

**DISCRIMINATION AND HARASSMENT
IN THE WORKPLACE**

Policy Code: **7232**

1 The board prohibits unlawful discrimination in employment based on race, color, religion,
2 national origin, military affiliation, genetic information, sex (including pregnancy, childbirth,
3 sexual orientation, and gender identity), age (40 or older), disability, or other unlawful grounds.
4 Harassment is a form of unlawful employment discrimination. The board recognizes that all
5 forms of harassment of employees or applicants is harmful behavior that negatively impacts the
6 workplace environment.

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8 Any employee who engages in discrimination or harassment prohibited by this policy or who
9 contributes to the development of a hostile work environment is subject to discipline, up to and
10 including dismissal.

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12 **A. DISCRIMINATION PROHIBITED**

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14 Discrimination is any act or failure to act, whether intentional or unintentional, by an
15 employee or agent of the school system that unreasonably and unfavorably differentiates
16 treatment of others based solely on their membership or that of an associate in a legally-
17 protected class.

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19 Discrimination in employment based on the characteristics listed above is prohibited in
20 all employment-related practices, including hiring, compensation, terms, conditions, and
21 other privileges of employment, except when sex, age, or physical requirements are
22 essential occupational qualifications.

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24 **B. HARASSMENT PROHIBITED**

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26 Harassment prohibited by this policy is unwelcome conduct based on race, color,
27 religion, national origin, military affiliation, genetic information, age (40 or older), sex
28 (including pregnancy, childbirth, sexual orientation, and gender identity), or disability
29 where:

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31 1. enduring the offensive conduct becomes a condition of continued employment; or
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33 2. the conduct is severe or pervasive enough to create a work environment that a
34 reasonable person would consider intimidating, hostile, or abusive, even if the
35 complaining individual is not the intended target.

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37 A single incident of harassment, if physically threatening or humiliating, can create a
38 hostile work environment. The complaining individual need not be the target of the
39 harassment.

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41 Examples of unwelcome conduct that may violate this policy include, but are not limited
42 to, offensive jokes, slurs, epithets or name calling, physical assaults or threats,

43 intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures, and
44 interference with work performance.

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46 Petty slights, annoyances, simple teasing, offhand comments, or isolated incidents (unless
47 extremely serious) are not harassment under this policy, nor are reasonable performance
48 management actions taken to direct and control how work is performed or to monitor and
49 give feedback on work performance. The exercise of legitimate authority administered in
50 a professional and constructive manner is not harassment under this policy.

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52 **C. SEXUAL HARASSMENT PROHIBITED**

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54 Sexual harassment is a particular type of workplace harassment. Sexual harassment
55 prohibited by this policy may also violate policy 1725/4035/7236, Title IX Sexual
56 Harassment – Prohibited Conduct and Reporting Process, and in such cases school
57 officials must proceed in accordance with the requirements of that policy.

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59 Prohibited sexual harassment is unwelcome conduct which is either of a sexual nature, or
60 is directed at a person because of the person’s sex (including pregnancy, childbirth,
61 sexual orientation, and gender identity), when:

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- 63 1. submission to the conduct is made either explicitly or implicitly a term or
64 condition of a person’s employment;
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 - 66 2. submission to or rejection of such conduct is made the basis for decisions
67 affecting a person’s employment; or
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 - 69 3. the conduct has the purpose or effect of unreasonably interfering with an
70 employee’s work performance or creating an intimidating, hostile, or offensive
71 work environment.
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73 Sexual harassment can include unwelcome sexual advances, requests for sexual favors,
74 and other verbal, nonverbal, or physical conduct of a sexual nature, or verbal, nonverbal,
75 or physical aggression, intimidation, or hostility that is based on actual or perceived
76 gender and sexual stereotypes, sexual orientation, or gender identity. Consensual conduct
77 between adults that is not directed at a third party is not sexual harassment.

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79 **D. REPORTING DISCRIMINATION AND HARASSMENT**

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81 Applicants and employees should promptly report orally or in writing any instance of
82 alleged or potential discrimination, including harassment, to their principal or supervisor
83 or the senior human resources official. Upon receiving a written complaint, the principal,
84 supervisor, or senior human resources official shall promptly investigate the written
85 complaint and cause or recommend appropriate corrective action if the written complaint

86 is substantiated. Oral reports of violations may be investigated at the discretion of the
87 school officials designated above. All reports and complaints of harassment under this
88 policy will be investigated in a manner that protects the employee or applicant and
89 maintains confidentiality to the greatest extent possible as permitted by law.
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91 **E. RETALIATION PROHIBITED**

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93 The board prohibits retaliation against any person for making a report or complaint of a
94 violation of this policy, supporting someone for reporting or intending to report a
95 violation of this policy, or participating in the investigation of a reported violation of this
96 policy. No reprisals will be taken by the board against a complaining party or other
97 individual who makes a good faith report of discrimination or harassment. Any person
98 who is found to have engaged in retaliation will be subject to discipline, up to and
99 including dismissal. Acts of retaliation may also be subject to policy 1760/7280,
100 Prohibition Against Retaliation.
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102 Legal References: Age Discrimination in Employment Act of 1967, 29 U.S.C. 621 *et seq.*, 34
103 C.F.R. pt. 110; Americans with Disabilities Act, 42 U.S.C. 12101 *et seq.*, 28 C.F.R. pt. 35;
104 Rehabilitation Act of 1973, 29 U.S.C. 705(20), 794, 34 C.F.R. pt. 104; Title II of the Genetic
105 Information Nondiscrimination Act of 2008; Title VII of the Civil Rights Act of 1964, 42 U.S.C.
106 2000e *et seq.*, 29 C.F.R. pt. 1604; Uniformed Services Employment and Reemployment Rights
107 Act of 1994, 38 U.S.C. 4301 *et seq.*; *Bostock v. Clayton County*, 590 U.S. ___, 140 S. Ct. 1731
108 (2020); G.S. 9-32; 50B-5.5; 95-28.1, -28.2, -241; 110-136.8; 127A-201 *et seq.*; 130A-148; 143-
109 422.2; 143B-1033
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111 Cross References: Discrimination and Harassment Prohibited by Federal Law (policy
112 1710/4020/7230), Title IX Nondiscrimination on the Basis of Sex (policy 1720/4030/7235), Title
113 IX Sexual Harassment – Prohibited Conduct and Reporting Process (policy 1725/4035/7236),
114 Title IX Sexual Harassment Grievance Process (policy 1726/4036/7237), Prohibition Against
115 Retaliation (policy 1760/7280), Recruitment and Selection of Personnel (policy 7100)
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117 Adopted: August 17, 2020
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119 Revised: February 15, 2021; August 2, 2021; [DATE]