

**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. **Any violation of this policy will be considered serious and**
8 **school officials shall promptly take appropriate action to address the violation.**
9

10 **A. PROHIBITED BEHAVIORS ~~AND CONSEQUENCES~~**

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

13
14 Students, school system employees, volunteers, and visitors are expected to behave in a
15 civil and respectful manner. The board expressly prohibits unlawful discrimination,
16 harassment, and bullying **by students, employees, board members, volunteers, or visitors.**
17 **“Visitors” includes parents and other family members and individuals from the**
18 **community, as well as vendors, contractors, and other persons doing business with or**
19 **performing services for the school system.**

20
21 Students are expected to comply with the behavior standards established by board policy,
22 ~~and the Code of Student Conduct, and school and classroom rules.~~ Employees are
23 expected to comply with board policy, ~~and school system regulations, and school rules.~~
24 Volunteers and visitors on school property also are expected to comply with board policy,
25 ~~and school system regulations, established and school rules and procedures.~~ ~~All persons,~~
26 ~~agencies, vendors, contractors, and organizations doing business with or performing~~
27 ~~services for the school district must comply with all applicable federal and state laws and~~
28 ~~regulations and board policies regarding nondiscrimination.~~
29

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

36
37 ~~Any violation of this policy is serious and school officials shall promptly take~~
38 ~~appropriate action. Students will be disciplined in accordance with the school’s~~
39 ~~student behavior management plan (see policy 4302, School Plan for~~
40 ~~Management of Student Behavior). Based on the nature and severity of the~~
41 ~~offense and the circumstances surrounding the incident, the student will be subject~~
42 ~~to appropriate consequences and remedial actions ranging from positive~~
43 ~~behavioral interventions up to, and including, expulsion.~~

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44
45 ~~Employees who violate this policy will be subject to disciplinary action, up to,~~
46 ~~and including, dismissal. Volunteers and visitors who violate this policy will be~~
47 ~~directed to leave school property and/or reported to law enforcement, as~~
48 ~~appropriate, in accordance with policy 5020, Visitors to the Schools.~~

49
50 ~~When considering if a response beyond the individual level is appropriate, school~~
51 ~~administrators should consider the nature and severity of the misconduct to~~
52 ~~determine whether a classroom, school-wide, or school system wide response is~~
53 ~~necessary. Such classroom, school-wide, or school system wide responses may~~
54 ~~include staff training, harassment and bullying prevention programs, and other~~
55 ~~measures deemed appropriate by the superintendent to address the behavior.~~

56
57 **2. ~~Retaliation~~**

58
59 ~~The board prohibits reprisal or retaliation against any person for reporting or~~
60 ~~intending to report violations of this policy, supporting someone for reporting or~~
61 ~~intending to report a violation of this policy, or participating in the investigation~~
62 ~~of reported violations of this policy.~~

63
64 ~~After consideration of the nature and circumstances of the reprisal or retaliation~~
65 ~~and in accordance with applicable federal, state, or local laws, policies, and~~
66 ~~regulations, the superintendent or designee shall determine the consequences and~~
67 ~~remedial action for a person found to have engaged in reprisal or retaliation.~~

68
69 **B. ~~APPLICATION OF POLICY~~**

70
71 ~~This policy prohibits unlawful discrimination, harassment, and bullying by students,~~
72 ~~employees, volunteers, and visitors. "Visitors" includes persons, agencies, vendors,~~
73 ~~contractors, and organizations doing business with or performing services for the school~~
74 ~~system.~~

75
76 ~~This policy applies to behavior that takes place:~~

- 77
78 ~~1. in any school building or on any school premises before, during, or after school~~
79 ~~hours;~~
80
81 ~~2. on any bus or other vehicle as part of any school activity;~~
82
83 ~~3. at any bus stop;~~
84
85 ~~4. during any school sponsored activity or extracurricular activity;~~

- 86
87 5. ~~at any time or place when the individual is subject to the authority of school~~
88 ~~personnel; and~~
89
90 6. ~~at any time or place when the behavior has a direct and immediate effect on~~
91 ~~maintaining order and discipline in the schools.~~
92

93 **B. DEFINITIONS**

94
95 For purposes of this policy, the following definitions apply:

96
97 **1. Discrimination**

98
99 Discrimination means any act or failure to act, **whether intentional or**
100 **unintentional**, that unreasonably and unfavorably differentiates treatment of others
101 based solely on their membership in a socially distinct group or category, such as
102 race, ethnicity, sex, pregnancy, religion, age, or disability. ~~Discrimination may be~~
103 ~~intentional or unintentional.~~

104
105 **2. Harassment and Bullying**

106
107 a. Harassment or bullying behavior is **deliberate conduct intended to harm**
108 **another person or group of persons. Such conduct violates this policy**
109 **when** any pattern of gestures or written, electronic, or verbal
110 communications, or any physical act or any threatening communication
111 **that:**

- 112
113 1) places a student or school employee in actual and reasonable fear
114 of harm to his or her person or damage to his or her property; or
115
116 2) creates or is certain to create a hostile environment by substantially
117 interfering with or impairing a student's educational performance,
118 opportunities, or benefits or by adversely altering the conditions of
119 an employee's employment.

120
121 "Hostile environment" means that the victim subjectively views the
122 conduct as harassment or bullying and that the conduct is objectively
123 severe or pervasive enough that a reasonable person would agree that it is
124 harassment or bullying. A hostile environment may be created through
125 pervasive or persistent misbehavior or a single incident, if sufficiently
126 severe.
127

128 Harassment and bullying include, but are not limited to, behavior
129 described above that is reasonably perceived as being motivated by any
130 actual or perceived differentiating characteristic or motivated by an
131 individual’s association with a person who has or is perceived to have a
132 differentiating characteristic, such as race, color, religion, ancestry,
133 national origin, gender, socioeconomic status, academic status, gender
134 identity, physical appearance, sexual orientation, or mental, physical,
135 developmental, or sensory disability. Examples of behavior that may
136 constitute bullying or harassment include, but are not limited to, **acts of**
137 **disrespect, intimidation, or threats, such as** verbal taunts, name-calling and
138 put-downs, epithets, derogatory comments or slurs, lewd propositions,
139 exclusion from peer groups, extortion of money or possessions, implied or
140 stated threats, assault, impeding or blocking movement, offensive
141 touching, or any physical interference with normal work or movement,
142 and visual insults, such as derogatory posters or cartoons. **Harassment and**
143 **bullying may occur through electronic means (“cyberbullying”), such as**
144 **through the Internet, e-mailing, or text messaging, or by use of personal**
145 **websites to support deliberate and repeated behavior intended to cause**
146 **harm to persons or groups.** Legitimate age-appropriate pedagogical
147 techniques are not considered harassment or bullying.

148
149 Harassment, including sexual or gender-based harassment, **as described**
150 **below**, is not limited to specific situations or relationships. It may occur
151 between fellow students or co-workers, between supervisors and
152 subordinates, between employees and students, or between non-
153 employees, including visitors, and employees or students. Harassment
154 may occur between members of the opposite sex or the same sex.

- 155
156 b. Sexual harassment is **a form** ~~one type~~ of harassment **that violates this**
157 **policy**. Unwelcome sexual advances, requests for sexual favors, and other
158 verbal or physical conduct of a sexual nature constitute sexual harassment
159 when:
160
- 161 1) submission to the conduct is made, either explicitly or implicitly, a
162 term or condition of an individual’s employment, academic
163 progress, or completion of a school-related activity;
 - 164
165 2) submission to or rejection of such conduct is used as the basis for
166 employment decisions affecting the individual, or in the case of a
167 student, submission to or rejection of such conduct is used in
168 evaluating the student’s performance within a course of study or
169 other school-related activity; or
170

171 3) such conduct is sufficiently severe, persistent, or pervasive that it
172 has the purpose or effect of (a) unreasonably interfering with an
173 employee’s work or performance or a student’s educational
174 performance, (b) limiting a student’s ability to participate in or
175 benefit from an educational program or environment, or (c)
176 creating an abusive, intimidating, hostile, or offensive work or
177 educational environment.
178

179 Sexually harassing conduct includes, but is not limited to, deliberate,
180 unwelcome touching that has sexual connotations or is of a sexual nature,
181 suggestions or demands for sexual involvement accompanied by implied
182 or overt promises of preferential treatment or threats, pressure for sexual
183 activity, continued or repeated offensive sexual flirtations, advances or
184 propositions, continued or repeated verbal remarks about an individual’s
185 body, sexually degrading words used toward an individual or to describe
186 an individual, sexual assault, sexual violence, or the display of sexually
187 suggestive drawings, objects, pictures or written materials. Acts of verbal,
188 nonverbal, or physical aggression, intimidation, or hostility based on sex,
189 but not involving sexual activity or language, may be combined with
190 incidents of sexually harassing conduct to determine if the incidents of
191 sexually harassing conduct are sufficiently serious to create a sexually
192 hostile environment.
193

194 *As provided in policy 4040/7310, Staff-Student Relations, employees are*
195 *strictly prohibited from engaging in a romantic or sexual relationship with*
196 *any student enrolled in the school system, whether or not the relationship*
197 *is consensual. Such conduct is prohibited whether or not it constitutes*
198 *sexual harassment.*
199

200 c. Gender-based harassment is also a type of harassment *that violates this*
201 *policy*. Gender-based harassment may include acts of verbal, nonverbal,
202 or physical aggression, intimidation, or hostility based on sex or sex-
203 stereotyping but not involving conduct of a sexual nature.
204

205 **C. REPORTING AND INVESTIGATING COMPLAINTS OF DISCRIMINATION, HARASSMENT, OR**
206 **BULLYING**
207

208 *Any person who believes that he or she has been discriminated against, harassed, or*
209 *bullied in violation of this policy by any student, employee, or other person under the*
210 *supervision and control of the school system, or any third person who knows or suspects*
211 *conduct that may constitute discrimination, harassment, or bullying, should inform a*
212 *school official designated to receive such complaints, as described in policy*
213 *1720/4015/7225, Discrimination, Harassment, and Bullying Complaint Procedure.*

Any employee who has witnessed or who has reliable information that another person may have been subjected to discrimination, harassment, or bullying in violation of this policy has a duty to report such conduct in accordance with policy 1720/4015/7225. Employees who observe an incident of harassment or bullying are expected to intervene to stop the conduct in situations in which they have supervisory control over the perpetrator and it is safe to do so. If an employee knows of an incident involving discrimination, harassment, or bullying and the employee fails to report the conduct or take proper action or knowingly provides false information in regard to the incident, the employee will be subject to disciplinary action up to, and including, dismissal.

~~Employees are required to report any actual or suspected violations of this policy. Students, parents, volunteers, visitors, or others are also strongly encouraged to report any actual or suspected incidents of discrimination, harassment, or bullying. All reports should be made in accordance with policy 1720/4015/7225, Discrimination, Harassment, and Bullying Complaint Procedure, and reported to one of the school officials identified in that policy. Reports, except mandatory employee reports, may be made anonymously, and all reports will shall be investigated in accordance with that policy 1720/4015/7225.~~

D. RESPONDING TO OCCURRENCES OF DISCRIMINATION, HARASSMENT, OR BULLYING

1. Consequences for the Perpetrator

a. Disciplinary Consequences for Students

Students will be disciplined in accordance with the school’s student behavior management plan (see policy 4302, School Plan for Management of Student Behavior). Based on the nature and severity of the offense and the circumstances surrounding the incident, the student will be subject to appropriate consequences and remedial actions ranging from positive behavioral interventions up to, and including, expulsion. In addition, the violation may also be reported to law enforcement, as appropriate.

Incidents of misbehavior that do not rise to the level of discriminatory harassment or bullying may violate acceptable standards of student behavior, including, but not limited to, the expectation that students will demonstrate civility and integrity in their actions and interactions with others. See policy 4310, Integrity and Civility. The consequences for such behavior will be consistent with applicable board policy and the Code of Student Conduct.

This policy will not be construed to allow school officials to punish student expression or speech based on undifferentiated fear or

257 apprehension of a disturbance or out of a desire to avoid the discomfort
258 and unpleasantness that may accompany an unpopular viewpoint.
259

260 **b. Disciplinary Consequences for Employees**

261
262 Employees who violate this policy will be subject to disciplinary action up
263 to, and including, dismissal. In addition, the violation may also be
264 reported to law enforcement, as appropriate. Nothing in this policy will
265 preclude the school system from taking disciplinary action against an
266 employee when the evidence does not establish unlawful discrimination,
267 harassment, or bullying, but the conduct otherwise violates board policy or
268 expected standards of employee behavior.
269

270 **c. Consequences for Other Perpetrators**

271
272 Volunteers and visitors who violate this policy will be directed to leave
273 school property and/or reported to law enforcement, as appropriate, in
274 accordance with policy 5020, Visitors to the Schools. A third party under
275 the supervision and control of the school system will be subject to
276 termination of contracts/agreements, restricted from school property,
277 and/or subject to other consequences, as appropriate.
278

279 **2. Consideration of Need for More Extensive Response**

280
281 School administrators shall consider whether the misconduct warrants more than
282 just a response at the individual level. Given the nature and severity of the
283 misconduct, the administrators may determine that a classroom, school-wide, or
284 school system-wide response is necessary. Such classroom, school-wide, or
285 school system-wide responses may include additional staff training, harassment
286 and bullying prevention programs, and other measures deemed appropriate by the
287 superintendent to address the behavior. The actions taken must be reasonably
288 calculated to end the behavior, eliminate a hostile environment and its effects if
289 one has been created, and prevent recurrence of the behavior.
290

291 **3. Retaliation Prohibited**

292
293 The board prohibits reprisal or retaliation against any person for (a) reporting or
294 intending to report violations of this policy, (b) supporting someone for reporting
295 or intending to report a violation of this policy, or (c) participating in the
296 investigation of reported violations of this policy.
297

298 After consideration of the nature and circumstances of the reprisal or retaliation
299 and in accordance with applicable federal, state, or local laws, policies, and

300 regulations, the superintendent or designee shall determine the consequences and
301 remedial action for a person found to have engaged in reprisal or retaliation.
302

303 **E. TRAINING AND PROGRAMS**

304
305 The board directs the superintendent to establish training and other programs that are
306 designed to ~~prevent help eliminate unlawful~~ discrimination, harassment, and bullying and
307 to foster an environment of understanding and respect for all members of the school
308 community. Information about this policy and the related complaint procedure must be
309 included in the training plan.
310

311 As funds are available, the board will provide additional training for students, employees,
312 and volunteers who have significant contact with students regarding the board's efforts to
313 address discrimination, harassment, and bullying and will create programs to address
314 these issues. The training or programs should (1) provide examples of behavior that
315 constitutes discrimination, harassment, or bullying; (2) teach employees to identify
316 groups that may be the target of discrimination, harassment, or bullying; and (3) train
317 school employees to be alert to locations where such behavior may occur, including
318 locations within school buildings, at school bus stops, on cell phones, and on the Internet.
319

320 **F. NOTICE**

321
322 The superintendent is responsible for providing effective notice to students, parents, and
323 employees of this policy and of the procedures for reporting and investigating complaints
324 of discrimination, harassment, and bullying established in policy 1720/4015/7225,
325 Discrimination, Harassment, and Bullying Complaint Procedure. The superintendent
326 must ensure that each ~~school~~ principal provides a copy of this policy and policy
327 1720/4015/7225 to students, employees, and parents or other responsible care givers at
328 the beginning of each school year. In addition, both policies must be posted on the
329 school system website, and copies of the policies must be readily available ~~at each school~~
330 ~~and worksite in the principal's office, the media center at each school, and the~~
331 ~~superintendent's office~~. Notice of the policies must appear in all student and employee
332 handbooks and in any school or school system publication that sets forth the
333 comprehensive rules, procedures, and standards of conduct for students and employees.
334

335 **G. COORDINATORS**

336
337 The superintendent has appointed the following individuals to coordinate the school
338 system's efforts to comply with and carry out its responsibilities under federal non-
339 discrimination laws. These responsibilities include investigating any complaints
340 communicated to school officials alleging noncompliance with Title VI or Title IX of the
341 Civil Rights Act, Section 504 of the Rehabilitation Act, the Americans with Disabilities

342 Act (ADA), the Age Discrimination Act, and/or the Boy Scouts Act, or alleging actions
343 which would be prohibited by those laws.
344

345 **1. Title IX Coordinator**

346 Position Title: District Athletic Director
347 Office Address: Morris Education Center
348 225 Rosenwald Lane
349 Brevard, NC 28712
350 Phone Number: (828) 884-6173
351

352 **2. Section 504 Coordinator**

353 Position Title: Exceptional Children Program Director
354 Office Address: Morris Education Center
355 225 Rosenwald Lane
356 Brevard, NC 28712
357 Phone Number: (828) 884-6173
358

359 **3. ADA Coordinator**

360 Position Title: Exceptional Children Program Director
361 Office Address: Morris Education Center
362 225 Rosenwald Lane
363 Brevard, NC 28712
364 Phone Number: (828) 884-6173
365

366 **4. Age Discrimination Coordinator**

367 Position Title: Human Resources Director
368 Office Address: Morris Education Center
369 225 Rosenwald Lane
370 Brevard, NC 28712
371 Phone Number: (828) 884-6173
372

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

374 Position Title: Human Resources Director
375 Office Address: Morris Education Center
376 225 Rosenwald Lane
377 Brevard, NC 28712
378 Phone Number: (828) 884-6173
379

380 **H. RECORDS AND REPORTING**
381

382 The superintendent or designee shall maintain confidential records of complaints or
383 reports of discrimination, harassment, or bullying. The records must identify the names
384 of all individuals accused of such offenses and the resolution of such complaints or

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385 reports. The superintendent also shall maintain records of training conducted and
386 corrective action(s) or other steps taken by the school system to provide an environment
387 free of discrimination, harassment, and bullying.
388

389 The superintendent shall report to the State Board of Education all verified cases of
390 discrimination, harassment, or bullying. The report must be made through the Discipline
391 Data Collection Report or through other means required by the State Board.
392

393 **I. EVALUATION**

394
395 The superintendent shall evaluate the effectiveness of efforts to correct or prevent
396 discrimination, harassment, and bullying and shall share these evaluations periodically
397 with the board.
398

399 Legal References: Age Discrimination in Employment Act of 1967, 29 U.S.C. 621 *et seq.*, 34
400 C.F.R. pt. 110; Americans with Disabilities Act, 42 U.S.C. 12101 *et seq.*, 28 C.F.R. pt. 35;
401 Rehabilitation Act of 1973, 29 U.S.C. 705(20), 794, 34 C.F.R. pt. 104; Title VI of the Civil
402 Rights Act of 1964, 42 U.S.C. 2000d *et seq.*, 34 C.F.R. pt. 100; Title VII of the Civil Rights Act
403 of 1964, 42 U.S.C. 2000e *et seq.*, 29 C.F.R. pt. 1604; Title IX of the Education Amendments of
404 1972, 20 U.S.C. 1681 *et seq.*, 34 C.F.R. pt. 106; Boy Scouts of America Equal Access Act, 20
405 U.S.C. 7905, 34 C.F.R. pt. 108; *Racial Incidents and Harassment Against Students at*
406 *Educational Institutions: Investigative Guidance*, U.S. Department of Education, Office for Civil
407 Rights (1994); *Revised Sexual Harassment Guidance: Harassment of Students by School*
408 *Employees, Other Students, or Third Parties*, U.S. Department of Education, Office for Civil
409 Rights (2001); *Notice of Non-Discrimination*, U.S. Department of Education, Office for Civil
410 Rights (2010); *Dear Colleague Letter (Bullying)*, U.S. Department of Education, Office for Civil
411 Rights, (~~October~~ ~~26,~~ 2010), available at
412 <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.pdf>; *Dear Colleague Letter*
413 *(Sexual Harassment)*, U.S. Department of Education, Office for Civil Rights, (2006 April 4,
414 2011) available at <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.pdf>
415 <https://www2.ed.gov/about/offices/list/ocr/letters/sexhar-2006.html>; *Q&A on Campus Sexual*
416 *Misconduct*, U.S. Department of Education, Office for Civil Rights (2017), available at
417 <https://www2.ed.gov/about/offices/list/ocr/docs/qa-title-ix-201709.pdf>; *Oncale v. Sundowner*
418 *Offshore Services*, 523 U.S. 75 (1998); G.S. 115C-335.5, -407.15 through -407.18; 126-16; State
419 Board of Education Policy SSCH-000
420

421 Cross References: Discrimination, Harassment, and Bullying Complaint Procedure (policy
422 1720/4015/7225), Nondiscrimination on the Basis of Disabilities (policy 1730/4022/7231),
423 Prohibition Against Retaliation (policy 1760/7280), Equal Educational Opportunities (policy
424 4001), **Staff-Student Relations (policy 4040/7310)**, School Plan for Management of Student
425 Behavior (policy 4302), Visitors to the Schools (policy 5020), Community Use of Facilities
426 (policy 5030), Recruitment and Selection of Personnel (policy 7100), Professional Employees:

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427 Demotion and Dismissal (policy 7930), Classified Personnel: Suspension and Dismissal (policy
428 7940)

429

430 Adopted: February 7, 1994

431

432 Revised: August 16, 2004; December 21, 2009; January 21, 2014; September 21, 2015;
433 November 19, 2015; February 19, 2018 (legal references only); [DATE]

434

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