

## **DISCRIMINATION AND HARASSMENT IN THE WORKPLACE**

*Policy Code:*

**7232**

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The board prohibits unlawful discrimination in employment based on race, color, religion, national origin, military affiliation, genetic information, sex (including pregnancy, childbirth, sexual orientation, and gender identity), age (40 or older), disability, or other unlawful grounds. Harassment is a form of unlawful employment discrimination. The board recognizes that all forms of harassment of employees or applicants is harmful behavior that negatively impacts the workplace environment.

Any employee who engages in discrimination or harassment prohibited by this policy or who contributes to the development of a hostile work environment is subject to discipline, up to and including dismissal.

### **A. DISCRIMINATION PROHIBITED**

Discrimination is any act or failure to act, whether intentional or unintentional, by an employee or agent of the school system that unreasonably and unfavorably differentiates treatment of others based solely on their membership or that of an associate in a legally-protected class.

Discrimination in employment based on the characteristics listed above is prohibited in all employment-related practices, including hiring, compensation, terms, conditions, and other privileges of employment, except when sex, age, or physical requirements are essential occupational qualifications.

### **B. HARASSMENT PROHIBITED**

Harassment prohibited by this policy is unwelcome conduct based on race, color, religion, national origin, military affiliation, genetic information, age (40 or older), sex (including pregnancy, childbirth, sexual orientation, and gender identity), or disability where:

1. enduring the offensive conduct becomes a condition of continued employment; or
2. the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive, even if the complaining individual is not the intended target.

A single incident of harassment, if physically threatening or humiliating, can create a hostile work environment. The complaining individual need not be the target of the harassment.

Examples of unwelcome conduct that may violate this policy include, but are not limited to, offensive jokes, slurs, epithets or name calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures, and interference

with work performance.

Petty slights, annoyances, simple teasing, offhand comments, or isolated incidents (unless extremely serious) are not harassment under this policy, nor are reasonable performance management actions taken to direct and control how work is performed or to monitor and give feedback on work performance. The exercise of legitimate authority administered in a professional and constructive manner is not harassment under this policy.

### **C. SEXUAL HARASSMENT PROHIBITED**

Sexual harassment is a particular type of workplace harassment. Sexual harassment prohibited by this policy may also violate policy 1725/4035/7236, Title IX Sexual Harassment – Prohibited Conduct and Reporting Process, and in such cases school officials must proceed in accordance with the requirements of that policy.

Prohibited sexual harassment is unwelcome conduct which is either of a sexual nature, or is directed at a person because of the person's sex (including pregnancy, childbirth, sexual orientation, and gender identity), when:

1. submission to the conduct is made either explicitly or implicitly a term or condition of a person's employment;
2. submission to or rejection of such conduct is made the basis for decisions affecting a person's employment; or
3. the conduct has the purpose or effect of unreasonably interfering with an employee's work performance or creating an intimidating, hostile, or offensive work environment.

Sexual harassment can include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature, or verbal, nonverbal, or physical aggression, intimidation, or hostility that is based on actual or perceived gender and sexual stereotypes, sexual orientation, or gender identity. Consensual conduct between adults that is not directed at a third party is not sexual harassment.

### **D. REPORTING DISCRIMINATION AND HARASSMENT**

Applicants and employees should promptly report orally or in writing any instance of alleged or potential discrimination, including harassment, to their principal or supervisor or the senior human resources official. Upon receiving a written complaint, the principal, supervisor, or senior human resources official shall promptly investigate the written complaint and cause or recommend appropriate corrective action if the written complaint is substantiated. Oral reports of violations may be investigated at the discretion of the school officials designated above. All reports and complaints of harassment under this policy will be investigated in a manner that protects the employee or applicant and maintains confidentiality to the greatest extent possible as permitted by law.

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**E. RETALIATION PROHIBITED**

The board prohibits retaliation against any person for making a report or complaint of a violation of this policy, supporting someone for reporting or intending to report a violation of this policy, or participating in the investigation of a reported violation of this policy. No reprisals will be taken by the board against a complaining party or other individual who makes a good faith report of discrimination or harassment. Any person who is found to have engaged in retaliation will be subject to discipline, up to and including dismissal. Acts of retaliation may also be subject to policy 1760/7280, Prohibition Against Retaliation.

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 II of the Genetic Information Nondiscrimination Act of 2008; Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e *et seq.*, 29 C.F.R. pt. 1604; Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. 4301 *et seq.*; *Bostock v. Clayton County*, 590 U.S. \_\_\_, 140 S. Ct. 1731 (2020); G.S. 9-32; 50B-5.5; 95-28.1, -28.2, -241; 110-136.8; 127A-201 *et seq.*; 130A-148; 143-422.2; 143B-1033

Cross References: Discrimination and Harassment Prohibited by Federal Law (policy 1710/4020/7230), Title IX Nondiscrimination on the Basis of Sex (policy 1720/4030/7235), Title IX Sexual Harassment – Prohibited Conduct and Reporting Process (policy 1725/4035/7236), Title IX Sexual Harassment Grievance Process (policy 1726/4036/7237), Prohibition Against Retaliation (policy 1760/7280), Recruitment and Selection of Personnel (policy 7100)

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