

Prohibition Against Discrimination, Harassment, and Bullying

Board Policy: A-3
Adopted: January 20, 1992
Rewritten: May 10, 2005
Revised: December 14, 2009

I. General Policy Statement

The Haywood County Board of Education believes that all employees and students should be free of unlawful discrimination, harassment, and bullying as a part of a safe, orderly, caring and inviting working and learning environment. The board commits itself to nondiscrimination in all its educational and employment activities. The board expressly prohibits unlawful discrimination, harassment or bullying, including on the basis of race, color, national origin, sex, pregnancy, religion, age, marital status, parenthood, citizenship status, or disability.

The board also prohibits retaliation against an employee or student 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 a serious violation and appropriate action will be taken in response to a violation.

II. Regulations

A. Application of Policy

All persons, agencies, vendors, contractors and other persons and organizations doing business with or performing services for the school district must comply with all applicable federal and state laws and regulations regarding nondiscrimination. Visitors also are expected to comply with applicable laws, including the prohibition against harassment and bullying of students or harassment of employees. This policy will apply in the following circumstances:

- while in any school building or on any school premises before, during or after school hours;
- while on any bus or other vehicle as part of any school activity;
- while at any bus stop;
- during any school function, extracurricular activity or other activity or event;
- when subject to the authority of school personnel; and
- 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 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, marital status, parenthood, citizenship status, or disability. Discrimination may be intentional or unintentional.
2. **Harassment** can be a type of unlawful discrimination. Harassment is unwanted, unwelcome, and uninvited behavior that demeans, threatens or offends the victim and results in a hostile environment for the victim. The hostile environment can be created through pervasive or persistent misbehavior or a single incident, if sufficiently severe. Harassing behavior may include but is 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 harassing behavior. It is possible for harassment, including sexual or gender-based harassment to occur in various situations. For example, harassment can occur between fellow students or co-workers, between supervisors and subordinates, between employees and students, or between non-employees, including visitors, employees or students. Harassment can occur between members of the opposite sex or of the same sex.

3. **Bullying** is a form of harassment. Bullying means the repeated intimidation of others by the real or threatened infliction of physical, verbal, written, electronically transmitted or emotional abuse or through attacks on the property of another. Bullying may include, but is not limited to, verbal taunts, name-calling and put-downs, extortion of money or possessions, implied or stated threats, and /or exclusion from peer groups. Bullying creates or is certain to create a hostile environment by substantially interfering with or impairing a student's educational performance, opportunities or benefits.
4. **Accused** is the employee, student, or visitor alleged to have discriminated, harassed, or bullied the complainant.
5. **Complainant** is the parent and/or student or employee reporting a complaint that the student or employee was discriminated against, harassed or bullied.
6. **Days** are the 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. After May 1, time limits will consist of all weekdays (Monday – Friday) so that the matter may be resolved before the close of the school term or as soon thereafter as possible.
7. **Investigator** is the school official responsible for investigating and responding to the complaint (which may be the Principal, Assistant Principal, Human Resource Director, the Title IX Coordinator or another designated school official).
8. **"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.

C. **Discrimination, Harassment or Bullying Complaint Procedures**

1. **Timeliness**
 - a. The number of days indicated at each level should be considered a maximum. Every effort should be made to expedite the process.
 - b. Failure by the official at any step to communicate a decision within the specified time limit will permit the complainant 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 or report. The official will make 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.
 - c. Failure by the complainant at any step to appeal a grievance to the next step within the specified time limit will be considered acceptance of the decision at that step, unless the complainant has notified the investigator of a delay, the reason for the delay, and the official has consented in writing to the delay.
2. **General Requirements**
 - a. No reprisals or retaliation of any kind will be taken by the board or by an employee of the school district against any complainant or other student or employee on account of his or her participation in a complaint filed and decided pursuant to this policy, unless the complainant or participating student or employee knows or has reason to believe that the report is false or knowingly provides false information.

- b. All meetings and hearings conducted pursuant to this policy will be held in closed session.
- c. The board and school district will consider requests to hear complaints from a group, but the board and officials have the discretion to respond individually to complainants.
- d. The complainant may have a representative, including an attorney, at any stage of the formal complaint process.
- e. Should, in the judgment of the superintendent or designee, the investigation or processing of any complaint involving an employee require the absence of the complainant and/or representative from regular work assignments, such absences will be excused without loss of pay.

D. Informal Resolution

The board acknowledges that allegations of discrimination, harassment, and bullying may be addressed informally through such methods as conferences or mediation, and the board encourages the use of such procedures to the extent possible. Any time that an act clearly rises to the level of discrimination, harassment, or bullying as defined in this policy (Section II, B. 1-3), the parent/guardian of the victim(s) and the accused child will be notified within 24 – 48 hours of the informal resolution process. The notification will include whether or not school officials plan to initiate a formal resolution process. The parents/guardians of the witness(es) may also be notified of the investigation if appropriate. In all instances in which the allegations rise to the level of discrimination, harassment, or bullying as defined in this policy, school officials will notify the complainant and his or her parent/guardian that a formal resolution process may be requested at any time. School officials will also provide copies of this policy and other relevant policies to all parties when appropriate.

E. Formal Process for Reporting Student Complaints

In circumstances where informal procedures fail or are inappropriate or where the complainant requests formal procedures, complaints will be investigated promptly, impartially, and thoroughly according to the following procedures:

1. A complaint must be filed as soon as possible but no longer than 30 days after disclosure or discovery of the facts giving rise to the complaint. For a complaint submitted after 30 days which claims a violation, misapplication or misinterpretation of state or federal law, including discrimination, the superintendent or designee will determine whether the complaint will be investigated after considering factors such as the reason for the delay; the extent of the delay; the effect of the delay on the ability of the school district to investigate and respond to the complaint; and whether the investigation of the complaint is necessary to meet any legal obligations. However, students and parents should recognize that delays in reporting may significantly impair the ability of the school district to investigate and respond effectively to such complaints.
2. A parent or student should report complaints of discrimination, harassment, and bullying to any of the following individuals:
 - a. Principal or Assistant Principal at the school attended by the student;
 - b. The Human Resource Director
 - c. The Title IX Coordinator
3. A student does not have to report an incident of discrimination, harassment, or bullying, to trigger an investigation. Any employee, including a teacher or counselor, who has reason to believe that a student may have been harassed, discriminated against, or bullied, including any employee who has witnessed possible discrimination, harassment, or bullying or has received reports by the victim or other individual, will notify the principal immediately unless the principal is the accused party. In that case, the employee will notify the Human Resource Director or the Title IX Coordinator. An employee who fails to report a possible discrimination, harassment, or bullying incident involving a student may be subject to

disciplinary action. The principal, and/or Human Resource Director and/or Title IX Coordinator will promptly investigate any reports and take appropriate action. The process provided in this policy will be used for any complaint made by a parent or student. Failure to appropriately investigate and/or address claims of discrimination, harassment, or bullying will result in disciplinary action. All reports will be maintained in accordance with this policy.

4. If the accused is a student or visitor, the principal will respond to the complaint and investigate. If the accused is an employee, the principal will notify the Human Resource Director or the Title IX Coordinator immediately.
5. If the accused is an employee, the immediate supervisor/and/or Human Resource Director and/or the Title IX Coordinator will respond to the complaint and investigate.
6. If the investigator is someone other than the Title IX Coordinator, the investigator will notify the Title IX Coordinator immediately of the complaint.
7. The investigator will explain the process of investigation to the complainant and inquire as to any proposed corrective action.

F. Investigation

1. The investigator will impartially, promptly, and thoroughly investigate the complaint. The investigator will individually interview (1) the student who is the victim of the alleged complaint; (2) any other individuals, including other possible victims who may have relevant information, and (3) the person accused of discrimination, harassment, or bullying.
2. Information will 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 district. Any complaints withdrawn to protect confidentiality will be recorded in accordance with records required by this policy.
3. In assessing whether the conduct complained of was discrimination, harassment, or bullying, the investigator will consider all factual information, the context in which the alleged incidents occurred, the age and maturity of the complainant and other relevant circumstances. If the alleged harasser is a student, the investigator also will consider the age and maturity of the person alleged to have discriminated, harassed or bullied another individual.

G. Investigator's Report

1. The investigator will make a written summary report of the findings of the investigation. The investigator will 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. The report will specify:
 - (a) whether the complaint was substantiated;
 - (b) whether the alleged offender violated relevant law or board policy by his or her actions (regardless of whether the complaint as submitted is substantiated); and
 - (c) if the investigator determines that discrimination, harassment, or bullying has occurred, the investigator also will specify: reasonable, timely, age-appropriate effective corrective action intended to end the discrimination, harassment or bullying and prevent it from reoccurring.
2. If the student is dissatisfied with the investigator's findings, the complainant may appeal the decision to the superintendent. The appeal must be in writing within five days of receiving the investigator's report. The superintendent may review the documents and conduct any further investigation necessary or take any other steps the superintendent determines to be appropriate in order to respond to the complaint. The superintendent will provide a written response within 10 days after receiving the complaint, unless further investigation is necessary.
3. If the student is dissatisfied with the superintendent's response, the complainant may appeal the decision to the board within five days of receiving the superintendent's response. The board may

review the documents, direct any further investigation be conducted before making a determination, or take any other steps the board determines to be appropriate in order to respond to the complaint. The board will hold a hearing pursuant to Board Policy A-2, Appeals to the board upon request of the complainant or at the board's discretion. The board will provide a written response within 30 days after receiving the complaint, unless further investigation is necessary or the hearing necessitates that more time be taken to respond.

H. Formal Process for Reporting Employee Complaints

1. An employee or job applicant who believes he or she has been discriminated against or harassed may make a complaint orally or in writing to any of the following:
 - a. Immediate supervisor; or
 - b. Human Resource Director; or
 - c. Title IX Coordinator
2. A grievance must be filed as soon as possible but no longer than 30 days after disclosure or discovery of the facts giving rise to the grievance. For a grievance submitted after 30 days which claims a violation, misapplication or misinterpretation of state or federal law, including discrimination, the superintendent or designee will determine whether the grievance will be investigated after considering factors such as the reason for the delay; the extent of the delay; the effect of the delay on the ability of the school district to investigate and respond to the complaint; and whether the investigation of the complaint is necessary to meet any legal obligations. However, employees should recognize that delays in reporting may significantly impair the ability of the school district to investigate and respond effectively to such complaints
4. Any supervisor who receives a discrimination or harassment complaint, or has reason to believe an employee is being discriminated against or harassed, shall notify the Human Resource Director or the Title IX Coordinator immediately. Any supervisor who fails to report promptly allegations or claims of discrimination or harassment, may be subject to disciplinary action.

I. Investigation

1. Upon receiving notification of a discrimination or harassment complaint, the immediate supervisor and/or Human Resource Director and/or Title IX Coordinator (herein referred to as the investigator) will investigate the complaint.
2. The investigator will impartially, promptly and thoroughly investigate the complaint. Failure to investigate and/or address claims of discrimination or harassment will result in disciplinary action. The investigator will interview (1) the complainant; (2) any other persons the investigator has reason to believe may have relevant knowledge concerning the complaint; and (3) the accused.
3. Information will be shared only with individuals who need the information in order to investigate and address the complaint appropriately.
4. The investigation will review the factual information gathered through the investigation to determine whether the alleged conduct constitutes discrimination or harassment, giving consideration to all factual information, the totality of the circumstances, including the nature of the verbal, physical, visual or sexual conduct, and the context in which the alleged incident(s) occurred.

J. Investigator's Report

1. The investigator will make a written summary report of the findings of the investigation. The investigator will 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. The report to the complainant will specify:

- (a) whether the complaint was substantiated;
 - (b) whether the accused violated relevant law or board policy by his or her actions (regardless of whether the complaint as submitted is substantiated); and
 - (c) if the investigator determines that discrimination or harassment has occurred, the investigator also will specify:
 - reasonable, timely, effective corrective action intended to end the discrimination or harassment (example: diversity training;
 - if needed, reasonable steps to address the effects of the discrimination or harassment on the complainant; and
 - if needed, reasonable steps to protect the complainant from retaliation as a result of communicating the complaint.
2. Information regarding disciplinary action imposed on the accused will not be given to the complainant unless the information relates directly to the complainant (e.g., an order requiring the accused not to have contact with the complainant).
 3. The investigator will submit the full report and investigative findings to the Title IX Coordinator (if the investigator is someone other than the Title IX Coordinator).
 4. If the corrective steps involve actions outside the scope of the investigator's responsibilities, the superintendent also will be notified so that responsibility for the corrective steps can be delegated to the appropriate individual.
 5. The accused will be informed of the results of the investigation in regard to whether the complaint was substantiated, whether the accused violated board policy or law (regardless of whether the complaint was substantiated), and what, if any, disciplinary actions or consequences will be imposed upon the accused in accordance with board policy. The accused may appeal any disciplinary action or consequences in accordance with board policy and law.

K. Appeal

1. If the complainant is dissatisfied with the investigator's report, the complainant may appeal the report to the superintendent. The appeal must be in writing within five days of receiving the investigator's report. The superintendent may review the documents, conduct any further investigation necessary or take any other steps the superintendent determines to be appropriate in order to respond to the complaint. The superintendent will provide a written response within 10 days after receiving the complaint, unless further investigation is necessary.
2. If the complainant is dissatisfied with the superintendent's response, the complainant may appeal the decision to the board within five calendar days of receiving the superintendent's response. The board may review the documents, direct any further investigation be conducted before making a determination or take any other steps the board determines to be appropriate in order to respond to the complaint. The board will hold a hearing in accordance with Board Policy A-2, Appeals to the Board upon the request of the complainant or at the board's discretion. The board will provide a written response within 30 days after receiving the complaint, unless further investigation is necessary or the hearing necessitates that more time be taken to respond.

L. Non-Retaliation

The board prohibits reprisal or retaliation against any person who reports an act of discrimination, harassment or bullying. The consequence and appropriate remedial action for a person who engages in reprisal or retaliation shall be determined by the principal in the case of a student and immediate supervisor and/or the Human Resource Director and/or the Title IX Coordinator in the case of an employee after consideration of the nature and circumstances of the act, in accordance with applicable federal, state or local laws, policies and regulations.

M. Training and Programs

1. The superintendent shall designate an employee(s) to participate in training by the Department of Public Instruction pertaining to anti-discrimination, anti-harassment and anti-bullying. The designee will provide leadership and training in the school district regarding this policy and state requirements.
2. As funds are available, the board will provide additional training for students and staff regarding the board's policy on discrimination, harassment and bullying and will create programs to address these issues.

N. Notice

The superintendent is responsible for providing effective notice to students, parents and employees of the procedures for reporting and investigating complaints of discrimination, harassment and bullying. This policy will be posted on the system's website and copies will be readily available at the school and in the superintendent's office. Notice of this policy will appear in all student and employee handbooks. The school district will investigate complaints of discrimination, harassment and bullying and will take reasonable steps to eliminate the discrimination, harassment or bullying.

O. Coordinators

The superintendent or designee will publish the names, addresses and phone numbers of the "Title IX Coordinator" (for sex discrimination), Section 504 Coordinator (for discrimination on the basis of disability) and the ADA Coordinator (also for discrimination on the basis of disability) in a manner intended to ensure that employees, applicants, students, parents and other individuals who participate in the school district's program are aware of the coordinators. The purpose of the coordinator positions is to provide additional protection of nondiscrimination rights. The coordinator either must (1) implement a resolution to a 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.

P. Records and Reporting

The superintendent or his or her designee shall maintain confidential records of complaints or reports of discrimination that identify the names of individuals accused of discrimination and the resolution of such reports or complaints. The superintendent also shall maintain records of training, corrective action, or other steps taken by the district to help 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.

Q. 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, marital status, parenthood, citizenship status, 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.

The staff shall establish and maintain an atmosphere in which students develop attitudes and skills for effective, cooperative living including:

- Respect for individuals regardless of economic status, intellectual ability, race, national origin, religion, sex, age, cultural differences, handicapping condition, or citizenship.
- Respect for economic, political, and social rights.
- Respect for the right to seek and maintain one's own identity.

R. Evaluation

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

S. Sanctions

Students found in violation of this policy will be subject to the disciplinary action found in Policy SA-1 and in the schools' code of student conduct. School officials will consider all relevant factors (e.g., severity of the incident, age of the students, prior discipline history of the violator, etc.) in determining whether or not additional sanctions will be imposed on the violator. Additional sanctions may include, but are not limited to the following: (1) required "behavior assessment" conducted by a licensed mental health professional, (2) required counseling, if recommended, in the behavior assessment, and (3) removal from school until a behavior assessment and/or appropriate counseling has been conducted. The cost of any required behavior assessment and/or counseling will be the responsibility of the parent/guardian.

An employee found in violation of this policy will be subject to sanctions that include but may not be limited to: counseling, warning, oral reprimand, written reprimand, demotion and/or possible dismissal.

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.; 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. 706(8), 794, 34 C.F.R. pt. 104; 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 Students 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; State Board of Education Policy Number SS-A-007