

The Board believes that all employees and students should be free of unlawful discrimination, including harassment and bullying, as a part of a safe, orderly and inviting working and learning environment. It commits itself to non-discrimination in all its educational and employment activities. The Board expressly prohibits unlawful discrimination, harassment, or bullying however motivated, directed toward any person or group, including, but not limited to acts reasonably perceived as being motivated by any actual or perceived 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, or by association with a person who has or is perceived to have one or more of these characteristics.

The Board also prohibits retaliation against an employee, student or witness who has exercised any rights made available through state or federal law, including prohibiting retaliation for reporting violations of this policy.

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

A. PROHIBITED BEHAVIORS AND CONSEQUENCES

1. Discrimination, Harassment, and Bullying

Students, school system employees, volunteers, and visitors 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 are expected to comply with board policy and school system regulations. Volunteers and visitors on school property also are 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 student behavior management plan (see policy 4-3, Code of Student Conduct). Based on the nature and severity of the offense and the circumstances surrounding the incident, the student will be subject to appropriate consequences and remedial actions ranging from positive behavioral interventions up to, and including, expulsion.

Employees who violate this policy will be subject to disciplinary action, up to, and including, dismissal. Volunteers and visitors who violate this policy will be directed to leave school property and/or reported to law

enforcement, as appropriate, in accordance with policy 1-25, Visitors to Schools.

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

2. Retaliation

The board prohibits reprisal or retaliation against any person for reporting or intending to report violations of this policy, supporting someone for reporting or intending to report a violation of this policy, or 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 or local laws, policies, and regulations, the superintendent or designee shall determine the consequences and remedial action for a person found to have engaged in reprisal or retaliation.

B. Application of Policy

All persons, (including but not limited to employees, students, and visitors), agencies, vendors, contractors and other persons, and organizations doing business with or performing services for the school district must comply with all applicable state and federal laws and regulations regarding non-discrimination. Visitors also are expected to comply with applicable laws, including the prohibition against harassment and bullying of students and employees. Any employee, student, or volunteer who witnesses or has reliable information that a student has been subject to any act of bullying or harassing behavior shall report the incident to his/her supervisor or the building administrator.

This policy will apply in the following circumstances:

- 1. while in any school building or on any school premises before, during or after school hours**
- 2. while on any bus or other vehicle as part of any school activity;**
- 3. while waiting at any bus stop;**
- 4. during any school function, extracurricular activity or other activity or event;**
- 5. when subject to the authority of school personnel; and**

- 6. any time or place when the behavior has a direct and immediate adverse effect on maintaining order or discipline in the schools.**

C. Definitions

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

- 1. Discrimination**

Discrimination means any act or failure to 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, pregnancy, religion, age, or disability. Discrimination may be intentional or unintentional.

- 2. Harassment and Bullying**

- a. Harassment or bullying behavior is any pattern of gestures or written, electronic, or verbal communications, or any physical act or any threatening communication that:**

- 1) places a student or school 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 or by adversely altering the conditions of an employee's employment.**

“Hostile environment” means that the victim subjectively views the conduct as harassment or bullying and that the conduct is objectively severe or pervasive enough that a reasonable person would agree that it is harassment or bullying. A hostile environment may be created through pervasive or persistent misbehavior or a single incident, if sufficiently severe.

Harassment and bullying include, but are not limited to, behavior described above that is reasonably perceived as being motivated by any actual or perceived differentiating characteristic or motivated by an 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.

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

- b. Sexual harassment is one type of 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;
 - 2) submission to or rejection of such conduct is used as the basis for employment decisions affecting the individual, or in the case of a student, submission to or rejection of such conduct is used in evaluating the student's performance within a course of study or other school-related activity; or
 - 3) such conduct is sufficiently severe, persistent, or pervasive 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 of preferential treatment or threats, pressure for sexual activity, continued or repeated offensive sexual flirtations, advances or propositions, continued or repeated verbal remarks about an individual's body, sexually degrading words used toward an individual or to describe an individual, sexual assault, sexual violence, or the display of sexually suggestive drawings, objects, pictures or written materials. Acts of verbal, nonverbal, 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.

- c. Gender-based harassment is also a type of harassment. 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.

D. Unlawful Discrimination, Harassment or Bullying Complaint Procedures

1. Students

Students and parents are encouraged to submit any complaints of unlawful discrimination, harassment, or bullying other than sexual harassment, to the school based administration and/or through Policy 4-18, Appeals. The complaint procedure for sexual harassment is established in Policy 4-7b, Sexual Harassment Complaint Procedure for Students. Any such complaints may be made anonymously through the school guidance office or Board Policy 4-7b or 4-18 and any appropriate Administrative Guidelines to Policy 4-7.

2. Employees

Employees are encouraged to submit any complaints of unlawful discrimination harassment, or bullying other than sexual harassment, through the grievance procedure established in Policy 3-10, Grievance Procedure for Employees. The complaint procedure for sexual harassment is established in Policy 3-7b, Sexual Harassment Complaint Procedure for Employees and any appropriate Administrative Guidelines to Policy 3-7.

3. Investigations

All complaints shall be investigated beginning within 48 hours of receipt of complaints and shall be completed in a timely manner.

E. Notice

The Superintendent is responsible for providing effective notice to students, parents, and employees of the procedures for reporting and investigating complaints of unlawful discrimination, including sexual harassment and bullying. The school district will investigate complaints of unlawful discrimination and harassment and will take reasonable steps to eliminate the unlawful discrimination or harassment.

F. Coordinators

The Superintendent or his/her designee will publish the names, addresses, and phone numbers of the “Title IX Coordinator” (for sex discrimination), “Section 504 Coordinator” (for unlawful discrimination on the basis of disability), and the “ADA Coordinator” (also for unlawful discrimination on the basis of disability) in a manner intended to ensure that employees, applicants, students, parents, and other individuals who participate in school district’s program are aware of the coordinators. The purpose of the coordinator positions is to provide additional protection of non-discrimination rights. The coordinator must either (1) implement a resolution to unlawful discrimination, harassment, or bullying complaint, to the extent a resolution can be reached and the coordinator has the authority to implement corrective action or (2) notify the Superintendent that intervention by other school officials is required to resolve the situation.

G. Records and Reporting

The Superintendent or his/ her designee shall maintain confidential records of complaints or reports of unlawful discrimination which identify the names of any individuals accused of unlawful discrimination and the resolution of such reports or complaints. The Superintendent also shall maintain records of training, corrective actions, and/or other steps taken by the district to help provide an environment free of unlawful discrimination, harassment, and bullying.

The Superintendent shall report to the State Board of Education all verified cases of unlawful discrimination, harassment, or bullying. The report will be made through the Discipline Data Collection Report or through other means required by the State Board.

H. Diversity Programs

The Board is committed to promoting the worth and dignity of all individuals regardless of race, color, religion, national origin, sex, pregnancy, age, or disability. The Board directs the Superintendent to establish training and other programs to help eliminate unlawful discrimination, harassment, and bullying and to foster an environment of understanding and respect for all individuals.

I. Evaluation

The Superintendent is required to evaluate the effectiveness of efforts to correct or prevent unlawful discrimination, harassment, and bullying and will share these evaluations periodically with the Board.

NOTICE

The superintendent is responsible for providing effective notice to students, parents, and employees of this policy and of the procedures for reporting and investigating complaints of discrimination, harassment, and bullying. The superintendent must ensure that each school principal provides a copy of this policy and policy on complaints to students, employees, and parents or other responsible care givers at the beginning of each school year. In addition, both policies must be posted on the school system website, and copies of the policies must be readily available in the principal's office, the media center at each school, and the superintendent's office. Notice of the policies must appear in all student and employee handbooks and in any school or school system publication that sets forth the comprehensive rules, procedures, and standards of conduct for students and employees.

LEGAL REF.: 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.*; 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.*; The Rehabilitation Act of 1973, 29 U.S.C. 701 *et seq.*; the Americans With Disabilities Act, 42 U.S.C. 12134, 28 C.F.R, pt 35; Office of Civil Rights, Sexual Harassment Guidance: Harassment of Student by School Employees, Students or Third Parties, 62 Fed. Reg. 12,034 (1997); Office of Civil Rights, Racial Incidents and Harassment Against Students at Educational Institutions; Investigative Guidance, 59 Fed. Reg. 11,448 (1994); G.S. 126-16; Boy Scouts of America Equal Access Act, 20 U.S.C. 7905, 34 C.F.R. pt. 108; Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, U.S. Department of Education, Office for Civil Rights (2001); Notice of Non-Discrimination, U.S. Department of Education, Office for Civil Rights (2010); Dear Colleague Letter, U.S. Department of Education, Office for Civil Rights, (October 26, 2010), available at <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.pdf>; Dear Colleague Letter, U.S. Department of Education,

**Office for Civil Rights, (April 4, 2011) available at
<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, -407.15 through -407.18; 126-16; State Board of Education Policy HRS-A-000**

**CROSS REF.: Board Policy 3-7a, Sexual Harassment Defined
Board Policy 3-7b, Sexual Harassment Complaint Procedure for Employees-
3-7 Administrative Guidelines Disability
Discrimination/Harassment Complaint Procedure for Employees
Board Policy 3-10, Grievance Procedure for Employees
Board Policy 4-3a, Code of Student Conduct for Elementary Schools
Board Policy 4-3b, Code of Student Conduct for Middle/High Schools
Board Policy 4-7a, Sexual Harassment Defined
Board Policy 4-7b, Sexual Harassment Complaint Procedures for Students
4-7 Administrative Guidelines Disability
Discrimination/Harassment Complaint Procedure for Students
Board Policy 4-18, Appeals Policy**

UNION COUNTY BOARD OF EDUCATION

**APPROVED: 4/20/04
REVISED: 3/1/05
REVISED: 12/8/09
REVISED: 1/6/15
REVISED: 2/2/16**