

**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~~ **or older**), and will provide equal access to the Boy Scouts and
5 other 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

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

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

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

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

**DISCRIMINATION AND HARASSMENT
PROHIBITED BY FEDERAL LAW**

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

- 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 who makes a good faith report of discrimination or harassment. Any person
327 who is found to have engaged in retaliation will be subject to discipline, up to and
328 including dismissal. Acts of retaliation may also be subject to policy 1760/7280,
329 Prohibition Against Retaliation.
330
331
332

G. TRAINING AND PROGRAMS

333 The board directs the superintendent to establish training and other programs that are
334 designed to prevent discrimination and harassment and to foster an environment of
335 understanding and respect for all members of the school community. Information about
336 the prohibited conduct and complaint procedure in this policy and those in policies
337 1725/4035/7236, Title IX Sexual Harassment – Prohibited Conduct and Reporting
338 Process, and 1726/4036/7237, Title IX Sexual Harassment Grievance Process, must be
339 included in the training plan.
340
341
342

343 As funds are available, the board will provide students, employees, and volunteers who
344 have significant contact with students with additional training regarding the board's

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

351
352 **H. RECORDS**

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

360
361 **I. CONTACTS FOR INQUIRIES**

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

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

372
373 a. Section 504 Coordinator:
374
375 Kerry Putnam
376 Transylvania County Schools
377 225 Rosenwald Lane
378 Brevard, NC 28712
379 Email Address: kputnam@tcsnc.org
380 Phone Number: (828) 884-6173

381
382 b. ADA Coordinator:
383
384 Kerry Putnam
385 Transylvania County Schools
386 225 Rosenwald Lane
387 Brevard, NC 28712

**DISCRIMINATION AND HARASSMENT
PROHIBITED BY FEDERAL LAW**

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

388 Email Address: kputnam@tcsnc.org
389 Phone Number: (828) 884-6173

390
391 c. Age Discrimination Coordinator:

392
393 Dr. Brian Weaver
394 Transylvania County Schools
395 225 Rosenwald Lane
396 Brevard, NC 28712
397 Email Address: bweaver@tcsnc.org
398 Phone Number: (828) 884-6173

399
400 d. Coordinator for Other Non-discrimination Laws:

401
402 Dr. Brian Weaver
403 Transylvania County Schools
404 225 Rosenwald Lane
405 Brevard, NC 28712
406 Email Address: bweaver@tcsnc.org
407 Phone Number: (828) 884-6173

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

411
412 4000 Maryland Ave, SW
413 Washington, DC 20202-1475
414 Telephone: 202-453-6020 TDD: 800-877-8339
415 FAX: 202-453-6021 Email: OCR.DC@ed.gov

416
417 Legal References: Age Discrimination in Employment Act of 1967, 29 U.S.C. 621 *et seq.*, 34
418 C.F.R. pt. 110; Americans with Disabilities Act, 42 U.S.C. 12101 *et seq.*, 28 C.F.R. pt. 35; Boy
419 Scouts of America Equal Access Act, 20 U.S.C. 7905, 34 C.F.R. pt. 108; Individuals with
420 Disabilities Education Act, 20 U.S.C. 1400 *et seq.*; Rehabilitation Act of 1973, 29 U.S.C.
421 705(20), 794, 34 C.F.R. pt. 104; Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d *et*
422 *seq.*, 34 C.F.R. pt. 100; *Racial Incidents and Harassment Against Students at Educational*
423 *Institutions; Investigative Guidance*, U.S. Department of Education, Office for Civil Rights
424 (1994), available at <https://www2.ed.gov/about/offices/list/ocr/docs/race394.html>; *Notice of Non-*
425 *Discrimination*, U.S. Department of Education, Office for Civil Rights (2010); *Dear Colleague*
426 *Letter (Harassment and Bullying)*, U.S. Department of Education, Office for Civil Rights (2010),
427 available at <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.pdf>; G.S. 115C-
428 407.15 through -407.18; 126-16; **16 N.C.A.C. 6E .0107** ~~State Board of Education Policy SSCH-~~
429 ~~000~~; *Parent Rights & Responsibilities in Special Education*, (N.C. Dept. of Public Instruction,

**DISCRIMINATION AND HARASSMENT
PROHIBITED BY FEDERAL LAW**

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

430 Exceptional Children Division), available at [https://ec.ncpublicschools.gov/parent-](https://ec.ncpublicschools.gov/parent-resources/parents-rights-handbook)
431 [resources/parents-rights-handbook](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: February 15, 2021; [DATE]

REVISED