

1.7100 PROHIBITION AGAINST ILLEGAL DISCRIMINATION, HARASSMENT, AND BULLYING

- Legal References: Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq., 34 C.F.R. pt. 100
 Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e et seq., 29 C.F.R. pt. 1604
 Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq., 34 C.F.R. pt. 106
 Equal Employment Opportunity Commission's "Final Amended Guidelines on Discrimination Because of Sex"
 Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. 621 et seq.
 Family Educational Rights and Privacy Act, 20 U.S.C. 1232g
 The Rehabilitation Act of 1973, 29 U.S.C. -705(20), -706(8), -794, 34 C.F.R. pt. 104
 Americans With Disabilities Act, 42 U.S.C. 12101 et.seq., 28 C.F.R. pt. 35
Racial Incidents and Harassment Against Students at Educational Institutions, Investigative Guidance, U.S. Department of Education, Office for Civil Rights (2001)
 Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, U.S. Department of Education, Office of Civil Rights (2001)
Oncale v. Sundowner Offshore Services, 523 U.S. 75 (1998)
 NC G.S. 115C-335.5,-407.9 through -401.12
 NC G.S. 126-16
 NC State Board of Education Policy HRS-A-007
- Cross References: 1.7200/4.3501/7.1512 Discrimination, Harassment, Bullying and Other Harassment Complaint Procedures
 1.7500 Grievance Procedures
 4.3600 Code of Student Conduct
 7.1600 Employee Student Relations

I. PROHIBITED BEHAVIORS AND CONSEQUENCES

1. Illegal Discrimination, Harassment, and Bullying

Students, school employees, volunteers, visitors, and Board members are expected to behave in a civil and respectful manner. The Board expressly prohibits unlawful discrimination, harassment, and bullying.

Students are expected to comply with the behavior standards established by Board policy and the Code of Student Conduct. Employees and Board members are expected to comply with Board policy and school regulations. Volunteers and visitors on school property and/or at school-sponsored activities or activities in which the Board is involved and/or participating are also expected to comply with Board policy and established school rules and procedures.

Any violation of this policy is serious and school officials shall promptly take appropriate action.

Students will be disciplined in accordance with the school's Code of Student Conduct (see Board policy 4.3600).

Employees who violate this policy will be subject to disciplinary action, up to and including possible dismissal.

Volunteers and visitors who violate this policy will be directed to leave school property, may be barred from returning to school property, may be reported to law enforcement, and may or may not be prosecuted, as appropriate to the situation.

When considering if a response to violations of this policy beyond the individual level is appropriate, school administrators should consider the nature and severity of the misconduct to determine whether a classroom or school-wide response is necessary. Such classroom or school-wide responses may include staff training, discrimination, harassment and bullying prevention programs, and/or other measures deemed appropriate by the Principal, Managing Executive Director (if/when this position becomes operational), or the Board to address the behavior.

2. Retaliation

The Board prohibits reprisal or retaliation against any person for

- (a) reporting or intending to report violations of this policy; or
- (b) supporting someone for reporting or intending to report a violation of this policy; or
- (c) participating in the investigation of reported violations of this policy.

After consideration of the nature and circumstances of the reprisal or retaliation and in accordance with applicable federal, state, and/or local laws, policies and regulations, school officials shall determine the consequences and remedial action for a person found to have engaged in reprisal or retaliation.

II. APPLICATION OF POLICY

This policy prohibits unlawful discrimination, harassment, and bullying by students, employees, Board members, volunteers, and visitors to the schools. "Visitors" includes all persons, agencies, vendors, contractors, and other persons and organizations doing business with or performing services for the school.

This policy shall apply to, but is not limited to, behavior that takes place in the following circumstances:

- in any school building or on any school premises owned or operated by the Board during or after school hours;
- on any bus or other vehicle owned or operated by the Board during or after school hours;
- during or at any school function, extracurricular activity, or other school activity or event sponsored by the school or in which the school is involved or represented;
- at any time or place when the individual is subject to the authority of school personnel;
- while the individual is using school electronic communications;
- at any time or place while the individual is using personal electronic communications and any of the above situations or circumstances apply; or
- at any time or in any place when the behavior of the individual has an effect on maintaining order and discipline in the school or with regard to appropriate staff and student relations, appropriate relationships between students, or an appropriate and positive learning environment for students.

III. DEFINITIONS

For purposes of this policy, the following definitions will apply.

A. Discrimination: any act that unreasonably and unfavorably differentiates treatment of others based solely on their membership in a socially distinct group or category, such as race, ethnicity, sex, religion, age, or disability. Discrimination may be intentional or unintentional.

B. Bullying and harassing behavior: any single act, pattern of gestures, written or electronic communication or transmission, verbal communications, physical act, or threatening communication which:

- 1) places a student or employee in actual and reasonable fear of harm to his or her person or damage to his or her property; or
- 2) creates or is certain to create a hostile environment by substantially interfering with or impairing a student's educational performance, opportunities or benefits.

Bullying and harassing behavior may also include unwanted, unwelcome, and/or uninvited behavior which a reasonable person would consider demeaning, threatening, or offensive to the victim and which results in a hostile environment for the victim.

Harassment and bullying may include, but are not limited to, behaviors described above which are reasonably perceived as being motivated by any actual or perceived differentiating characteristic or motivated by any individual's association with a person who has or is perceived to have a differentiating characteristic, such as race, color, religion, ancestry, national origin, gender, socioeconomic status, academic status, gender identity, physical appearance, sexual orientation, or mental physical, developmental or sensory disability.

Examples of behavior that may constitute bullying or harassment include, but are not limited to, verbal taunts, name-calling and put-downs, epithets, derogatory comments or slurs, lewd propositions, exclusion from peer groups, extortion of money or possessions, implied or stated threats, assault, impeding or blocking movement, offensive touching or any physical interference with normal work or movement, and visual insults, such as derogatory posters or cartoons. Legitimate age-appropriate pedagogical techniques are not considered harassment or bullying.

C. Hostile environment: created or established when the victim subjectively views the conduct in question (see above) as harassment or bullying and that the conduct is objectively severe or pervasive enough so that a reasonable person would agree that it is harassment or bullying. A hostile environment may be created through pervasive or persistent misbehavior or by a single incident, if sufficiently severe.

D. Sexual harassment : Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- 1) submission to the conduct is made, either explicitly or implicitly, a term or condition of an individual's employment, academic progress, or completion of a school-related activity; or
- 2) submission to or rejection of such conduct is used as the basis for employment decisions affecting such individual, or in the case of a student, submission to or rejection of such conduct is used in evaluating the individual's performance within a course of study or other school-related activity; or
- 3) such conduct is sufficiently severe, persistent or pervasive so that it has the purpose or effect of unreasonably interfering with an employee's work or performance or a student's educational performance, limiting a student's ability to participate in or benefit from an educational program or environment, or creating an abusive, intimidating, hostile, or offensive work or educational environment.

Sexually harassing conduct includes, but is not limited to:

- deliberate, unwelcome touching that has sexual connotations or is of a sexual nature;
- suggestions or demands for sexual involvement accompanied by implied or overt promises or preferential treatment or threats;
- pressure for sexual activity;
- continued or repeated offensive sexual flirtations, advances, and/or propositions;
- continued or repeated verbal remarks about an individual's body;
- sexually degrading words used toward an individual or to describe an individual; or
- the display of sexually suggestive drawings, objects, pictures, written materials or body parts.

Acts of verbal, nonverbal, electronic or physical aggression, intimidation, or hostility based on sex, but not involving sexual activity or language, may be combined with incidents of sexually harassing conduct to determine if the incidents of sexually harassing conduct are sufficiently serious to create a sexually hostile environment.

E. Gender-based harassment: may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping but not involving conduct of a sexual nature.

F. Electronic communication: includes, but is not limited to, communications or transmissions through employee and/or student emails, text messaging, instant messaging, chat rooms, blogging, websites and social networking websites.

G. Situational / relationship circumstances: It is possible for harassment, bullying, sexual harassment, and gender-based harassment to occur in various situations. For example, it may occur between fellow students or coworkers, between supervisors and subordinates, between employees and students, or imposed by non-employees, including visitors, employees, and/or students. Harassment or bullying may occur between members of the opposite sex or between members of the same sex.

IV. REPORTING AND INVESTIGATIONS

Employees are required to report any actual or suspected violations of this policy. Students, parents, volunteers, visitors, and all others are strongly encouraged to report any actual or suspected incidents of discrimination, harassment or bullying. All reports should be made in accordance with Board policy 1.7200-4.3501-7.1512, Discrimination, Harassment, and Bullying Complaint Procedures to one of the school officials identified in the applicable policy. Reports may be made anonymously and all reports shall be investigated in accordance with the applicable policy.

V. RECORDS AND REPORTING

The Managing Executive Director (if/when this position becomes operational) and/or the Principal and any employee investigating a complaint under this policy shall maintain confidential records of complaints of reports of discrimination, harassment or bullying which identify the names of any individuals accused of such offenses and the resolution of such reports or complaints. The Managing Executive Director (if/when this position becomes operational) and/or the Principal shall also maintain records of training and corrective action or other steps taken to help provide an environment free of discrimination, harassment and bullying.

The Managing Executive Director (if/when this position becomes operational) and/or the Principal shall report to the Board and to the North Carolina State Board of Education all verified cases of discrimination, harassment or bullying through the Discipline Data Collection Report or through other means required by the State Board of Education.