

1 The [Transylvania County Board of Education](#) (the “board”) takes seriously all complaints of
2 unlawful discrimination, harassment, and bullying. The process provided in this policy is
3 designed for those individuals who believe that they may have been discriminated against,
4 bullied, or harassed in violation of policy 1710/4021/7230, Prohibition Against Discrimination,
5 Harassment, and Bullying, or policy 1730/4022/7231, Nondiscrimination on the Basis of
6 Disabilities. Individuals who have witnessed or have reliable information that another person
7 has been subject to unlawful discrimination, harassment, or bullying also should report such
8 violations to one of the school system officials listed in subsection C.1. of this policy. Reports
9 may be made anonymously.

10
11 **A. DEFINITIONS**

12
13 1. **Alleged Perpetrator**

14
15 The alleged perpetrator is the individual alleged to have discriminated against,
16 harassed, or bullied the complainant.
17

18 2. **Complaint**

19
20 A complaint is an oral or written notification made by a person who believes he or
21 she is the victim of unlawful discrimination, harassment, or bullying.
22

23 3. **Complainant**

24
25 The complainant is the individual complaining of being discriminated against,
26 harassed, or bullied.
27

28 4. **Days**

29
30 Days are the working days, exclusive of Saturdays, Sundays, vacation days, or
31 holidays, as set forth in the school calendar. In counting days, the first day will be
32 the first full working day following receipt of the complaint. When a complaint is
33 submitted on or after May 1, time limits will consist of all weekdays (Monday–
34 Friday) so that the matter may be resolved before the close of the school term or
35 as soon thereafter as possible.
36

37 5. **Investigative Report**

38
39 The investigative report is a written account of the findings of the investigation
40 conducted in response to a complaint.
41

42 6. **Investigator**

44 The investigator is the school official responsible for investigating and responding
45 to the complaint.

46
47 **7. Report**

48
49 A report is an oral or written notification that an individual, other than the
50 reporter, is a suspected perpetrator or victim of unlawful discrimination,
51 harassment, or bullying.

52
53 **B. REPORTING BY EMPLOYEES OR OTHER THIRD PARTIES**

54
55 **1. Mandatory Reporting by School Employees**

56
57 Any employee who witnessed or who has reliable information or reason to believe
58 that an individual may have been discriminated against, harassed, or bullied in
59 violation of policy 1710/4021/7230 or policy 1730/4022/7231 must report the
60 offense immediately to an appropriate individual designated in subsection C.1.,
61 below. An employee who does not promptly report possible discrimination,
62 harassment, or bullying shall be subject to disciplinary action.

63
64 **2. Reporting by Other Third Parties**

65
66 All members of the school community, including students, parents, volunteers,
67 and visitors, are also strongly encouraged to report any act that may constitute an
68 incident of discrimination, harassment, or bullying.

69
70 **3. Anonymous Reporting**

71
72 Reports of discrimination, harassment, or bullying may be made anonymously but
73 formal disciplinary action may not be taken solely on the basis of an anonymous
74 report.

75
76 **4. Investigation of Reports**

77
78 Reports of discrimination, harassment, or bullying will be investigated
79 sufficiently to determine whether further action under this policy or otherwise is
80 necessary, and school officials shall take such action as appropriate under the
81 circumstances, regardless of the alleged victim's willingness to cooperate. At the
82 option of the alleged victim, the report may be treated as a complaint by the
83 alleged victim under this policy.

84
85 **C. COMPLAINTS BROUGHT BY ALLEGED VICTIMS OF DISCRIMINATION, HARASSMENT, OR**
86 **BULLYING**

87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129

1. Filing a Complaint

Any individual, who believes that he or she has been discriminated against, harassed, or bullied is strongly encouraged to file a complaint orally or in writing to any of the following individuals:

- a. The principal or assistant principal of the school at which either the alleged perpetrator or alleged victim attends or is employed;
- b. An immediate supervisor if the individual making the complaint is an employee;
- c. The assistant superintendent of human resources if the alleged perpetrator or alleged victim is an employee of the school system (or the superintendent if the assistant superintendent of human resources is the alleged perpetrator);
- d. The Title IX coordinator for claims of sex discrimination or sexual harassment (see policy 1710/4021/7230 for contact information);
- e. The Section 504 coordinator or the ADA coordinator for claims of discrimination on the basis of a disability (see policy 1710/4021/7230 for contact information); or
- f. For claims of other forms of prohibited discrimination, the applicable civil rights coordinator as established in policy 1710/4021/7230.
- g. In addition, complaints may be filed with:

Office for Civil Rights
U.S. Department of Education
4000 Maryland Ave., SW
Washington, DC 20202-1475
Telephone: 202-453-6020 TDD: 800-877-8339
FAX: 202-453-6021 E-mail: OCR.DC@ed.gov

2. Time Period for Filing a Complaint

A complaint should be filed as soon as possible but no later than 30 days after disclosure or discovery of the facts giving rise to the complaint. Complaints submitted after the 30-day period may be investigated; however, individuals should recognize that delays in reporting may significantly impair the ability of

130 school officials to investigate and respond to such complaints.
131

132 **3. Informal Resolution**
133

134 The board acknowledges that many complaints may be addressed informally
135 through such methods as conferences or mediation. The board encourages the use
136 of informal procedures such as mediation to the extent possible; however,
137 mediation or other informal procedures will not be used to resolve complaints
138 alleging sexual assault or sexual violence, complaints by a student of sexual
139 harassment perpetrated by an employee, or when otherwise inappropriate.
140 Informal procedures may be used only if the parties involved voluntarily agree.
141

142 If an informal process is used, the principal or other designated personnel must (1)
143 notify the complainant that he or she has the option to end the informal process
144 and begin formal procedures at any time and (2) make a copy of this policy and
145 other relevant policies available to the complainant. Any informal process should
146 be completed within a reasonable period of time, not to exceed 30 days unless
147 special circumstances necessitate more time. If informal procedures fail to
148 resolve the matter in a reasonable period of time or are inappropriate, or if the
149 complainant requests formal procedures, the complaints will be investigated
150 promptly, impartially, and thoroughly according to the procedures outlined in the
151 remainder of this policy.
152

153 **D. PROCESS FOR ADDRESSING COMPLAINTS OF ALLEGED INCIDENTS OF DISCRIMINATION,
154 HARASSMENT, OR BULLYING**
155

156 **1. Initiating the Investigation**
157

158 a. Whoever receives a complaint of discrimination, harassment, or bullying
159 pursuant to subsection C.1. shall immediately notify the appropriate
160 investigator who shall respond to the complaint and investigate. The
161 investigator of a complaint is determined as follows:
162

163 1) If the alleged incident occurred under the jurisdiction of the
164 principal, the investigator is the principal or designee, unless the
165 alleged perpetrator is the principal, the assistant superintendent of
166 human resources, the superintendent, or a member of the board. If
167 the alleged perpetrator is any other employee, the principal or
168 designee shall conduct the investigation in consultation with the
169 assistant superintendent of human resources or designee.

170 2) If the alleged perpetrator is the principal, the assistant
171 superintendent of human resources or designee is the investigator.
172

- 173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
- 3) If the alleged incident occurred outside of the jurisdiction of a principal (for example, at the central office), the assistant superintendent of human resources or designee is the investigator unless the alleged perpetrator is the assistant superintendent of human resources, the superintendent, or a member of the board.
 - 4) If the alleged perpetrator is the assistant superintendent of human resources, the superintendent or designee is the investigator.
 - 5) If the alleged perpetrator is the superintendent, the board attorney is the investigator. (In such cases, whoever receives a complaint of discrimination, harassment, or bullying shall immediately notify the assistant superintendent of human resources who shall immediately notify the board chair. The board chair shall direct the board attorney to respond to the complaint and investigate.)
 - 6) If the alleged perpetrator is a member of the board, the board attorney is the investigator. (In such cases, whoever receives a complaint of discrimination, harassment, or bullying shall immediately notify the superintendent who shall direct the board attorney to respond to the complaint and investigate. Unless the board chair is the alleged perpetrator, the superintendent shall also notify the board chair of the complaint.)
- b. As applicable, the investigator shall immediately notify the Title IX, Section 504, ADA, or other relevant coordinator of the complaint, and, as appropriate, may designate the coordinator to conduct the investigation.
 - c. The investigator shall explain the process of the investigation to the complainant and inquire as to whether the complainant would like to suggest a course of corrective action.
 - d. Written documentation of all reports and complaints, as well as the school system's response, must be maintained in accordance with policy 1710/4021/7230.
 - e. Failure to investigate and/or address claims of discrimination, harassment, or bullying shall result in disciplinary action.
2. **Conducting the Investigation**
- a. The investigator is responsible for determining whether the alleged act(s)

216 constitutes a violation of policy 1710/4021/7230 or policy
217 1730/4022/7231. In so doing, the investigator shall impartially, promptly,
218 and thoroughly investigate the complaint. The investigator shall interview
219 (1) the complainant; (2) the alleged perpetrator(s); (3) individuals
220 identified as witnesses by the complainant or alleged perpetrator(s); and
221 (4) any other individuals, including other possible victims, who may have
222 relevant information. The investigation will include a review of all
223 evidence presented by the complainant or alleged perpetrator.
224

225 b. The complaint and investigation will be kept confidential to the extent
226 possible. Information may be shared only with individuals who need the
227 information in order to investigate and address the complaint
228 appropriately. Any requests by the complainant for further confidentiality
229 will be evaluated within the context of the legal responsibilities of the
230 school system. Any complaints withdrawn to protect confidentiality must
231 be recorded in accordance with policy 1710/4021/7230.
232

233 c. The investigator shall review the factual information gathered through the
234 investigation to determine whether, based on a preponderance of the
235 evidence, the alleged conduct constitutes discrimination, harassment, or
236 bullying, giving consideration to all factual information, the context in
237 which the alleged incidents occurred, the age and maturity of the
238 complainant and alleged perpetrator(s), and any other relevant
239 circumstances.
240

241 3. **Investigative Report**

242
243 a. The investigator shall submit a written investigative report to the
244 superintendent and, as applicable, to the Title IX, Section 504, ADA, or
245 other coordinator.
246

247 b. The investigator shall provide written notification to the complainant of
248 the results of the investigation within 15 days of receiving the complaint,
249 unless additional time is necessary to conduct an impartial, thorough
250 investigation. The investigator shall specify whether the complaint was
251 substantiated and, if so, shall also specify:
252

253 1) Reasonable, timely, age-appropriate, corrective action intended to
254 end the discrimination, harassment, or bullying, and prevent it
255 from recurring;

256
257 2) As needed, reasonable steps to address the effects of the
258 discrimination, harassment, or bullying on the complainant; and

- 259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
- 3) As needed, reasonable steps to protect the complainant from retaliation as a result of communicating the complaint.
 - c. Information regarding specific disciplinary action imposed on the alleged perpetrator(s) will not be given to the complainant unless the information relates directly to the complainant (e.g., an order requiring the perpetrator not to have contact with the complainant).
 - d. If the investigator determines that the complaint was substantiated, the perpetrator(s) shall be subject to discipline or other corrective steps, as described in policy 1710/4021/7230. If the corrective steps involve actions outside the scope of the investigator’s authority, the superintendent will be notified so that responsibility for taking the corrective steps may be delegated to the appropriate individual.
 - e. Each alleged perpetrator will be provided with a written summary of the results of the investigation in regard to whether the complaint was substantiated, whether the alleged perpetrator violated relevant law or board policies by his or her actions, and what, if any, disciplinary actions or consequences will be imposed upon the perpetrator in accordance with board policy. The perpetrator may appeal any disciplinary action or consequence in accordance with board policy and law. However, an appeal by the perpetrator of disciplinary action does not preclude school officials from taking appropriate action to address the discrimination, harassment, or bullying.
4. **Appeal of Investigative Report**
- a. If the complainant is dissatisfied with the investigative report, he or she may appeal the decision to the superintendent (unless the alleged perpetrator is the assistant superintendent of human resources or the superintendent, in which cases the complainant may appeal directly to the board in accordance with the procedure described in subsection D.4.b, below). The appeal must be submitted in writing within five days of receiving the investigative report. The superintendent may review the documents, conduct any further investigation necessary, or take any other steps the superintendent determines to be appropriate in order to respond to the complaint. The superintendent shall provide a written response within 10 days after receiving the appeal, unless further investigation is needed.
 - b. If the complainant is dissatisfied with the superintendent’s response, he or

302 she may appeal the decision to the board within five days of receiving the
303 superintendent's response. The board will review the documents, direct
304 that further investigation be conducted if necessary, and take any other
305 steps that the board determines to be appropriate in order to respond to the
306 complaint. Upon request of the complainant, the board will hold a hearing
307 pursuant to policy 2500, Hearings Before the Board. The board will
308 provide a written response within 30 days after receiving the appeal,
309 unless further investigation is necessary or the hearing necessitates that
310 more time be taken to respond.

311
312 **E. TIMELINESS OF PROCESS**

313
314 The number of days indicated at each step of the process should be considered a
315 maximum. Every effort should be made to expedite the process.

316
317 If any school official charged with investigating the complaint or reviewing the
318 investigation fails at any step in the process to communicate a decision within the
319 specified time limit, the complainant will be entitled to appeal the complaint to the next
320 step unless the official has notified the complainant of the delay and the reason for the
321 delay, such as the complexity of the investigation, review, or report. The school official
322 shall make reasonable efforts to keep the complainant apprised of progress being made
323 during any period of delay. Delays that interfere with the exercise of any legal rights are
324 not permitted.

325
326 Failure by the complainant at any step in the process to appeal a complaint to the next
327 step within the specified time limit will be considered acceptance of the decision at that
328 step, unless the complainant has notified the investigator of a delay and the reason for the
329 delay and the investigator has consented in writing to the delay.

330
331 **F. GENERAL REQUIREMENTS**

- 332
333 1. No reprisals or retaliation of any kind will be taken by the board or by an
334 employee of the school system against the complainant or other individual on
335 account of his or her filing a complaint or report or participating in an
336 investigation of a complaint or report filed and decided pursuant to this policy,
337 unless the person knew or had reason to believe that the complaint or report was
338 false or knowingly provided false information.
- 339
340 2. All meetings and hearings conducted pursuant to this policy will be private.
- 341
342 3. The board and school system officials will consider requests to hear complaints
343 from a group, but the board and officials have the discretion to hear and respond
344 to complainants individually.

**DISCRIMINATION, HARASSMENT, AND
BULLYING COMPLAINT PROCEDURE**

Policy Code: **1720/4015/7225**

- 345
346 4. The complainant may be represented by an advocate, such as an attorney, at any
347 meeting with school system officials.
348
349 5. Should, in the judgment of the superintendent or designee, the investigation or
350 processing of a complaint require that an employee be absent from regular work
351 assignments, such absences shall be excused without loss of pay or benefits. This
352 shall not prevent the superintendent or designee from suspending the alleged
353 perpetrator without pay during the course of the investigation.
354

355 **G. RECORDS**

356 Records will be maintained as required by policy 1710/4021/7230.
357
358

359 Legal References: Age Discrimination in Employment Act of 1967, 29 U.S.C. 621 *et seq.*, 34
360 C.F.R. pt. 110; Americans with Disabilities Act, 42 U.S.C. 12101 *et seq.*, 28 C.F.R. pt. 35;
361 Family Educational Rights and Privacy Act, 20 U.S.C. 1232g; Rehabilitation Act of 1973, 29
362 U.S.C. 705(20), 794, 34 C.F.R. pt. 104; Title VI of the Civil Rights Act of 1964, 42 U.S.C.
363 2000d *et seq.*, 34 C.F.R. pt. 100; Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e *et*
364 *seq.*, 29 C.F.R. pt. 1604; Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 *et seq.*,
365 34 C.F.R. pt. 106; Boy Scouts of America Equal Access Act, 20 U.S.C. 7905, 34 C.F.R. pt. 108;
366 *Racial Incidents and Harassment Against Students at Educational Institutions: Investigative*
367 *Guidance*, U.S. Department of Education, Office for Civil Rights (1994); *Revised Sexual*
368 *Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third*
369 *Parties*, U.S. Department of Education, Office for Civil Rights (2001); *Notice of Non-*
370 *Discrimination*, U.S. Department of Education, Office for Civil Rights (2010); *Gebser v. Lago*
371 *Vista Independent School District*, 524 U.S. 274 (1998); *Davis v. Monroe County Board of*
372 *Education*, 526 U.S. 629 (1999); G.S. 115C-407.15 through -407.18
373

374 Cross References: Prohibition Against Discrimination, Harassment, and Bullying (policy
375 1710/4021/7230), Student and Parent Grievance Procedure (policy 1740/4010), Hearings Before
376 the Board (policy 2500), Assaults, Threats, and Harassment (policy 4331)
377

378 Adopted: [February 7, 1994](#)

379
380 Revised: [August 16, 2004](#); [March 7, 2005](#); [December 21, 2009](#); [January 21, 2004](#); [DATE]