

**DISCRIMINATION AND HARASSMENT  
PROHIBITED BY FEDERAL LAW**

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

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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

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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

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  
151 b. the Section 504 coordinator or the ADA coordinator for claims of  
152 discrimination on the basis of a disability; or  
153

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

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, **in consultation with the board  
228 attorney as appropriate**, shall determine whether the alleged act(s)  
229 constitutes a violation of this policy, policy 1730/4022/7231,  
230 Nondiscrimination on the Basis of Disabilities, and/or any other board  
231 policy or expected standard of student or employee behavior.  
232

- 233 e. The complaint and investigation will be kept confidential to the extent  
234 possible and consistent with law. Information may be shared only with  
235 individuals who need the information in order to investigate and address  
236 the complaint appropriately and those with a legal right to access the  
237 information.  
238

239 2. Investigator's Findings  
240

- 241 a. If the investigator finds that discrimination occurred, the investigator shall  
242 take or recommend steps to address the discrimination.  
243

- 244 b. If the investigator finds that harassment occurred and created a hostile  
245 environment, the investigator shall assign or recommend appropriate  
246 disciplinary consequences for the perpetrator and/or take or recommend  
247 other reasonable measures to eliminate the hostile environment and  
248 prevent its recurrence.  
249

- 250 c. If the investigator finds that the conduct did not violate this policy but  
251 violated policy 4329/7311, Bullying and Harassing Behavior Prohibited,  
252 or another board policy or expected standard of conduct, the investigator  
253 shall assign or recommend discipline or other action appropriate to the  
254 violation.  
255

- 256 d. The investigator shall make a record of the evidence and findings of the  
257 investigation and the assigned or recommended discipline and/or other  
258 remedial action and provide a copy to the appropriate civil rights

259 coordinator. If the investigator recommends a disciplinary consequence or  
260 remedial action that is beyond his or her authority, the investigator shall  
261 provide a copy of the record to the superintendent for further action.  
262

263 e. The investigator shall inform the alleged victim and alleged perpetrator of  
264 the outcome of the investigation.  
265

266 3. Steps to Reasonably End Discrimination or Harassment  
267

268 a. The superintendent is responsible for taking or causing appropriate action  
269 to be taken in response to discrimination and harassment in violation of  
270 this policy. Appropriate action must include:  
271

272 i. reasonable, timely, age-appropriate corrective action intended to  
273 end the discrimination or harassment and prevent it from recurring;  
274

275 ii. as needed, reasonable steps to address the effects of the  
276 discrimination or harassment on the victim; and  
277

278 iii. as needed, reasonable steps to protect the victim from retaliation as  
279 a result of the complaint.  
280

281 b. Appropriate steps to end discrimination and harassment may include, but  
282 are not limited to, separating the parties, providing counseling for the  
283 parties, and/or taking disciplinary action against a perpetrator determined  
284 to have violated this policy. The superintendent may take non-punitive  
285 measures to end or prevent instances of discrimination or harassment  
286 regardless of whether any individual has been found responsible for the  
287 discrimination or harassment. The superintendent also may implement or  
288 direct the implementation of classroom-wide, school-wide, or school  
289 system-wide responses such as additional staff training, harassment  
290 prevention programs, and other measures reasonably calculated to end the  
291 behavior, eliminate a hostile environment and its effects if one has been  
292 created, and prevent recurrence of the behavior.  
293

294 c. The applicable civil rights coordinator shall encourage victims of  
295 discrimination and harassment to report any subsequent problems and may  
296 conduct follow-up inquiries as warranted to determine if there have been  
297 any new incidents of discrimination or harassment or any instances of  
298 retaliation.  
299

300 **E. APPEALS**  
301

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- 302 1. If the alleged victim is dissatisfied with the outcome of the investigation, he or  
303 she may appeal the decision to the superintendent (unless the alleged perpetrator  
304 is the superintendent, in which case the alleged victim may appeal directly to the  
305 board in accordance with the next paragraph). The appeal must be submitted in  
306 writing within three school business days of receiving the notice of the outcome  
307 of the investigation. The superintendent may review the documents, conduct any  
308 further investigation necessary, or take any other steps the superintendent  
309 determines to be appropriate in order to respond to the complaint. The  
310 superintendent shall provide a written response within 10 days after receiving the  
311 appeal, unless further investigation is needed.  
312  
313 2. Student victims may appeal the superintendent's decision to the board in  
314 accordance with subsection E.5.a of policy 1740/4010, Student and Parent  
315 Grievance Procedure. Employees may appeal the superintendent's decision to the  
316 board in accordance with subsection E.4.a of policy 1750/7220, Grievance  
317 Procedure for Employees.  
318  
319 3. Any student or employee subject to discipline for violating this policy will be  
320 accorded all rights provided by law.  
321

**F. RETALIATION PROHIBITED**

322 The board prohibits retaliation against any person for making a report or complaint of a  
323 violation of this policy, supporting someone for reporting or intending to report a  
324 violation of this policy, or participating in the investigation of a reported violation of this  
325 policy. No reprisals will be taken by the board against a complaining party or other  
326 individual ~~unless the person knew or had reason to believe that the complaint or report~~  
327 ~~was false or knowingly provided false information~~ **who makes a good faith report of**  
328 **discrimination or harassment.** Any person who is found to have engaged in retaliation  
329 will be subject to discipline, up to and including dismissal. Acts of retaliation may also  
330 be subject to policy 1760/7280, Prohibition Against Retaliation.  
331  
332  
333

**G. TRAINING AND PROGRAMS**

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  
343

344 As funds are available, the board will provide students, employees, and volunteers who



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

352  
353 **H. RECORDS**

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

361  
362 **I. CONTACTS FOR INQUIRIES**

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

371  
372 The contact information for the designated civil rights coordinators is as follows.

373  
374 a. Section 504 Coordinator:

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

382  
383 b. ADA Coordinator:

384  
385 Kerry Putnam  
386 Transylvania County Schools  
387 225 Rosenwald Lane

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388 Brevard, NC 28712  
389 Email Address: [kputnam@tcsnc.org](mailto:kputnam@tcsnc.org)  
390 Phone Number: (828) 884-6173  
391

392 c. Age Discrimination Coordinator:

393  
394 Dr. Brian Weaver  
395 Transylvania County Schools  
396 225 Rosenwald Lane  
397 Brevard, NC 28712  
398 Email Address: [bweaver@tcsnc.org](mailto:bweaver@tcsnc.org)  
399 Phone Number: (828) 884-6173  
400

401 d. Coordinator for Other Non-discrimination Laws:

402  
403 Dr. Brian Weaver  
404 Transylvania County Schools  
405 225 Rosenwald Lane  
406 Brevard, NC 28712  
407 Email Address: [bweaver@tcsnc.org](mailto:bweaver@tcsnc.org)  
408 Phone Number: (828) 884-6173  
409

410 The contact information for the U.S. Department of Education Office for Civil Rights  
411 with jurisdiction over North Carolina is as follows.  
412

413 4000 Maryland Ave, SW  
414 Washington, DC 20202-1475  
415 Telephone: 202-453-6020 TDD: 800-877-8339  
416 FAX: 202-453-6021 Email: [OCR.DC@ed.gov](mailto:OCR.DC@ed.gov)  
417

418 Legal References: Age Discrimination in Employment Act of 1967, 29 U.S.C. 621 *et seq.*, 34  
419 C.F.R. pt. 110; Americans with Disabilities Act, 42 U.S.C. 12101 *et seq.*, 28 C.F.R. pt. 35; Boy  
420 Scouts of America Equal Access Act, 20 U.S.C. 7905, 34 C.F.R. pt. 108; Individuals with  
421 Disabilities Education Act, 20 U.S.C. 1400 *et seq.*; Rehabilitation Act of 1973, 29 U.S.C.  
422 705(20), 794, 34 C.F.R. pt. 104; Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d *et*  
423 *seq.*, 34 C.F.R. pt. 100; *Racial Incidents and Harassment Against Students at Educational*  
424 *Institutions; Investigative Guidance*, U.S. Department of Education, Office for Civil Rights  
425 (1994), available at <https://www2.ed.gov/about/offices/list/ocr/docs/race394.html>; *Notice of Non-*  
426 *Discrimination*, U.S. Department of Education, Office for Civil Rights (2010); *Dear Colleague*  
427 *Letter (Harassment and Bullying)*, U.S. Department of Education, Office for Civil Rights (2010),  
428 available at <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.pdf>; G.S. 115C-  
429 407.15 through -407.18; 126-16; State Board of Education Policy SSCH-000; *Parent Rights &*

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430 *Responsibilities in Special Education*, (N.C. Dept. of Public Instruction, Exceptional Children  
431 Division), available at <https://ec.ncpublicschools.gov/parent-resources/parents-rights-handbook>  
432

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

444  
445 Adopted: August 17, 2020

446  
447 Revised: [DATE]

REVISED