

**DISCRIMINATION, HARASSMENT AND BULLYING
COMPLAINT PROCEDURE**

1 **A. — APPLICATION OF POLICY**
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3 All persons, agencies, vendors, contractors and other persons and organizations doing
4 business with or performing services for the school district must comply with all
5 applicable federal and state laws and regulations regarding nondiscrimination. Visitors
6 also are expected to comply with applicable laws, including the prohibition against
7 harassment and bullying of students or harassment of employees.
8

9 This policy will apply in, but is not limited to, the following circumstances:
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- 11 1. — While in any school building or on any school premises before, during or after
12 school hours;
- 13 2. — While on any bus or other vehicle as part of any school activity;
- 14 3. — While waiting at any bus stop;
- 15 4. — During any school function, extracurricular activity or other activity or event;
- 16 5. — When subject to the authority of school personnel;
- 17 6. — While using school or personal electronic communications; and
- 18 7. — Any time or place when the behavior has a direct and immediate effect on
19 maintaining order and discipline in the schools.
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21 **B. — DEFINITION**
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23 For the purposes of this policy the following definitions have been provided:
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- 25 1. — *Actual or Perceived Differentiating Characteristics* include, but are not limited to,
26 race; color; religion; ancestry; national origin; gender; sex; age; socioeconomic
27 status; academic status; gender identity; physical appearance; sexual orientation;
28 pregnancy; or mental, physical, developmental or sensory disability or by
29 association with a person who has or is perceived to have one or more of these
30 characteristics.
31
- 32 2. — *Bullying* is deliberately hurtful behavior repeated often over a period of time or on
33 isolated occasions, where a student or group of students deliberately intimidate,
34 threaten or harass another student. Acts of bullying may be psychological or
35 physical in nature and occur in the form of written, spoken, or gestured words.
36 Bullying may include, but is not limited to, acts as defined in this section that are
37 reasonably perceived as being motivated by an actual or perceived differentiating
38 characteristic or by association with a person who has or is perceived to have a
39 differentiating characteristic. Examples of bullying include, but are not limited to,
40 taunting, intimidation, cyber harassment, rumor spreading, extortion of money or

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41 personal items, and playing abusive tricks.
42

43 3. ~~Electronic communications~~ applies to employee and student e-mails, text
44 messaging, instant messaging, chat rooms, blogging, websites and social
45 networking websites (i.e., MySpace or Facebook).
46

47 4. ~~Harassment~~ is unwanted, unwelcome and uninvited behavior, including gestures,
48 written, electronic or verbal communications, or any physical act or any
49 threatening communication that places the person in actual or reasonable fear of
50 harm to his person or property or that results in a hostile environment that
51 interferes with or impairs the person's educational or work environment. A
52 hostile environment can be created through pervasive or persistent misbehavior or
53 a single incident, if sufficiently severe. Harassing behavior may include, but it
54 not limited to, acts as defined in this section that are reasonably perceived as
55 being motivated by an actual or perceived differentiating characteristic or by
56 association with a person who has or is perceived to have a differentiating
57 characteristic. Examples of harassing behavior include, but are not limited to,
58 epithets, derogatory comments or slurs and lewd propositions, assaults, impeding
59 or blocking movement, offensive touching or any physical interference with
60 normal work or movement and visual insults, such as derogatory posters or
61 cartoons. Legitimate age appropriate pedagogical techniques are not considered
62 harassing behavior.
63

64 5. ~~Hazing~~ is subjecting "another student to physical injury as part of an initiation, or
65 as a prerequisite to membership into any organized school group, including any
66 society, athletic team, fraternity or sorority or other similar group" (N.C.G.S. §
67 14-35). Any violation of this section shall constitute a Class 2 misdemeanor.
68

69 6. ~~Discrimination~~ is any act or failure to act that unreasonably and unfavorably
70 differentiates treatment of others based solely on their membership in a socially
71 distinct group or category such as race, ethnicity, sex, pregnancy, religion, age or
72 disability. Discrimination may be intentional or unintentional.
73

74 **C. COMPLAINT PROCEDURES**
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76 If a student or employee believes that he or she has been subjected to forms of bullying,
77 harassment, hazing or discrimination, whether verbal, nonverbal, written, visual or
78 physical, the student or student's parent/guardian should immediately report the situation
79 to the school principal at the school where the student attends. The complaint may be
80 submitted anonymously; however, an anonymous report shall not be construed to permit

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81 formal disciplinary action based solely on this report. If for any reason the student or
82 employee is not comfortable reporting the incident to the school principal, then the
83 complaint should be reported to the Policy Chairman at the Transylvania County Schools
84 Administrative Offices. This person may be contacted by calling the Transylvania
85 County Schools Administrative Offices at (828) 884-6173. Inherent within this policy is
86 the prohibition of reprisal or retaliation against any individual who is involved in the
87 reporting of acts associated with bullying, harassing, hazing or discrimination.
88

89 An attempt to resolve the problem shall then be made through the following process:
90

- 91 1. Within two (2) school days, the principal/designee to whom the problem has been
92 reported shall confer with the charging party in order to obtain a clear understanding
93 of the grieving party's statement of the facts.
94
- 95 2. Within two (2) school days, the principal/designee shall meet with the charged party
96 in order to obtain his or her response to the complaint.
97
- 98 3. Within three (3) school days, the principal/designee will fully investigate all charges,
99 and on the basis of the principal/designee's perception of the situation, he or she may:
100
 - 101 (1) Attempt to resolve the matter informally through conciliation/mediation.
102
 - 103 (2) Follow the student discipline policy (JFC-R) and place a record of the
104 incident in the charged student's disciplinary record or in the charged
105 employee's personnel file.
106
- 107 4. Any student or employee not satisfied with the decision of the principal/designee may
108 request a review of the record by the superintendent/designee. This request for
109 review of the record must be in writing and presented to the superintendent/designee
110 within five (5) school days after the principal's decision.
111
- 112 5. Within five (5) school days after receiving the written request to review the record,
113 the superintendent/designee may attempt to gather more evidence necessary to decide
114 the case, and thereafter impose any sanctions deemed appropriate, including a
115 recommendation to the Board for termination or suspension for a charged employee.
116 The written decision of the superintendent/designee will be given to the grieving
117 party no later than fifteen (15) school days after receiving the request to review the
118 record.
119

120 Any violation of this policy is considered serious and appropriate action will be taken in

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121 response. Students and employees are expected to comply with the behavior standards
122 established by Board policy and the Student Code of Conduct. Students or employees in
123 violation of this or any affiliated policy or the Student Code of Conduct will be
124 disciplined in accordance with Board policy.

125
126 The principal is responsible for reporting and documenting verified acts of bullying,
127 harassment or hazing on the Annual School Violence Report. Responsibility also extends
128 to providing students, parents, and school staff access to this policy and relevant
129 procedures in writing. All Transylvania County employees shall report any known
130 violations of this policy to the school principal or the Policy Chairman.

131
132 **D. TRAINING**

133
134 The Board directs the superintendent to establish training and other programs that are
135 designed to help eliminate bullying, harassment, hazing and discrimination and to foster
136 an environment of understanding and respect for all members of the school community.
137 Information about this policy and related complaint procedures must be included in the
138 training plan.

139
140 **E. NOTICE**

141
142 The superintendent is responsible for providing effective notice to students, parents and
143 employees of the procedures for reporting and investigating complaints of bullying,
144 hazing and discrimination. This policy shall be posted on the school system's website
145 and copies of the policy shall be available in the principal's office, the media center at
146 each school and the superintendent's office. Notice of this policy shall appear in all
147 student handbooks and in any school publication that sets forth the comprehensive rules,
148 procedures and standards of conduct for students.

149
150 **F. NO PROTECTED CLASS**

151
152 Nothing in this policy shall be construed to create any classification, protected class,
153 suspect category or preference beyond those existing in state or federal law or case law.

154
155
156 The Board takes seriously all complaints of unlawful discrimination, harassment and bullying.
157 The process provided in this policy is designed for those individuals who believe that they may
158 have been discriminated against, bullied or harassed in violation of Policy ACB,
159 "Discrimination, Harassment and Bullying." Individuals who have witnessed or have reliable
160 information that another person has been subject to unlawful discrimination, harassment or

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161 bullying also should report such violations to one of the school system officials listed in
162 subsection C.1 of this policy. Reports may be made anonymously.

163
164 **A. DEFINITIONS**

- 165
- 166 1. Alleged Perpetrator
167 The alleged perpetrator is the individual alleged to have discriminated against,
168 harassed or bullied the complainant.
169
- 170 2. Complaint
171 A complaint is an oral or written notification made by a person who believes he or
172 she is the victim of unlawful discrimination, harassment or bullying.
173
- 174 3. Complainant
175 The complainant is the individual complaining of being discriminated against,
176 harassed or bullied.
177
- 178 4. Days
179 Days are the working days, exclusive of Saturdays, Sundays, vacation days or
180 holidays, as set forth in the school calendar. In counting days, the first day will be
181 the first full working day following receipt of the complaint. When a complaint is
182 submitted on or after May 1, time limits will consist of all weekdays (Monday–
183 Friday) so that the matter may be resolved before the close of the school term or
184 as soon thereafter as possible.
185
- 186 5. Investigative Report
187 The investigative report is a written account of the findings of the investigation
188 conducted in response to a complaint.
189
- 190 6. Investigator
191 The investigator is the school official responsible for investigating and responding
192 to the complaint.
193
- 194 7. Report
195 A report is an oral or written notification that an individual, other than the
196 reporter, is a suspected perpetrator or victim of unlawful discrimination,
197 harassment or bullying.
198

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

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201 1. Mandatory Reporting by School Employees
202 Any employee who witnessed or who has reliable information or reason to believe
203 that an individual may have been discriminated against, harassed or bullied in
204 violation of Policy ACB, "Discrimination, Harassment and Bullying," must report
205 the offense immediately to an appropriate individual designated in subsection C.1
206 below. An employee who does not promptly report possible discrimination,
207 harassment or bullying shall be subject to disciplinary action.
208

209 2. Reporting by Other Third Parties
210 All members of the school community including students, parents, volunteers and
211 visitors are also strongly encouraged to report any act that may constitute an
212 incident of discrimination, harassment or bullying.
213

214 3. Anonymous Reporting
215 Reports of discrimination, harassment or bullying may be made anonymously but
216 formal disciplinary action may not be taken solely on the basis of an anonymous
217 report.
218

219 4. Investigation of Reports
220 Reports of discrimination, harassment or bullying shall be investigated
221 sufficiently to determine whether further action under this policy or otherwise is
222 necessary, and school officials shall take such action as appropriate under the
223 circumstances. At the option of the alleged victim, the report may be treated as a
224 complaint by the alleged victim under this policy.
225

226 **C. COMPLAINTS BROUGHT BY ALLEGED VICTIMS OF DISCRIMINATION, HARASSMENT OR**
227 **BULLYING**
228

229 1. Filing a Complaint
230 Any individual, who believes that he or she has been discriminated against,
231 harassed or bullied is strongly encouraged to file a complaint orally or in writing
232 to any of the following individuals:
233

234 a. The principal or assistant principal of the school at which either the
235 alleged perpetrator or alleged victim attends or is employed;
236

237 b. An immediate supervisor if the individual making the complaint is an
238 employee;
239

240 c. The assistant superintendent if the alleged perpetrator or alleged victim is

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- 241 an employee of the school system (or the superintendent if the assistant
242 superintendent is the alleged perpetrator);
243
244 d. The Title IX coordinator for claims of sex discrimination or sexual
245 harassment;
246
247 e. The Section 504 coordinator or the ADA coordinator for claims of
248 discrimination on the basis of a disability; or
249
250 f. For claims of other forms of prohibited discrimination, the applicable civil
251 rights coordinator as established in Policy ACB.
252
253 g. If for any reason the student or employee is not comfortable reporting the
254 incident to the individuals listed above, then the complaint should be
255 reported to the policy chairman at the Transylvania County Schools
256 Administrative Offices. This person may be contacted by calling the
257 Transylvania County Schools Administrative Offices at (828) 884-6173.
258

259 2. Time Period for Filing a Complaint

260 A complaint should be filed as soon as possible but no later than 30 days after
261 disclosure or discovery of the facts giving rise to the complaint. Complaints
262 submitted after the 30-day period may be investigated; however, individuals
263 should recognize that delays in reporting may significantly impair the ability of
264 school officials to investigate and respond to such complaints.
265

266 3. Informal Resolution

267 The Board acknowledges that many complaints may be addressed informally
268 through such methods as conferences or mediation, and the board encourages the
269 use of such procedures to the extent possible. If an informal process is used, the
270 principal or other designated personnel must (1) notify the complainant that he or
271 she has the option to request formal procedures at any time; and (2) make a copy
272 of this policy and other relevant policies available to the complainant. In those
273 circumstances in which informal procedures fail or are inappropriate or in which
274 the complainant requests formal procedures, the complaints will be investigated
275 promptly, impartially and thoroughly according to the procedures outlined in the
276 remainder of this policy.
277

278 **D. PROCESS FOR ADDRESSING COMPLAINTS OF ALLEGED INCIDENTS OF DISCRIMINATION,
279 HARASSMENT OR BULLYING**
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1. Initiating the Investigation

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

- 1) If the alleged incident occurred under the jurisdiction of the principal, the investigator is the principal or designee, unless the alleged perpetrator is the principal, the assistant superintendent, the superintendent or a member of the board. If the alleged perpetrator is any other employee, the principal or designee shall conduct the investigation in consultation with the assistant superintendent of human resources or designee.
- 2) If the alleged perpetrator is the principal, the assistant superintendent or designee is the investigator.
- 3) If the alleged incident occurred outside of the jurisdiction of a principal (for example, at the central office), the assistant superintendent 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, 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 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

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321 notify the board chair of the complaint.)

- 322
- 323 b. As applicable, the investigator shall immediately notify the Title IX,
324 Section 504, ADA or other relevant coordinator of the complaint, and, as
325 appropriate, may designate the coordinator to conduct the investigation.
326
- 327 c. The investigator shall explain the process of the investigation to the
328 complainant and inquire as to whether the complainant would like to
329 suggest a course of corrective action.
330
- 331 d. Written documentation of all reports and complaints, as well as the school
332 system's response, must be maintained in accordance with Policy ACB.
333
- 334 e. Failure to investigate and/or address claims of discrimination, harassment
335 or bullying shall result in disciplinary action.
336

337 2. Conducting the Investigation

- 338
- 339 a. The investigator is responsible for determining whether the alleged act(s)
340 constitutes a violation of Policy ACB. In so doing, the investigator shall
341 impartially, promptly and thoroughly investigate the complaint. The
342 investigator shall interview (1) the complainant; (2) the alleged
343 perpetrator(s); and (3) any other individuals, including other possible
344 victims, who may have relevant information.
345
- 346 b. Information may be shared only with individuals who need the
347 information in order to investigate and address the complaint
348 appropriately. Any requests by the complainant for confidentiality shall
349 be evaluated within the context of the legal responsibilities of the school
350 system. Any complaints withdrawn to protect confidentiality must be
351 recorded in accordance with Policy ACB.
352
- 353 c. The investigator shall review the factual information gathered through the
354 investigation to determine whether the alleged conduct constitutes
355 discrimination, harassment or bullying, giving consideration to all factual
356 information, the context in which the alleged incidents occurred, the age
357 and maturity of the complainant and alleged perpetrator(s), and any other
358 relevant circumstances.
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360 3. Investigative Report

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- a. The investigator shall submit a written investigative report to the superintendent and, as applicable, to the Title IX, Section 504, ADA or other coordinator.
 - b. The investigator shall notify the complainant of the results of the investigation within 15 days of receiving the complaint, unless additional time is necessary to conduct an impartial, thorough investigation. The investigator shall specify whether the complaint was substantiated and, if so, shall also specify:
 - 1) Reasonable, timely, age-appropriate, corrective action intended to end the discrimination, harassment or bullying and prevent it from recurring;
 - 2) As needed, reasonable steps to address the effects of the discrimination, harassment or bullying on the complainant; and
 - 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

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401 appeal by the perpetrator of disciplinary action does not preclude school
402 officials from taking appropriate action to address the discrimination,
403 harassment or bullying.
404

405 4. Appeal of Investigative Report
406

407 a. If the complainant is dissatisfied with the investigative report, he or she
408 may appeal the decision to the superintendent (unless the alleged
409 perpetrator is the assistant superintendent of human resources or the
410 superintendent, in which cases the complainant may appeal directly to the
411 board in accordance with the procedure described in subsection D.4.b
412 below). The appeal must be submitted in writing within five days of
413 receiving the investigative report. The superintendent may review the
414 documents, conduct any further investigation necessary or take any other
415 steps the superintendent determines to be appropriate in order to respond
416 to the complaint. The superintendent shall provide a written response
417 within 10 days after receiving the appeal, unless further investigation is
418 needed.
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420 b. If the complainant is dissatisfied with the superintendent's response, he or
421 she may appeal the decision to the Board within five days of receiving the
422 superintendent's response. The Board will review the documents, direct
423 that further investigation be conducted if necessary and take any other
424 steps that the Board determines to be appropriate in order to respond to the
425 complaint. Upon request of the complainant, the Board will hold a
426 hearing pursuant to Policy BDA, "Hearings Before the Board." The
427 Board will provide a written response within 30 days after receiving the
428 appeal, unless further investigation is necessary or the hearing necessitates
429 that more time be taken to respond.
430

431 **E. TIMELINESS OF PROCESS**
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433 The number of days indicated at each step of the process should be considered a
434 maximum. Every effort should be made to expedite the process.
435

436 If any school official charged with investigating the complaint or reviewing the
437 investigation fails at any step in the process to communicate a decision within the
438 specified time limit, the complainant will be entitled to appeal the complaint to the next
439 step unless the official has notified the complainant of the delay and the reason for the
440 delay, such as the complexity of the investigation, review or report. The school official

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441 shall make reasonable efforts to keep the complainant apprised of progress being made
442 during any period of delay. Delays that interfere with the exercise of any legal rights are
443 not permitted.
444

445 Failure by the complainant at any step in the process to appeal a complaint to the next
446 step within the specified time limit will be considered acceptance of the decision at that
447 step, unless the complainant has notified the investigator of a delay and the reason for the
448 delay and the investigator has consented in writing to the delay.
449

450 **F. GENERAL REQUIREMENTS**
451

- 452 1. No reprisals or retaliation of any kind will be taken by the Board or by an
453 employee of the school system against the complainant or other individual on
454 account of his or her filing a complaint or report or participating in an
455 investigation of a complaint or report filed and decided pursuant to this policy,
456 unless the person knew or had reason to believe that the complaint or report was
457 false or knowingly provided false information.
458
- 459 2. All meetings and hearings conducted pursuant to this policy will be private.
460
- 461 3. The Board and school system officials will consider requests to hear complaints
462 from a group, but the Board and officials have the discretion to hear and respond
463 to complainants individually.
464
- 465 4. The complainant may be represented by an advocate, such as an attorney, at any
466 meeting with school system officials.
467
- 468 5. Should, in the judgment of the superintendent or designee, the investigation or
469 processing of a complaint require that an employee be absent from regular work
470 assignments, such absences shall be excused without loss of pay or benefits. This
471 shall not prevent the superintendent or designee from suspending the alleged
472 perpetrator without pay during the course of the investigation.
473

474 **G. RECORDS**
475

476 Records will be maintained as required by Policy ACB.
477

478 Legal References: Age Discrimination in Employment Act of 1967, 29 U.S.C. 621 *et seq.*, 34
479 C.F.R. pt. 110; Americans with Disabilities Act, 42 U.S.C. 12101 *et seq.*, 28 C.F.R. pt. 35;
480 Family Educational Rights and Privacy Act, 20 U.S.C. 1232g; Rehabilitation Act of 1973, 29

~~INTERPERSONAL HUMAN RELATIONS
AND GRIEVANCE PROCEDURES~~

FILE: ACB-R

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481 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.
482 2000d *et seq.*, 34 C.F.R. pt. 100; Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e *et*
483 *seq.*, 29 C.F.R. pt. 1604; Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 *et seq.*,
484 34 C.F.R. pt. 106; Boy Scouts of America Equal Access Act, 20 U.S.C. 7905, 34 C.F.R. pt. 108;
485 *Racial Incidents and Harassment Against Students at Educational Institutions; Investigative*
486 *Guidance*, U.S. Department of Education, Office for Civil Rights (1994); *Revised Sexual*
487 *Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third*
488 *Parties*, U.S. Department of Education, Office for Civil Rights (2001); *Notice of Non-*
489 *Discrimination*, U.S. Department of Education, Office for Civil Rights (2010); *Gebser v. Lago*
490 *Vista Independent School District*, 524 U.S. 274 (1998); *Davis v. Monroe County Board of*
491 *Education*, 526 U.S. 629 (1999); G.S. 115C-407.15 through -407.18; State Board of Education
492 Policy HRS-A-007

493
494 Cross References: Discrimination, Harassment and Bullying (Policy ACB), Hearings Before the
495 Board (Policy BDA).

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499 APPROVED BY BOARD
500 AND EFFECTIVE 2/7/94
501 REVISED 8/16/04
502 REVISED 3/7/05
503 REVISED 12/21/09
504 **REVISED** _____
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REVISED