

1.7200-4.3501-7.1512 DISCRIMINATION, HARASSMENT AND BULLYING COMPLAINT PROCEDURES

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: 1.7100 Prohibition Against Illegal Discrimination, Harassment, and Bullying
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

The Board takes seriously all complaints of unlawful discrimination, harassment, and bullying. The process provided in this policy is designed and is available for those individuals who believe that they may have been discriminated against, bullied or harassed in violation of this policy. Individuals who have witnessed or have reliable information that another person has been subject to unlawful discrimination, harassment, or bullying also should report such violations to a school official.

I. DEFINITIONS

A. **Alleged Perpetrator**: the individual alleged to have discriminated against, harassed, or bullied the complainant.

B. **Complaint**: oral or written notification made by a person who believes he/she is the victim of unlawful discrimination, harassment or bullying.

C. **Complainant**: the person making or reporting a complaint that he/she or another person was discriminated against, harassed, or bullied.

D. **Days**: working days, exclusive of Saturdays, Sundays, vacation days or holidays, as set forth in the school calendar. In counting days, the first day will be the first full working day following receipt of the complaint. When a complaint is submitted on or after May 1, time limits will consist of all calendar days, Monday–Friday, regardless of vacation days or holidays, so that the matter may be resolved before the close of the school term or as soon thereafter as possible.

E. Investigative Report: written account of the findings of the investigation conducted in response to a complaint.

F. Investigator: school official responsible for investigating and responding to the complaint.

G. Definitions of Infractions: The terms "Harassment," "Bullying," "Discrimination," "Sexual Harassment," and "Gender-based Harassment" are defined in policy 1.7100.

II. REPORTING OF COMPLAINTS

A. Mandatory reporting by school employees: Any employee who witnessed or who has reliable information or reason to believe that an individual may have been discriminated against, harassed, or bullied in violation of policy 1.7100 must report the offense immediately to an appropriate individual. An employee who does not promptly report possible discrimination, harassment, or bullying shall be subject to disciplinary action.

B. Reporting by Other Parties: All members of the school community, including students, parents, volunteers, and visitors, are also strongly encouraged to report any act that may constitute an incident of discrimination, harassment, or bullying.

C. Anonymous Reporting: Reports of discrimination, harassment, or bullying may be made anonymously, but formal disciplinary action may not be taken solely on the basis of an anonymous report.

D. Reporting a complaint:

1) Students (or their parents) who believe that they or someone else have/has been illegally discriminated against, harassed, or bullied should submit their complaint in writing to their teachers or, if the teacher is the alleged perpetrator, to the ~~Principal~~ *Executive Director*.

2) Persons other than students or parents, including school employees, who believe that they or someone else have/has been illegally discriminated against, harassed, or bullied should submit their complaints in writing to the ~~Principal~~ *Executive Director* or, if the ~~Principal~~ *Executive Director* is the alleged perpetrator, to any member of the Board. [NOTE: If/when the position of Managing Executive Director becomes operational, then these complaints alleging that they or someone else have/has been discriminated against, harassed, or bullied by the Principal should submit their written complaints to the Managing Executive Director instead of to the Board.]

E. Time Period for Filing a Complaint: A complaint should be filed as soon as possible but no later than 20 days after disclosure or discovery of the facts giving rise to the complaint. Complaints submitted after the 20-day period will be investigated; however, students and parents should recognize that delays in reporting may significantly impair the ability of the school system and officials to investigate and respond effectively to such complaints.

III. COMPLAINT RESOLUTION

A. Informal Resolution: The Board acknowledges that many complaints may be addressed informally through such methods as conferences or mediation, and the Board encourages the use of such procedures to the extent possible. If an informal process is used, the ~~Principal~~ *Executive Director* or other designated personnel must:

- 1) notify the complainant that he/she has the option to request formal procedures at any time, and
- 2) make a copy of this policy and other relevant policies available to the complainant.

In those circumstances in which informal procedures fail or are inappropriate or in which the complainant requests formal procedures, the complaints will be investigated promptly, impartially, and thoroughly according to the procedures outlined in this policy.

B. Investigation: Whoever receives a complaint pursuant to the procedures outlined in this policy shall immediately respond to the complaint and initiate an investigation.

1) The investigator is responsible for determining whether the alleged act(s) constitutes a violation of policy 1.7100. In so doing, the investigator shall impartially, promptly and thoroughly investigate the complaint. The investigator shall interview:

- the complainant;
- the alleged perpetrator; and
- any other individuals, including other possible victims, who may have relevant information.

2) Information may be shared only with individuals who need the information in order to appropriately investigate and address the complaint. Any requests by the complainant for confidentiality will be evaluated within the context of the legal responsibilities of the school. Any complaints withdrawn to protect confidentiality will be recorded in accordance with policy 1.7100.

3) The investigator shall review the factual information gathered through the investigation to determine whether the alleged conduct constitutes illegal discrimination, harassment, or bullying, giving consideration to all factual information, the context in which the alleged incidents occurred, the age and maturity of the complainant and alleged perpetrator, and other relevant circumstances.

C. Investigative Report

1) The investigator shall make and submit a written investigative report of the findings of the investigation and 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. This report shall be kept on file in the Principal's office or, if the Principal is the alleged perpetrator, in the Board's confidential files.

2) The investigator shall specify in the report whether the complaint was substantiated, whether the alleged perpetrator violated relevant law or board policy by his or her actions (regardless of whether the complaint as submitted was substantiated) and, if so, shall also specify:

- reasonable, timely, age-appropriate effective corrective action intended to end the illegal discrimination, harassment, or bullying and prevent it from recurring;
- as needed, reasonable steps to address the effects of the illegal discrimination, harassment, or bullying on the complainant; and
- as needed, reasonable steps to protect the complainant from retaliation as a result of communicating the complaint.

3) 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).

4) If the investigator determines that the complaint was substantiated, the perpetrator(s) shall be subject to discipline or other corrective steps as described in Board policy. If the corrective steps involve actions outside the scope of the investigator's authority, the Board shall be notified so that appropriate corrective steps may be taken through personnel procedures.

5) Each alleged perpetrator will be provided with a written summary of the results of the investigation with regard to whether or not the complaint was substantiated, whether he/she violated relevant law or Board policies by his/her actions, and what, if any, disciplinary actions or consequences will be imposed in accordance with Board policy. The alleged perpetrator may appeal any disciplinary action or consequences in accordance with Board policy and law. However, an appeal of disciplinary action by the alleged perpetrator does not preclude school officials from taking appropriate action to address the discrimination, harassment, or bullying.

IV. APPEALS

If the complainant is not satisfied with the results of the investigative report, the complainant may appeal the decision to the Board. Such appeal must be submitted in writing within 5 days of receiving the investigative report. The Board may review the investigation, documents and report, conduct or undertake any further investigation it deems appropriate, or take any other steps it deems appropriate in order to respond to the complaint.

If the original investigator was a school official, the Board or may not, at its sole discretion, call a Hearing pursuant to Board policy 2.5000, Hearings Before the Board. If a Hearing is called, the procedures followed with respect to the appeal shall be henceforward governed by the provisions of that policy.

If the Board does not choose to call a Hearing, its decision with regard to the appeal shall be a Final Administrative Decision with no further review or action past those provided for in the original investigative report. The Board's decision will be communicated to the complainant within 5 days following the rendering of that decision.

V. TIMELINESS OF PROCESS

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.

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 shall 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 investigator shall make all 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.

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 an 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.

VI. GENERAL REQUIREMENTS

No reprisals or retaliation of any kind will be taken by the Board or by a school employee against the complainant or other individual on account of his/her filing of a complaint or report or participating in an investigation of a complaint or report filed and decided pursuant to this policy, unless the complainant or participating individual knows or has reason to believe that the report is false or knowingly provides false information.

All meetings and hearings conducted pursuant to this policy shall be private.

The Board and school officials shall consider requests to hear complaints from a group, but the Board and school officials have the discretion to respond to complainants individually.

Records will be maintained as required by policy 1.7100.