

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

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

1 The Transylvania County Board of Education (the “board”) acknowledges the dignity and worth
2 of all students and employees and strives to create a safe, orderly, caring, and inviting school
3 environment to facilitate student learning and achievement. The board prohibits discrimination
4 on the basis of race, color, national origin, sex, disability, or age and will provide equal access to
5 the Boy Scouts and other designated youth groups as required by law. The board will not
6 tolerate any form of unlawful discrimination, harassment, or bullying in any of its educational or
7 employment activities or programs.
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9 **A. PROHIBITED BEHAVIORS AND CONSEQUENCES**

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11 **1. Discrimination, Harassment, and Bullying**

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13 Students, school system employees, volunteers, and visitors are expected to
14 behave in a civil and respectful manner. The board expressly prohibits unlawful
15 discrimination, harassment, and bullying.
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17 Students are expected to comply with the behavior standards established by board
18 policy and the Code of Student Conduct. Employees are expected to comply with
19 board policy and school system regulations. Volunteers and visitors on school
20 property also are expected to comply with board policy and established school
21 rules and procedures. All persons, agencies, vendors, contractors, and
22 organizations doing business with or performing services for the school district
23 must comply with all applicable federal and state laws and regulations and board
24 policies regarding nondiscrimination.
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26 Any violation of this policy is serious and school officials shall promptly take
27 appropriate action. Students will be disciplined in accordance with the school’s
28 student behavior management plan (see policy 4302, School Plan for
29 Management of Student Behavior). Based on the nature and severity of the
30 offense and the circumstances surrounding the incident, the student will be subject
31 to appropriate consequences and remedial actions ranging from positive
32 behavioral interventions up to, and including, expulsion.
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34 Employees who violate this policy will be subject to disciplinary action, up to,
35 and including, dismissal. Volunteers and visitors who violate this policy will be
36 directed to leave school property and/or reported to law enforcement, as
37 appropriate, in accordance with policy 5020, Visitors to the Schools.
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39 When considering if a response beyond the individual level is appropriate, school
40 administrators should consider the nature and severity of the misconduct to
41 determine whether a classroom, school-wide, or school system-wide response is
42 necessary. Such classroom, school-wide, or school system-wide responses may

43 include staff training, harassment and bullying prevention programs, and other
44 measures deemed appropriate by the superintendent to address the behavior.
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46 **2. Retaliation**

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48 The board prohibits reprisal or retaliation against any person for reporting or
49 intending to report violations of this policy, supporting someone for reporting or
50 intending to report a violation of this policy, or participating in the investigation
51 of reported violations of this policy.
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53 After consideration of the nature and circumstances of the reprisal or retaliation
54 and in accordance with applicable federal, state, or local laws, policies, and
55 regulations, the superintendent or designee shall determine the consequences and
56 remedial action for a person found to have engaged in reprisal or retaliation.
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58 **B. APPLICATION OF POLICY**

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60 This policy prohibits unlawful discrimination, harassment, and bullying by students,
61 employees, volunteers, and visitors. “Visitors” includes persons, agencies, vendors,
62 contractors, and organizations doing business with or performing services for the school
63 system.
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65 This policy applies to behavior that takes place:

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- 67 1. in any school building or on any school premises before, during, or after school
68 hours;
 - 69 2. on any bus or other vehicle as part of any school activity;
 - 70 3. at any bus stop;
 - 71 4. during any school-sponsored activity or extracurricular activity;
 - 72 5. at any time or place when the individual is subject to the authority of school
73 personnel; and
 - 74 6. at any time or place when the behavior has a direct and immediate effect on
75 maintaining order and discipline in the schools.
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82 **C. DEFINITIONS**

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84 For purposes of this policy, the following definitions apply:
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1. Discrimination

Discrimination means any act or failure to act that unreasonably and unfavorably differentiates treatment of others based solely on their membership in a socially distinct group or category, such as race, ethnicity, sex, pregnancy, religion, age, or disability. Discrimination may be intentional or unintentional.

2. Harassment and Bullying

a. Harassment or bullying behavior is any pattern of gestures or written, electronic, or verbal communications, or any physical act or any threatening communication that:

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

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

Harassment and bullying include, but are not limited to, behavior described above that is reasonably perceived as being motivated by any actual or perceived differentiating characteristic or motivated by an individual’s association with a person who has or is perceived to have a differentiating characteristic, such as race, color, 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

128 cartoons. Legitimate age-appropriate pedagogical techniques are not
129 considered harassment or bullying.

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131 Harassment, including sexual or gender-based harassment, is not limited
132 to specific situations or relationships. It may occur between fellow
133 students or co-workers, between supervisors and subordinates, between
134 employees and students, or between non-employees, including visitors,
135 and employees or students. Harassment may occur between members of
136 the opposite sex or the same sex.

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138 b. Sexual harassment is one type of harassment. Unwelcome sexual
139 advances, requests for sexual favors, and other verbal or physical conduct
140 of a sexual nature constitute sexual harassment when:

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142 1) submission to the conduct is made, either explicitly or implicitly, a
143 term or condition of an individual's employment, academic
144 progress, or completion of a school-related activity;
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146 2) submission to or rejection of such conduct is used as the basis for
147 employment decisions affecting the individual, or in the case of a
148 student, submission to or rejection of such conduct is used in
149 evaluating the student's performance within a course of study or
150 other school-related activity; or
- 151
152 3) such conduct is sufficiently severe, persistent, or pervasive that it
153 has the purpose or effect of unreasonably interfering with an
154 employee's work or performance or a student's educational
155 performance, limiting a student's ability to participate in or benefit
156 from an educational program or environment, or creating an
157 abusive, intimidating, hostile, or offensive work or educational
158 environment.

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160 Sexually harassing conduct includes, but is not limited to, deliberate,
161 unwelcome touching that has sexual connotations or is of a sexual nature,
162 suggestions or demands for sexual involvement accompanied by implied
163 or overt promises of preferential treatment or threats, pressure for sexual
164 activity, continued or repeated offensive sexual flirtations, advances or
165 propositions, continued or repeated verbal remarks about an individual's
166 body, sexually degrading words used toward an individual or to describe
167 an individual, sexual assault, sexual violence, or the display of sexually
168 suggestive drawings, objects, pictures or written materials. Acts of verbal,
169 nonverbal, or physical aggression, intimidation, or hostility based on sex,
170 but not involving sexual activity or language, may be combined with

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171 incidents of sexually harassing conduct to determine if the incidents of
172 sexually harassing conduct are sufficiently serious to create a sexually
173 hostile environment.
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175 c. Gender-based harassment is also a type of harassment. Gender-based
176 harassment may include acts of verbal, nonverbal, or physical aggression,
177 intimidation, or hostility based on sex or sex-stereotyping but not
178 involving conduct of a sexual nature.
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180 **D. REPORTING AND INVESTIGATING COMPLAINTS OF DISCRIMINATION, HARASSMENT, OR**
181 **BULLYING**
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183 Employees are required to report any actual or suspected violations of this policy.
184 Students, parents, volunteers, visitors, or others are also strongly encouraged to report
185 any actual or suspected incidents of discrimination, harassment, or bullying. All reports
186 should be made in accordance with policy 1720/4015/7225, Discrimination, Harassment,
187 and Bullying Complaint Procedure, and reported to one of the school officials identified
188 in that policy. Reports may be made anonymously, and all reports shall be investigated
189 in accordance with that policy.
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191 **E. TRAINING AND PROGRAMS**
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193 The board directs the superintendent to establish training and other programs that are
194 designed to help eliminate unlawful discrimination, harassment, and bullying and to
195 foster an environment of understanding and respect for all members of the school
196 community. Information about this policy and the related complaint procedure must be
197 included in the training plan.
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199 As funds are available, the board will provide additional training for students, employees,
200 and volunteers who have significant contact with students regarding the board's efforts to
201 address discrimination, harassment, and bullying and will create programs to address
202 these issues. The training or programs should (1) provide examples of behavior that
203 constitutes discrimination, harassment, or bullying; (2) teach employees to identify
204 groups that may be the target of discrimination, harassment, or bullying; and (3) train
205 school employees to be alert to locations where such behavior may occur, including
206 locations within school buildings, at school bus stops, on cell phones, and on the Internet.
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208 **F. NOTICE**
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210 The superintendent is responsible for providing effective notice to students, parents, and
211 employees of this policy and of the procedures for reporting and investigating complaints
212 of discrimination, harassment, and bullying established in policy 1720/4015/7225,
213 Discrimination, Harassment, and Bullying Complaint Procedure. The superintendent

214 must ensure that each school principal provides a copy of this policy and policy
215 1720/4015/7225 to students, employees, and parents or other responsible care givers at
216 the beginning of each school year. In addition, both policies must be posted on the
217 school system website, and copies of the policies must be readily available in the
218 principal's office, the media center at each school, and the superintendent's office.
219 Notice of the policies must appear in all student and employee handbooks and in any
220 school or school system publication that sets forth the comprehensive rules, procedures,
221 and standards of conduct for students and employees.
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223 **G. COORDINATORS**

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225 The superintendent has appointed the following individuals to coordinate the school
226 system's efforts to comply with and carry out its responsibilities under federal non-
227 discrimination laws. These responsibilities include investigating any complaints
228 communicated to school officials alleging noncompliance with Title VI or Title IX of the
229 Civil Rights Act, Section 504 of the Rehabilitation Act, the Americans with Disabilities
230 Act (ADA), the Age Discrimination Act, and/or the Boy Scouts Act, or alleging actions
231 which would be prohibited by those laws.
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233 **1. Title IX Coordinator**

234 Position Title: District Athletic Director
235 Office Address: Morris Education Center
236 225 Rosenwald Lane
237 Brevard, NC 28712
238 Phone Number: (828) 884-6173
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240 **2. Section 504 Coordinator**

241 Position Title: Exceptional Children Program Director
242 Office Address: Morris Education Center
243 225 Rosenwald Lane
244 Brevard, NC 28712
245 Phone Number: (828) 884-6173
246

247 **3. ADA Coordinator**

248 Position Title: Exceptional Children Program Director
249 Office Address: Morris Education Center
250 225 Rosenwald Lane
251 Brevard, NC 28712
252 Phone Number: (828) 884-6173
253

254 **4. Age Discrimination Coordinator**

255 Position Title: Human Resources Director
256 Office Address: Morris Education Center

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257 225 Rosenwald Lane
258 Brevard, NC 28712
259 Phone Number: (828) 884-6173
260

261 **5. Coordinator for Other Non-discrimination Laws**

262 Position Title: Human Resources Director
263 Office Address: Morris Education Center
264 225 Rosenwald Lane
265 Brevard, NC 28712
266 Phone Number: (828) 884-6173
267

268 **H. RECORDS AND REPORTING**
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270 The superintendent or designee shall maintain confidential records of complaints or
271 reports of discrimination, harassment, or bullying. The records must identify the names
272 of all individuals accused of such offenses and the resolution of such complaints or
273 reports. The superintendent also shall maintain records of training conducted and
274 corrective action(s) or other steps taken by the school system to provide an environment
275 free of discrimination, harassment, and bullying.
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277 The superintendent shall report to the State Board of Education all verified cases of
278 discrimination, harassment, or bullying. The report must be made through the Discipline
279 Data Collection Report or through other means required by the State Board.
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281 **I. EVALUATION**
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283 The superintendent shall evaluate the effectiveness of efforts to correct or prevent
284 discrimination, harassment, and bullying and shall share these evaluations periodically
285 with the board.
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287 Legal References: Age Discrimination in Employment Act of 1967, 29 U.S.C. 621 *et seq.*, 34
288 C.F.R. pt. 110; Americans with Disabilities Act, 42 U.S.C. 12101 *et seq.*, 28 C.F.R. pt. 35;
289 Rehabilitation Act of 1973, 29 U.S.C. 705(20), 794, 34 C.F.R. pt. 104; Title VI of the Civil
290 Rights Act of 1964, 42 U.S.C. 2000d *et seq.*, 34 C.F.R. pt. 100; Title VII of the Civil Rights Act
291 of 1964, 42 U.S.C. 2000e *et seq.*, 29 C.F.R. pt. 1604; Title IX of the Education Amendments of
292 1972, 20 U.S.C. 1681 *et seq.*, 34 C.F.R. pt. 106; Boy Scouts of America Equal Access Act, 20
293 U.S.C. 7905, 34 C.F.R. pt. 108; *Racial Incidents and Harassment Against Students at*
294 *Educational Institutions: Investigative Guidance*, U.S. Department of Education, Office for Civil
295 Rights (1994); *Revised Sexual Harassment Guidance: Harassment of Students by School*
296 *Employees, Other Students, or Third Parties*, U.S. Department of Education, Office for Civil
297 Rights (2001); *Notice of Non-Discrimination*, U.S. Department of Education, Office for Civil
298 Rights (2010); *Dear Colleague Letter*, U.S. Department of Education, Office for Civil Rights,
299 (October 26, 2010), available at [---

Transylvania County Board of Education Policy Manual](http://www2.ed.gov/about/offices/list/ocr/letters/colleague-</p></div><div data-bbox=)

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300 [201010.pdf](#); *Dear Colleague Letter*, U.S. Department of Education, Office for Civil Rights,
301 (April 4, 2011) available at [http://www2.ed.gov/about/offices/list/ocr/letters/colleague-](http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.pdf)
302 [201104.pdf](#); *Oncala v. Sundowner Offshore Services*, 523 U.S. 75 (1998); G.S. 115C-335.5, -
303 407.15 through -407.18; 126-16; State Board of Education Policy ~~HRS-ASSCH-000~~

304
305 Cross References: Discrimination, Harassment, and Bullying Complaint Procedure (policy
306 1720/4015/7225), Nondiscrimination on the Basis of Disabilities (policy 1730/4022/7231),
307 Prohibition Against Retaliation (policy 1760/7280), Equal Educational Opportunities (policy
308 4001), School Plan for Management of Student Behavior (policy 4302), Visitors to the Schools
309 (policy 5020), Community Use of Facilities (policy 5030), Recruitment and Selection of
310 Personnel (policy 7100), Professional Employees: Demotion and Dismissal (policy 7930),
311 Classified Personnel: Suspension and Dismissal (policy 7940)

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313 Adopted: February 7, 1994

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315 Revised: August 16, 2004; December 21, 2009; January 21, 2014; September 21, 2015;
316 November 19, 2015; [DATE] (legal references only)

REVISED