The board 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. Discrimination, harassment and bullying can interfere with a student’s educational performance, opportunities, or benefits. Further, as described in the 2002 publication “Safe School Initiative Final Report” co-sponsored by the U.S. Secret Service and U.S. Department of Education, victims of bullying and harassment sometimes become the perpetrators of tragic school violence, and as a result, the report strongly supports efforts to reduce bullying. Finally, the North Carolina General Assembly has mandated strong anti-bullying and harassment policies in the School Violence Prevention Act. As a result of the above, the board will not tolerate any form of unlawful discrimination, harassment or bullying in any of its educational or employment activities or programs. 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.

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 and in doing so shall consider the age of the offender, patterns of violation and age appropriate penalties. 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.

   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 5020, Visitors to the 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. EXCEPTIONS FOR PROTECTED STUDENT SPEECH

While this policy is mandated by the General Assembly under the School Violence Prevention Act, the Act is also explicit that this policy “shall not be construed to permit school officials to punish student expression or speech based on an undifferentiated fear or apprehension of disturbance or out of a desire to avoid the discomfort and unpleasantness that always accompany an unpopular viewpoint.”

The Act gives no guidance in reconciling this statement with its mandate that bullying and harassment be prohibited even though student speech, in some cases, may amount to bullying and harassment. Further the courts across the nation struggle with this very issue. In this complex area of law, the board offers the following guidelines to its officials in enforcing this policy.

In determining whether student expression or speech is a violation of this policy on the one hand or protected free expression on the other, school officials should consider the following guidelines. In doing so, a frequent referral to the definitions of discrimination, harassment and bullying should be consulted in sections D.1 and D.2 below to determine whether the expression is or may be subject to this policy. School officials should also be aware that even if discrimination, harassment or bullying are not involved in student expression, such expression may be subject to other board policies or regulations. All persons in the school community should be aware that even protected speech may be subject to reasonable time, place and manner restrictions set forth in other sections of the board policies or local school rules.

1. The following would not be protected student expression.
a. A threat of physical harm to a student or group of students.

b. Expression that by its nature presents a likely expectation of substantial disruption. In making this determination, school officials can consider:

(1) similar expression that caused disruption within a school in Carteret County;

(2) similar expression that caused substantial disruption in a school in another school system in eastern North Carolina if there is probable cause to believe that the characteristics of such school are so similar to the schools in Carteret County Public School System that the disruption here is certain;

(3) expression that has a connection to actual historical violence that would generally be viewed as a criminal act; or

(4) expression constituting “fighting words” or incitement to violence.

c. An expression that by its nature so denigrates a student or group of students as to pose a substantial risk of psychological injury (as opposed to annoyance or discomfort) to a student or any student in a group. In determining whether this guideline is applicable, school officials are encouraged to consult a school psychologist and to document the opinion of the psychologist.

2. The following would be protected student speech under most circumstances, and the burden of proving otherwise is on the school official prohibiting the expression.

a. Expression supporting or critical of public figures that does not use otherwise inappropriate language.

b. Expression supporting ideas or movements in a positive way that is not critical of others or the views of others and does not use otherwise inappropriate language.

3. The following examples are from court cases applicable in Carteret County that should be considered in determining whether student expression is protected and beyond the scope of this policy.

a. Protected expression

(1) Wearing a black arm ban to protest the Vietnam War.
(2) A tee shirt with figures of men firing rifles (not at any one or thing) and a reference to the NRA.

b. Not protected expression

(1) Lewd student speech at an assembly.

(2) A banner with the words “Bong hits 4 Jesus.”

School officials should also be aware that some of the court cases which protect student expression note that speech which “inappropriately interferes with other students’ rights may be proscribed or regulated.” All students in the Carteret County Public School System have a right to be free of discrimination, bullying and harassment as those terms are defined in this policy.

In weighing whether expression is protected, school officials shall consider on the one hand whether actual bullying or harassing is taking place or on the other hand whether the expression is only causing discomfort and unpleasantness.

It is important for principals to undertake a deliberative process in deciding whether expression that could be considered bullying or harassing is actually protected student speech. The factors considered should be documented when practical.

School officials should be aware that protected student expression can become divisive. Nevertheless, all reasonable measures shall be taken to prevent students in opposition to protected expression from creating a disturbance so that the expression will be silenced. If school officials fear that protected speech has a tendency to create disruption of the educational process or if it that actually creates disruption, they shall take steps to protect the rights of students to engage in such expression, including counseling and disciplining students who threaten or create disruption. Only if pronounced good faith efforts to quell disruption fail and actual disruption that substantially and materially interferes with the educational process occurs, are school officials authorized to temporarily restrict or prohibit protected speech. In such cases restrictions or prohibition shall be ended as soon as practical after order is restored in the school.

The board is aware that in some cases there is no bright line division between protected and prohibited expression. School officials are encouraged to consult with the Superintendent when questions arise. In emergencies, school officials are authorized to consult the board attorney and/or the educational law faculty at the University of North Carolina at Chapel Hill School of Government for assistance.

C. APPLICATION OF POLICY

This policy prohibits unlawful discrimination, harassment and bullying by students, employees, volunteers, and visitors. “Visitors” includes persons, agencies, vendors, contractors and organizations doing business with or performing services for the school
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; and
6. at any time or place when the behavior has a direct and immediate effect on maintaining order and discipline in the schools.

D. DEFINITIONS

For purposes of this policy, the following definitions 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.

   “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 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.

E. REPORTING AND INVESTIGATING COMPLAINTS OF DISCRIMINATION, HARASSMENT OR BULLYING

Employees are required to report any actual or suspected violations of this policy. Students, parents, volunteers, visitors or others are also strongly encouraged to report any actual or suspected incidents of discrimination, harassment or bullying. All reports should be made in accordance with policy 1720/4015/7225, Discrimination, Harassment and Bullying Complaint Procedure, and reported to one of the school officials identified in that policy. Reports may be made anonymously, and all reports shall be investigated in accordance with that policy.

School officials should be particularly sensitive to the fact that anonymous reports can be fraught with personal retribution, improper motives and abuse. As a result, investigations based on anonymous reports should be conducted with extreme care and should include an interview with any witnesses who could confirm or refute the allegation and an interview with the alleged victim or class of victims.

F. TRAINING AND PROGRAMS

The board directs the superintendent to establish training and other programs that are designed to help eliminate unlawful 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, on cell phones and on the Internet.

G. **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 must be posted on the school system website, and copies of the policy must be readily available in the principal’s office, the media center at each school and the superintendent’s office. Notice of this policy must appear in all student and employee handbooks and in any school system publication that sets forth the comprehensive rules, procedures and standards of conduct for students and employees.

H. **COORDINATORS**

The superintendent or designee shall appoint one or more 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 Rights 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. The superintendent or designee shall publish the name(s), office address(es) and phone number(s) of the compliance coordinators in a manner intended to ensure that students, employees, applicants, parents and other individuals who participate in the school system’s programs are aware of the coordinator(s). The coordinator(s) shall coordinate the school system’s efforts to comply with and carry out its Title VI, Title IX, Section 504 and ADA responsibilities.

I. **RECORDS AND REPORTING**

The superintendent or designee shall maintain records of complaints or reports of discrimination, harassment or bullying in accordance with law. The superintendent may elect not to document an anonymous report if the report could not be verified or substantiated, particularly if the purported victim denies being a victim in a convincing manner. However, school officials should be sensitive to patterns of discrimination, bullying, or harassment that may surface in anonymous reporting and act accordingly. The superintendent shall maintain records of training conducted and corrective action(s) or other steps taken by the school system 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 must be made through the Discipline Data Collection Report or through other means required by the State Board.

J. EVALUATION

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


Cross References: Discrimination, Harassment and Bullying Complaint Procedure (policy 1720/4015/7225), Nondiscrimination on the Basis of Disabilities (policy 1730/4022/7231), Prohibition Against Retaliation (policy 1760/7280), Equal Educational Opportunities (policy 4001), 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 (policy 7930), Classified Personnel: Suspension and Dismissal (policy 7940)

Adopted: January 5, 2010

Revised: April 1, 2014