

DISCRIMINATION, HARASSMENT AND BULLYING

1 ~~The Board of Education believes it is part of its mission to provide a positive, harmonious~~
2 ~~environment in which respect for the diverse makeup of the school community is promoted.~~

3
4 ~~The school system will not tolerate inappropriate behavior or language by students or employees~~
5 ~~which results in bullying, harassment and hazing based on actual or perceived differentiating~~
6 ~~characteristics (as defined herein) or discrimination (as defined herein).~~

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8 **The Board of Education acknowledges the dignity and worth of all students and employees and**
9 **strives to create a safe, orderly, caring, and inviting school environment to facilitate student**
10 **learning and achievement. The Board prohibits discrimination on the basis of race, color,**
11 **national origin, sex, disability, or age and will provide equal access to the Boy Scouts and other**
12 **designated youth groups as required by law. The Board will not tolerate any form of unlawful**
13 **discrimination, harassment, or bullying in any of its educational or employment activities or**
14 **programs.**

15
16 **A. PROHIBITED BEHAVIORS AND CONSEQUENCES**

17
18 **1. Discrimination, Harassment, and Bullying**

19
20 Students, school system employees, volunteers, and visitors are expected to
21 behave in a civil and respectful manner. The Board expressly prohibits unlawful
22 discrimination, harassment, and bullying. All persons, agencies, vendors,
23 contractors and other persons and organizations doing business with or
24 performing services for the school district must comply with all applicable federal
25 and state laws and regulations regarding nondiscrimination.

26
27 Students are expected to comply with the behavior standards established by Board
28 policy and the Code of Student Conduct. Employees are expected to comply with
29 board policy and school system regulations. Volunteers and visitors on school
30 property also are expected to comply with board policy and established school
31 rules and procedures.

32
33 Any violation of this policy is serious and school officials shall promptly take
34 appropriate action. Students will be disciplined in accordance with the school's
35 student behavior management plan (see Policy JFC, "Student
36 Conduct/Discipline"). Based on the nature and severity of the offense and the
37 circumstances surrounding the incident, the student will be subject to appropriate
38 consequences and remedial actions ranging from positive behavioral interventions
39 up to, and including, expulsion.

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41 Employees who violate this policy will be subject to disciplinary action, up to,
42 and including, dismissal. Volunteers and visitors who violate this policy will be
43 directed to leave school property and/or reported to law enforcement, as
44 appropriate.

45
46 When considering if a response beyond the individual level is appropriate, school
47 administrators should consider the nature and severity of the misconduct to
48 determine whether a classroom, school-wide, or school system-wide response is
49 necessary. Such classroom, school-wide, or school system-wide responses may
50 include staff training, harassment and bullying prevention programs, and other
51 measures deemed appropriate by the superintendent to address the behavior.

52
53 **2. Retaliation**

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55 The Board prohibits reprisal or retaliation against any person for reporting or
56 intending to report violations of this policy, supporting someone for reporting or
57 intending to report a violation of this policy, or participating in the investigation
58 of reported violations of this policy.

59
60 After consideration of the nature and circumstances of the reprisal or retaliation
61 and in accordance with applicable federal, state or local laws, policies, and
62 regulations, the superintendent or designee shall determine the consequences and
63 remedial action for a person found to have engaged in reprisal or retaliation.

64
65 **B. APPLICATION OF POLICY**

66
67 This policy prohibits unlawful discrimination, harassment, and bullying by students,
68 employees, volunteers, and visitors. "Visitors" includes persons, agencies, vendors,
69 contractors, and organizations doing business with or performing services for the school
70 system.

71
72 This policy applies to behavior that takes place:

- 73
74 1. In any school building or on any school premises before, during or after school
75 hours;
76 2. On any bus or other vehicle as part of any school activity;
77 3. At any bus stop;
78 4. During any school-sponsored activity or extracurricular activity;
79 5. At any time or place when the individual is subject to the authority of school
80 personnel; and

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81 6. At any time or place when the behavior has a direct and immediate effect on
82 maintaining order and discipline in the schools.

83
84 **C. DEFINITIONS**

85
86 For purposes of this policy, the following definitions apply:
87

88 1. Discrimination

89
90 Discrimination means any act or failure to act that unreasonably and unfavorably
91 differentiates treatment of others based solely on their membership in a socially
92 distinct group or category, such as race, ethnicity, sex, pregnancy, religion, age, or
93 disability. Discrimination may be intentional or unintentional.
94

95 2. Harassment and Bullying

96
97 a. Harassment or bullying behavior is any pattern of gestures or written,
98 electronic, or verbal communications, or any physical act or any
99 threatening communication that:

- 100
101 1) Places a student or school employee in actual and reasonable fear
102 of harm to his or her person or damage to his or her property; or
103
104 2) Creates or is certain to create a hostile environment by
105 substantially interfering with or impairing a student's educational
106 performance, opportunities, or benefits.
107

108 "Hostile environment" means that the victim subjectively views the
109 conduct as harassment or bullying and that the conduct is objectively
110 severe or pervasive enough that a reasonable person would agree that it is
111 harassment or bullying. A hostile environment may be created through
112 pervasive or persistent misbehavior or a single incident, if sufficiently
113 severe.
114

115 Harassment and bullying include, but are not limited to, behavior
116 described above that is reasonably perceived as being motivated by any
117 actual or perceived differentiating characteristic or motivated by an
118 individual's association with a person who has or is perceived to have a
119 differentiating characteristic, such as race, color, religion, ancestry,
120 national origin, gender, socioeconomic status, academic status, gender

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121 identity, physical appearance, sexual orientation, or mental, physical,
122 developmental, or sensory disability. Examples of behavior that may
123 constitute bullying or harassment include, but are not limited to, verbal
124 taunts, name-calling and put-downs, epithets, derogatory comments or
125 slurs, lewd propositions, exclusion from peer groups, extortion of money
126 or possessions, implied or stated threats, assault, impeding or blocking
127 movement, offensive touching, or any physical interference with normal
128 work or movement, and visual insults, such as derogatory posters or
129 cartoons. Legitimate age-appropriate pedagogical techniques are not
130 considered harassment or bullying.

131
132 Harassment, including sexual or gender-based harassment, is not limited
133 to specific situations or relationships. It may occur between fellow
134 students or co-workers, between supervisors and subordinates, between
135 employees and students, or between non-employees, including visitors,
136 and employees or students. Harassment may occur between members of
137 the opposite sex or the same sex.

- 138
139 b. Sexual harassment is one type of harassment. Unwelcome sexual
140 advances, requests for sexual favors, and other verbal or physical conduct
141 of a sexual nature constitute sexual harassment when:
- 142
143 1) Submission to the conduct is made, either explicitly or implicitly, a
144 term or condition of an individual's employment, academic
145 progress, or completion of a school-related activity;
 - 146
147 2) Submission to or rejection of such conduct is used as the basis for
148 employment decisions affecting the individual, or in the case of a
149 student, submission to or rejection of such conduct is used in
150 evaluating the student's performance within a course of study or
151 other school-related activity; or
 - 152
153 3) Such conduct is sufficiently severe, persistent, or pervasive that it
154 has the purpose or effect of unreasonably interfering with an
155 employee's work or performance or a student's educational
156 performance, limiting a student's ability to participate in or benefit
157 from an educational program or environment, or creating an
158 abusive, intimidating, hostile, or offensive work or educational
159 environment.
160

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161 Sexually harassing conduct includes, but is not limited to, deliberate,
162 unwelcome touching that has sexual connotations or is of a sexual nature,
163 suggestions or demands for sexual involvement accompanied by implied
164 or overt promises of preferential treatment or threats, pressure for sexual
165 activity, continued or repeated offensive sexual flirtations, advances or
166 propositions, continued or repeated verbal remarks about an individual's
167 body, sexually degrading words used toward an individual or to describe
168 an individual, sexual violence, or the display of sexually suggestive
169 drawings, objects, pictures or written materials. Acts of verbal, nonverbal,
170 or physical aggression, intimidation, or hostility based on sex, but not
171 involving sexual activity or language, may be combined with incidents of
172 sexually harassing conduct to determine if the incidents of sexually
173 harassing conduct are sufficiently serious to create a sexually hostile
174 environment.

- 175
176 c. Gender-based harassment is also a type of harassment. Gender-based
177 harassment may include acts of verbal, nonverbal, or physical aggression,
178 intimidation, or hostility based on sex or sex-stereotyping but not
179 involving conduct of a sexual nature.

180
181 **D. REPORTING AND INVESTIGATING COMPLAINTS OF DISCRIMINATION, HARASSMENT, OR**
182 **BULLYING**

183
184 Employees are required to report any actual or suspected violations of this policy.
185 Students, parents, volunteers, visitors, or others are also strongly encouraged to report
186 any actual or suspected incidents of discrimination, harassment, or bullying. All reports
187 should be made in accordance with Policy ACB-R, "Discrimination, Harassment and
188 Bullying Complaint Procedure," and reported to one of the school officials identified in
189 that policy. Reports may be made anonymously, and all reports shall be investigated in
190 accordance with that policy.

191
192 **E. TRAINING AND PROGRAMS**

193
194 The Board directs the superintendent to establish training and other programs that are
195 designed to help eliminate unlawful discrimination, harassment, and bullying and to
196 foster an environment of understanding and respect for all members of the school
197 community. Information about this policy and the related complaint procedure must be
198 included in the training plan.
199

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200 As funds are available, the Board will provide additional training for students,
201 employees, and volunteers who have significant contact with students regarding the
202 board's efforts to address discrimination, harassment, and bullying and will create
203 programs to address these issues. The training or programs should (1) provide examples
204 of behavior that constitutes discrimination, harassment, or bullying; (2) teach employees
205 to identify groups that may be the target of discrimination, harassment, or bullying; and
206 (3) train school employees to be alert to locations where such behavior may occur,
207 including locations within school buildings, at school bus stops, on cell phones, and on
208 the Internet.

209
210 **F. NOTICE**

211
212 The superintendent is responsible for providing effective notice to students, parents, and
213 employees of the procedures for reporting and investigating complaints of discrimination,
214 harassment, and bullying. This policy must be posted on the school system website, and
215 copies of the policy must be readily available in the principal's office, the media center at
216 each school, and the superintendent's office. Notice of this policy must appear in all
217 student and employee handbooks and in any school system publication that sets forth the
218 comprehensive rules, procedures, and standards of conduct for students and employees.

219
220 **G. COORDINATORS**

221
222 The superintendent or designee shall appoint one or more individuals to coordinate the
223 school system's efforts to comply with and carry out its responsibilities under federal
224 non-discrimination laws. These responsibilities include investigating any complaints
225 communicated to school officials alleging noncompliance with Title VI or Title IX of the
226 Civil Rights Act, Section 504 of the Rehabilitation Act, the Americans with Disabilities
227 Act (ADA), the Age Discrimination Act, and/or the Boy Scouts Act, or alleging actions
228 which would be prohibited by those laws. The superintendent or designee shall publish
229 the name(s), office address(es), and phone number(s) of the compliance coordinator(s) in
230 a manner intended to ensure that students, employees, applicants, parents, and other
231 individuals who participate in the school system's programs are aware of the
232 coordinator(s).

233
234 **H. RECORDS AND REPORTING**

235
236 The superintendent or designee shall maintain confidential records of complaints or
237 reports of discrimination, harassment, or bullying. The records must identify the names
238 of all individuals accused of such offenses and the resolution of such complaints or
239 reports. The superintendent also shall maintain records of training conducted and

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240 corrective action(s) or other steps taken by the school system to provide an environment
241 free of discrimination, harassment, and bullying.

242
243 The superintendent shall report to the State Board of Education all verified cases of
244 discrimination, harassment, or bullying. The report must be made through the Discipline
245 Data Collection Report or through other means required by the State Board.

246
247 **I. EVALUATION**

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249 The superintendent shall evaluate the effectiveness of efforts to correct or prevent
250 discrimination, harassment, and bullying and shall share these evaluations periodically
251 with the board.

252
253 Legal References: Age Discrimination in Employment Act of 1967, 29 U.S.C. 621 *et seq.*, 34
254 C.F.R. pt. 110; Americans with Disabilities Act, 42 U.S.C. 12101 *et seq.*, 28 C.F.R. pt. 35;
255 Rehabilitation Act of 1973, 29 U.S.C. 705(20), 794, 34 C.F.R. pt. 104; Title VI of the Civil
256 Rights Act of 1964, 42 U.S.C. 2000d *et seq.*, 34 C.F.R. pt. 100; Title VII of the Civil Rights Act
257 of 1964, 42 U.S.C. 2000e *et seq.*, 29 C.F.R. pt. 1604; Title IX of the Education Amendments of
258 1972, 20 U.S.C. 1681 *et seq.*, 34 C.F.R. pt. 106; Boy Scouts of America Equal Access Act, 20
259 U.S.C. 7905, 34 C.F.R. pt. 108; *Racial Incidents and Harassment Against Students at*
260 *Educational Institutions; Investigative Guidance*, U.S. Department of Education, Office for Civil
261 Rights (1994); *Revised Sexual Harassment Guidance: Harassment of Students by School*
262 *Employees, Other Students, or Third Parties*, U.S. Department of Education, Office for Civil
263 Rights (2001); *Notice of Non-Discrimination*, U.S. Department of Education, Office for Civil
264 Rights (2010); *Dear Colleague Letter*, U.S. Department of Education, Office for Civil Rights,
265 (October 26, 2010), available at [http://www2.ed.gov/about/offices/list/ocr/letters/colleague-](http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.pdf)
266 [201010.pdf](http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.pdf); *Dear Colleague Letter*, U.S. Department of Education, Office for Civil Rights,
267 (April 4, 2011) available at [http://www2.ed.gov/about/offices/list/ocr/letters/colleague-](http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.pdf)
268 [201104.pdf](http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.pdf); *Oncale v. Sundowner Offshore Services*, 523 U.S. 75 (1998); G.S. 115C-335.5, -
269 407.15 through -407.18; 126-16; State Board of Education Policy HRS-A-007

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