALIATION PROHIBITED**

322

323 The board prohibits retaliation against any person for making a report or complaint of a
324 violation of this policy, supporting someone for reporting or intending to report a
325 violation of this policy, or participating in the investigation of a reported violation of this
326 policy. No reprisals will be taken by the board against a complaining party or other
327 individual unless the person knew or had reason to believe that the complaint or report
328 was false or knowingly provided false information. Any person who is found to have
329 engaged in retaliation will be subject to discipline, up to and including dismissal. Acts of
330 retaliation may also be subject to policy 1760/7280, Prohibition Against Retaliation.

331

332 **G. TRAINING AND PROGRAMS**

333

334 The board directs the superintendent to establish training and other programs that are
335 designed to prevent discrimination and harassment and to foster an environment of
336 understanding and respect for all members of the school community. Information about
337 the prohibited conduct and complaint procedure in this policy and those in policies
338 1725/4035/7236, Title IX Sexual Harassment – Prohibited Conduct and Reporting
339 Process, and 1726/4036/7237, Title IX Sexual Harassment Grievance Process, must be
340 included in the training plan.

341

342 As funds are available, the board will provide students, employees, and volunteers who
343 have significant contact with students with additional training regarding the board's
344 efforts to address discrimination and harassment and will create programs to address

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

350

351 **H. RECORDS**

352

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

359

360 **I. CONTACTS FOR INQUIRIES**

361

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

369

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

371

372 a. Section 504 Coordinator:

373

374 Kerry Putnam
375 Transylvania County Schools
376 225 Rosenwald Lane
377 Brevard, NC 28712
378 Email Address: kputnam@tcsnc.org
379 Phone Number: (828) 884-6173

380

381 b. ADA Coordinator:

382

383 Kerry Putnam
384 Transylvania County Schools
385 225 Rosenwald Lane
386 Brevard, NC 28712
387 Email Address: kputnam@tcsnc.org

**DISCRIMINATION AND HARASSMENT
PROHIBITED BY FEDERAL LAW**

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

388 Phone Number: (828) 884-6173

389

390 c. Age Discrimination Coordinator:

391

392 Dr. Brian Weaver

393 Transylvania County Schools

394 225 Rosenwald Lane

395 Brevard, NC 28712

396 Email Address: bweaver@tcsnc.org

397 Phone Number: (828) 884-6173

398

399 d. Coordinator for Other Non-discrimination Laws:

400

401 Dr. Brian Weaver

402 Transylvania County Schools

403 225 Rosenwald Lane

404 Brevard, NC 28712

405 Email Address: bweaver@tcsnc.org

406 Phone Number: (828) 884-6173

407

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

410

411 4000 Maryland Ave, SW

412 Washington, DC 20202-1475

413 Telephone: 202-453-6020 TDD: 800-877-8339

414 FAX: 202-453-6021 Email: OCR.DC@ed.gov

415

416 Legal References: Age Discrimination in Employment Act of 1967, 29 U.S.C. 621 *et seq.*, 34

417 C.F.R. pt. 110; Americans with Disabilities Act, 42 U.S.C. 12101 *et seq.*, 28 C.F.R. pt. 35; Boy

418 Scouts of America Equal Access Act, 20 U.S.C. 7905, 34 C.F.R. pt. 108; Individuals with

419 Disabilities Education Act, 20 U.S.C. 1400 *et seq.*; Rehabilitation Act of 1973, 29 U.S.C.

420 705(20), 794, 34 C.F.R. pt. 104; Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d *et*

421 *seq.*, 34 C.F.R. pt. 100; *Racial Incidents and Harassment Against Students at Educational*

422 *Institutions; Investigative Guidance*, U.S. Department of Education, Office for Civil Rights

423 (1994), available at <https://www2.ed.gov/about/offices/list/ocr/docs/race394.html>; *Notice of Non-*

424 *Discrimination*, U.S. Department of Education, Office for Civil Rights (2010); *Dear Colleague*

425 *Letter* (Harassment and Bullying), U.S. Department of Education, Office for Civil Rights (2010),

426 available at <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.pdf>; G.S. 115C-

427 407.15 through -407.18; 126-16; State Board of Education Policy SSCH-000; *Parent Rights &*

428 *Responsibilities in Special Education*, (N.C. Dept. of Public Instruction, Exceptional Children

429 Division), available at <https://ec.ncpublicschools.gov/parent-resources/parents-rights-handbook>

430

**DISCRIMINATION AND HARASSMENT
PROHIBITED BY FEDERAL LAW**

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

431 Cross References: Title IX Nondiscrimination on the Basis of Sex (policy 1720/4030/7235),
432 Title IX Sexual Harassment – Prohibited Conduct and Reporting Process (policy
433 1725/4035/7236), Title IX Sexual Harassment Grievance Process (policy 1726/4036/7237),
434 Nondiscrimination on the Basis of Disabilities (policy 1730/4022/7231), Student and Parent
435 Grievance Procedure (policy 1740/4010), Responding to Complaints (policy 1742/5060),
436 Grievance Procedure for Employees (policy 1750/7220), Prohibition Against Retaliation (policy
437 1760/7280), Hearings Before the Board (policy 2500), Staff-Student Relations (policy
438 4040/7310), School Plan for Management of Student Behavior (policy 4302), Bullying and
439 Harassing Behavior Prohibited (policy 4329/7311), Visitors to the Schools (policy 5020),
440 Community Use of Facilities (policy 5030), Discrimination and Harassment in the Workplace
441 (policy 7232)
442
443 Adopted: [DATE]

NEW