Avery County Schools Policy
Policy Code*:* 1710/4021/7230

PROHIBITION AGAINST DISCRIMINATION, HARASSMENT AND BULLYING

The Avery County Board of Education acknowledges the dignity and worth of all students and employees and strives to create a safe, orderly, caring and inviting school environment to facilitate student learning and achievement. The board prohibits discrimination on the basis of race, color, national origin, sex, disability, or age and will provide equal access to the Boy Scouts and other designated youth groups as required by law. The board will not tolerate any form of unlawful discrimination, harassment or bullying in any of its educational or employment activities. Any violation of this policy will be considered serious and school officials shall promptly take appropriate action to address the violation.

A. Prohibited Behaviors

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 by students, employees, board members, volunteers, or visitors. "Visitors" includes parents and other family members and individuals from the community, as well as vendors, contractors, and other persons doing business with or performing services for the school system.

Students are expected to comply with the behavior standards established by board policy, the Code of Student Conduct, and school and classroom rules. Employees are expected to comply with board policy, school system regulations, and school rules. Volunteers and visitors on school property also are expected to comply with board policy, school system regulations, and school rules and procedures.

This policy applies to behavior that takes place: (1) in any school building or on any school premises before, during or after school hours; (2) on any bus or other vehicle as part of any school activity; (3) at any bus stop; (4) during any school-sponsored activity or extracurricular activity; (5) at any time or place when the individual is subject to the authority of school personnel; or (6) at any time or place when the behavior has a direct and immediate effect on maintaining order and discipline in the schools.

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

1. *Discrimination* means any act or failure to act, whether intentional or unintentional, 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.

2. *Harassment and Bullying*

a. Harassment or bullying behavior is deliberate conduct intended to harm another person or group of persons. Such conduct violates this policy when any pattern of gestures or written, electronic or verbal communications, or any physical act or any threatening communication: 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 impairing a student's educational performance, opportunities or benefits or by adversely altering the conditions of an employee's employment.

Electronic communications include, but are not limited to, e-mail, text messaging, instant messaging, chat rooms, blogging, websites, and social networking websites (i.e. MySpace or Facebook).

"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, acts of disrespect, intimidation, or threats, such as verbal taunts, name-calling and put-downs, epithets, derogatory comments or slurs and 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. Harassment and bullying may occur through electronic means ("cyberbullying"), such as through the Internet, emailing, or text messaging, or by use of personal websites to support deliberate and repeated behavior intended to cause harm to persons or groups. Legitimate age-appropriate pedagogical techniques are not considered harassment or bullying. Harassment, including sexual or gender-based harassment, as described below, is nor 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 a form of harassment that violates this policy. 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 (a) unreasonably interfering with an employee's work or performance or a student's educational performance, (b) limiting a student's ability to participate in or benefit from an educational program or environment, or (c) 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 or sexually suggestive drawings, objects, pictures, written materials, or use of personal or school electronic communications to convey sexually inappropriate words, pictures or images. Electronic communications include, but are not limited to, email, text messaging, instant messaging, chat rooms, blogging, websites and social networking websites (i.e. MySpace or Facebook). 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.
As provided in policy 4040/7310, Staff-Student Relations, employees are strictly prohibited from engaging in a romantic or sexual relationship with any student enrolled in the school system, whether or not it constitutes sexual harassment.

c. Gender-based harassment is also a type of harassment that violates this policy. Gender-based harassment may include acts of verbal, nonverbal or physical aggression, intimidation, or hostility based on sex or sex-stereotyping by not involving conduct of a sexual nature.

C. Reporting and Investigating Complaints of Discrimination, Harassment or Bullying

Any person who believes that he or she has been discriminated against harassed, or bullied in violation of this policy by any student, employee, or other person under the supervision and control of the school system, or any third person who knows or suspects conduct that may constitute discrimination, harassment, or bullying, should inform a school official designated to receive such complaints, as described in policy 1720/4015/7225, Discrimination, Harassment, and Bullying Complaint Procedure.

Any employee who has witnessed, or who has reliable information that another person may have been subjected to discrimination, harassment, or bullying in violation of this policy has a duty to

report such conduct in accordance with policy 1720/4015/7225. Employees who observe an incident of harassment or bullying are expected to intervene to stop the conduct in situations in which they have supervisory control over the perpetrator and it is safe to do so. If an employee knows of an incident involving discrimination, harassment, or bullying and the employee fails to report the conduct or take proper action or knowingly provides false information in regard to the incident, the employee will be subject to disciplinary action up to, and including, dismissal.

Reports, except mandatory employee reports, may be made anonymously, and all reports will be investigated in accordance with policy 1720/4015/7225.

D. Responding to Occurrences of Discrimination, Harassment, or Bullying

1. Consequences for the Perpetrator

a. Disciplinary Consequences for Students

Students will be disciplined in accordance with the school's student behavior management plan (see policy 4302, School Plan for Management of Student Behavior). 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. In addition, the violation may also be reported to law enforcement, as appropriate.

Incidents of misbehavior that do not rise to the level of discriminatory harassment or bullying may violate acceptable standards of student behavior, including, but not limited to, the expectation that students will demonstrate civility and integrity in their actions and interactions with others. See policy 4310, Integrity and Civility. The consequences for such behavior will be consistent with applicable board policy and the Code of Student Conduct.

This policy will not be construed to allow school officials to punish student expression or speech based on undifferentiated fear or apprehension of a disturbance or out of a desire to avoid the discomfort and unpleasantness that may accompany an unpopular viewpoint.

b. Disciplinary Consequences for Employees

Employees who violate this policy will be subject to disciplinary action up to, and including, dismissal. In addition, the violation may also be reported to law enforcement, as appropriate. Nothing in this policy will preclude the school system from taking disciplinary action against an employee when the evidence does not establish unlawful discrimination,

harassment, or bullying, but the conduct otherwise violates board policy or expected standards of employee behavior.

c. Consequences for Other Perpetrators

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 5020, Visitors to the Schools. A third party under the supervision and control of the school system will be subject to termination of contracts/agreements, restricted from school property, and/or subject to other consequences, as appropriate.

2. Consideration of Need for More Extensive Response

School administrators shall consider whether the misconduct warrants more than just a response at the individual level. Given the nature and severity of the misconduct, the administrators may determine that a classroom, school-wide, or school system-wide response is necessary. Such classroom, school-wide, or school system-wide responses may include additional staff training, harassment and bullying prevention programs, and other measures deemed appropriate by the superintendent to address the behavior. The actions taken must be reasonably calculated to end the behavior, eliminate a hostile environment and its effects if one has been created, and prevent recurrence of the behavior.

3. Retaliation Prohibited

The board prohibits reprisal or retaliation against any person for (a) reporting or intending to report violations of this policy, (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, 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.

E. TRAINING AND PROGRAMS

The board directs the superintendent establish training and other programs that are designed to prevent discrimination, harassment and bullying and to foster an environment

of understanding and respect for all members of the school community. Information about this policy and the related complaint procedure must be included in the training plan.

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

F. 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 established in policy 1720/4015/7225, Discrimination, Harassment, and Bullying Complaint Procedure. The superintendent must ensure that each school principal provides a copy of this policy and policy 1720/4015/7225 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 at each school and worksite. 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.

G. COORDINATORS

The superintendent has appointed the following individuals to coordinate the school system's efforts to comply with and carry out its responsibilities under federal non-discrimination laws. These responsibilities include investigating any complaints communicated to school officials alleging noncompliance with Title VI or Title IX of the Civil right Act, Section 504 of the Rehabilitation Act, the Americans with Disabilities Act (ADA), the Age Discrimination Act, and/or the Boy Scouts Act, or alleging actions which would be prohibited by those laws.

1. Title IX Coordinator
   Dr. Richard Todd Griffin
   775 Cranberry Street, Newland, NC 28657
   828-733-6006

2. Section 504 Coordinator
   Dr. Richard Todd Griffin
   775 Cranberry Street, Newland, NC 28657
   828-733-6006

3. ADA Coordinator
   Dr. Richard Todd Griffin
   775 Cranberry Street, Newland, NC 28657
   828-733-6006

4. Age Discrimination Coordinator
   Dr. Richard Todd Griffin
   775 Cranberry Street, Newland, NC 28657
   828-733-6006

5. Coordinator for other Non-discrimination Laws
   Dr. Richard Todd Griffin
   775 Cranberry Street, Newland, NC 28657
   828-733-6006

H. RECORDS AND REPORTING

The superintendent or designee will maintain confidential records of complaints or reports or discrimination, harassment and bullying. The records must identify the names of all individual accused of such offenses and the resolution of such complaints or reports. The superintendent also will maintain records of training conducted and corrective action or other steps taken by the school system district to provide an environment free of discrimination, harassment and bullying.

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

I. EVALUATION

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

Legal References: Age Discrimination in Employment Act of 1967, 29 U.S.C. 621 *et seq*., 34 C.F.R. pt. 110; Americans with Disabilities Act, 42 U.S.C. 12101 *et seq*., 28 C.F.R. pt. 35; Rehabilitation Act of 1973, 29 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. 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; Boy Scouts of America Equal Access Act, 20 U.S.C. 7905, 34 C.F.R. pt. 108; *Racial Incidents and Harassment Against Students at Educational Institutions; Investigative Guidance*, U.S. Department of Education, Office for Civil Rights (1994); *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* (Bullying), 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* (Sexual Harassment), U.S. Department of Education, Office for Civil Rights (2006), available at https://www2.ed.gov/about/offices/list/ocr/letters/sexhar-2006.html; *Q&A on Campus Sexual Misconduct*, U.S. Department of Education, Office for Civil Rights (2017), available at https://www2.ed.gov/about/offices/list/ocr/docs/qa-title-ix-201709.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 SSCH-000

Cross References: Discrimination, Harassment and Bullying Complaint Procedure (policy 1720/4015/7225), Nondiscrimination on the Basis of Disabilities (1730/4022/7231), Prohibition Against Retaliation (1760/7280), Staff-Student Relations (policy 4040/7310), School Plan for Management of Student Behavior (policy 4302), Visitors to the Schools (policy 5020), Community Use of Facilities (policy 5030), Recruitment and Selection of Personnel (policy 7100), Professional Employees: Demotion and Dismissal (7930), Classified Personnel: Suspension and Dismissal (7940)

Adopted: 6/5/00
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