

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

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

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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.

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11 **A. DEFINITIONS**

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13 1. **Alleged Perpetrator**

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15 The alleged perpetrator is the individual alleged to have discriminated against,  
16 harassed, or bullied the complainant.  
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18 2. **Complaint**

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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.  
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23 3. **Complainant**

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25 The complainant is the individual complaining of being discriminated against,  
26 harassed, or bullied.  
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28 4. **Days**

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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.  
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37 5. **Investigative Report**

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39 The investigative report is a written account of the findings of the investigation  
40 conducted in response to a complaint.  
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42 6. **Investigator**

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

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47 **7. Report**

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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.

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

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

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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.

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

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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.

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70 **3. Anonymous Reporting**

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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.

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76 **4. Investigation of Reports**

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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.

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

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**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.

**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 school officials to investigate and respond to such complaints.

**3. Informal Resolution**

The board acknowledges that many complaints may be addressed informally through such methods as conferences or mediation. The board encourages the use of informal procedures such as mediation to the extent possible; however, mediation or other informal procedures will not be used to resolve complaints alleging sexual assault or sexual violence, complaints by a student of sexual

130 harassment perpetrated by an employee, or when otherwise inappropriate.  
131 Informal procedures may be used only if the parties involved voluntarily agree.  
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133 If an informal process is used, the principal or other designated personnel must (1)  
134 notify the complainant that he or she has the option to end the informal process  
135 and begin formal procedures at any time and (2) make a copy of this policy and  
136 other relevant policies available to the complainant. Any informal process should  
137 be completed within a reasonable period of time, not to exceed 30 days unless  
138 special circumstances necessitate more time. If informal procedures fail to  
139 resolve the matter in a reasonable period of time or are inappropriate, or if the  
140 complainant requests formal procedures, the complaints will be investigated  
141 promptly, impartially, and thoroughly according to the procedures outlined in the  
142 remainder of this policy.  
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144 **4. Other Resources**

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146 Individuals may also contact the Office for Civil Rights at the U.S. Department of  
147 Education:

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149 4000 Maryland Ave., SW  
150 Washington, DC 20202-1475  
151 Telephone: 202-453-6020 TDD: 800-877-8339  
152 FAX: 202-453-6021 E-mail: OCR.DC@ed.gov  
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154 **D. PROCESS FOR ADDRESSING COMPLAINTS OF ALLEGED INCIDENTS OF DISCRIMINATION,  
155 HARASSMENT, OR BULLYING**

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157 **1. Initiating the Investigation**

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159 a. Whoever receives a complaint of discrimination, harassment, or bullying  
160 pursuant to subsection C.1. shall immediately notify the appropriate  
161 investigator who shall respond to the complaint and investigate. The  
162 investigator of a complaint is determined as follows:  
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164 1) If the alleged incident occurred under the jurisdiction of the  
165 principal, the investigator is the principal or designee, unless the  
166 alleged perpetrator is the principal, the assistant superintendent of  
167 human resources, the superintendent, or a member of the board. If  
168 the alleged perpetrator is any other employee, the principal or  
169 designee shall conduct the investigation in consultation with the  
170 assistant superintendent of human resources or designee.  
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172 2) If the alleged perpetrator is the principal, the assistant

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

214 **2. Conducting the Investigation**  
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- 216 a. The investigator is responsible for determining whether the alleged act(s)  
217 constitutes a violation of policy 1710/4021/7230 or policy  
218 1730/4022/7231. In so doing, the investigator shall impartially, promptly,  
219 and thoroughly investigate the complaint. The investigator shall interview  
220 (1) the complainant; (2) the alleged perpetrator(s); (3) individuals  
221 identified as witnesses by the complainant or alleged perpetrator(s); and  
222 (4) any other individuals, including other possible victims, who may have  
223 relevant information. The investigation will include a review of all  
224 evidence presented by the complainant or alleged perpetrator.  
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- 226 b. The complaint and investigation will be kept confidential to the extent  
227 possible. Information may be shared only with individuals who need the  
228 information in order to investigate and address the complaint appropriately  
229 and those with a legal right to access the information. Any requests by the  
230 complainant for further confidentiality will be evaluated within the context  
231 of the legal responsibilities of the school system. Any complaints  
232 withdrawn to protect confidentiality must be recorded in accordance with  
233 policy 1710/4021/7230.  
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- 235 c. The investigator shall review the factual information gathered through the  
236 investigation to determine whether, based on a preponderance of the  
237 evidence, the alleged conduct constitutes discrimination, harassment, or  
238 bullying, giving consideration to all factual information, the context in  
239 which the alleged incidents occurred, the age and maturity of the  
240 complainant and alleged perpetrator(s), and any other relevant  
241 circumstances. The investigator shall submit a written investigative report  
242 to the superintendent and, as applicable, to the Title IX, Section 504, ADA  
243 or other coordinator.  
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- 245 **3. Notice to Complainant and Alleged Perpetrator**  
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- 247 a. 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:  
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- 253 1) reasonable, timely, age-appropriate, corrective action intended to  
254 end the discrimination, harassment, or bullying, and prevent it  
255 from recurring;  
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- 257 2) as needed, reasonable steps to address the effects of the  
258 discrimination, harassment, or bullying on the complainant; and

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- 3) as needed, reasonable steps to protect the complainant from retaliation as a result of communicating the complaint.
  - b. **If required by federal law**, information regarding specific disciplinary action imposed on the alleged perpetrator(s) will ~~not~~ be given to the complainant, **unless such as when** the information relates directly to the complainant (e.g., an order requiring the perpetrator not to have contact with the complainant). **However, school officials are encouraged to consult with the superintendent and board attorney before releasing such information.**
  - c. 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.
  - d. 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**
- a. If the complainant is dissatisfied with the results of the investigation, 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 notice of the results of the investigation. 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

302 investigation is needed.

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

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**E. TIMELINESS OF PROCESS**

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

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

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

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**F. GENERAL REQUIREMENTS**

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1. No reprisals or retaliation of any kind will be taken by the board or by an employee of the school system against the complainant or other individual on account of his or her filing a complaint or report or participating in an investigation of a complaint or report filed and decided pursuant to this policy, unless the person knew or had reason to believe that the complaint or report was false or knowingly provided false information.
2. All meetings and hearings conducted pursuant to this policy will be private.



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- 345           3.       The board and school system officials will consider requests to hear complaints  
346                   from a group, but the board and officials have the discretion to hear and respond  
347                   to complainants individually.  
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- 349           4.       The complainant may be represented by an advocate, such as an attorney, at any  
350                   meeting with school system officials.  
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- 352           5.       Should, in the judgment of the superintendent or designee, the investigation or  
353                   processing of a complaint require that an employee be absent from regular work  
354                   assignments, such absences shall be excused without loss of pay or benefits. This  
355                   shall not prevent the superintendent or designee from suspending the alleged  
356                   perpetrator without pay during the course of the investigation.  
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358 **G.       RECORDS**

359           Records will be maintained as required by policy 1710/4021/7230.  
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362 Legal References: Age Discrimination in Employment Act of 1967, 29 U.S.C. 621 *et seq.*, 34  
363 C.F.R. pt. 110; Americans with Disabilities Act, 42 U.S.C. 12101 *et seq.*, 28 C.F.R. pt. 35;  
364 Family Educational Rights and Privacy Act, 20 U.S.C. 1232g; Rehabilitation Act of 1973, 29  
365 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.  
366 2000d *et seq.*, 34 C.F.R. pt. 100; Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e *et*  
367 *seq.*, 29 C.F.R. pt. 1604; Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 *et seq.*,  
368 34 C.F.R. pt. 106; Boy Scouts of America Equal Access Act, 20 U.S.C. 7905, 34 C.F.R. pt. 108;  
369 *Racial Incidents and Harassment Against Students at Educational Institutions: Investigative*  
370 *Guidance*, U.S. Department of Education, Office for Civil Rights (1994); *Revised Sexual*  
371 *Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third*  
372 *Parties*, U.S. Department of Education, Office for Civil Rights (2001); *Notice of Non-*  
373 *Discrimination*, U.S. Department of Education, Office for Civil Rights (2010); *Gebser v. Lago*  
374 *Vista Independent School District*, 524 U.S. 274 (1998); *Davis v. Monroe County Board of*  
375 *Education*, 526 U.S. 629 (1999); G.S. 115C-407.15 through -407.18  
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377 Cross References: Prohibition Against Discrimination, Harassment, and Bullying (policy  
378 1710/4021/7230), Student and Parent Grievance Procedure (policy 1740/4010), Hearings Before  
379 the Board (policy 2500), Assaults, Threats, and Harassment (policy 4331)  
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381 Adopted: February 7, 1994  
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383 Revised: August 16, 2004; March 7, 2005; December 21, 2009; January 21, 2004;  
384 September 21, 2015; December 14, 2015; [DATE]