

## 1720/4015/7225 Discrimination, Harassment, And Bullying Complaint Process

The Wake County Board of Education takes seriously all complaints of unlawful discrimination, harassment, and bullying. The process provided in this policy is designed for those individuals who believe that they may have been discriminated against, bullied, or harassed in violation of policy [1710/4021/7230](#), Prohibition Against Discrimination, Harassment, and Bullying or policy [1730/4022/7231](#), Nondiscrimination on the Basis of Disabilities. Individuals who have witnessed or have reliable information that another person has been subject to unlawful discrimination, harassment, or bullying also should report such violations in the manner provided in this policy. Reports may be made anonymously.

### A. DEFINITIONS

#### 1. Alleged Perpetrator

The alleged perpetrator is the individual alleged to have discriminated against, harassed, or bullied the complainant.

#### 2. Complaint

A complaint is an oral or written notification made by a person who believes he or she is the victim of unlawful discrimination, harassment, or bullying.

#### 3. Complainant

The complainant is the individual complaining of being discriminated against, harassed, or bullied.

#### 4. Days

Days are the working days 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.

#### 5. Investigator

The investigator is the school official responsible for investigating and responding to the complaint.

#### 6. Report

A report is an oral or written notification that an individual, other than the reporter, is a suspected perpetrator or victim of unlawful discrimination, harassment, or bullying.

### B. REPORTING BY EMPLOYEES OR OTHER THIRD PARTIES

#### 1. Mandatory Reporting by School Employees

Any employee who witnessed or who has reliable information or reason to believe that an individual may have been discriminated against, harassed, or bullied in violation of policy [1710/4021/7230](#) or policy [1730/4022/7231](#) must report the offense immediately to an appropriate individual designated in subsection C.1., below. An employee who does not promptly report possible discrimination, harassment, or bullying shall be subject to disciplinary action.

## 2. Reporting by Other Third Parties

All members of the school community including students, parents, volunteers, and visitors are also strongly encouraged to report any act that may constitute an incident of discrimination, harassment, or bullying.

## 3. Anonymous Reporting

Reports of discrimination, harassment, or bullying may be made anonymously, but formal disciplinary action may not be taken solely on the basis of an anonymous report.

## 4. Investigation of Reports

Reports of discrimination, harassment, or bullying will be investigated sufficiently to determine whether further action under this policy or otherwise is necessary, and school officials shall take such action as appropriate under the circumstances. At the option of the alleged victim, the report may be treated as a complaint by the alleged victim under this policy.

# C. COMPLAINTS BROUGHT BY ALLEGED VICTIMS OF DISCRIMINATION, HARASSMENT, OR BULLYING

## 1. Filing a Complaint

Any individual who believes that he or she has been discriminated against, harassed, or bullied is strongly encouraged to file a complaint orally or in writing to any of the following individuals:

- a. the principal or assistant principal of the school at which either the alleged perpetrator or alleged victim attends or is employed;
- b. an immediate supervisor if the individual making the complaint is an employee;
- c. the assistant superintendent of human resources if the alleged perpetrator or alleged victim is an employee of the school system (or the Superintendent if the assistant superintendent of human resources is the alleged perpetrator);
- d. the Title IX coordinator for claims of sex discrimination or sexual harassment (see the district's website or call the central office for name and contact information);
- e. the Section 504 coordinator or the ADA coordinator for claims of discrimination on the basis of a disability (see the district's website or call the central office for name and contact information);
- f. any member of the Board if the alleged perpetrator is the Superintendent; or
- g. for claims of other forms of prohibited discrimination, the applicable civil rights coordinator as indicated on the district's website or, if no coordinator is specifically designated, the Superintendent.

## 2. Time Period for Filing a Complaint

A complaint should be filed as soon as possible but no later than 30 days after disclosure or discovery of the facts giving rise to the complaint. Complaints submitted after the 30-day period may be investigated at the discretion of school

officials and outside the formal process described in Section D of this policy; however, individuals should recognize that delays in reporting may significantly impair the ability of school officials to investigate and respond to such complaints.

### 3. Informal Resolution

The Board acknowledges that many complaints may be addressed informally through such methods as conferences or mediation. The Board encourages the use of informal procedures such as mediation to the extent possible; however, mediation or other informal procedures will not be used to resolve complaints alleging sexual assault or sexual violence or complaints by a student of sexual harassment perpetrated by an employee. Informal procedures may be used only if the parties involved voluntarily agree.

If an informal process is used, the principal or other designated personnel must (1) notify the complainant that he or she has the option to end the informal process and begin formal procedures at any time and (2) make a copy of this policy and other relevant policies available to the complainant. Any informal process should be completed within a reasonable period of time, not to exceed 30 days unless special circumstances necessitate more time.

## D. PROCESS FOR ADDRESSING COMPLAINTS OF ALLEGED INCIDENTS OF DISCRIMINATION, HARASSMENT, OR BULLYING

### 1. Initiating the Investigation

a. Whoever receives a complaint of discrimination, harassment, or bullying pursuant to subsection C.1. shall immediately notify the appropriate investigator who shall respond to the complaint and investigate. The investigator of a complaint is determined as follows.

- 1) If the alleged perpetrator is a student, the investigator is the school principal.
- 2) If the alleged perpetrator is an employee other than the assistant superintendent of human resources or the Superintendent, the investigator is the assistant superintendent of human resources or designee.
- 3) If the alleged perpetrator is the assistant superintendent of human resources, the Superintendent or designee is the investigator.
- 4) If the alleged perpetrator is the Superintendent, the Board attorney is the investigator. (In such cases, whoever receives a complaint of discrimination, harassment, or bullying shall immediately notify the assistant superintendent of human resources who shall immediately notify the Board chair. The Board chair shall direct the Board attorney to respond to the complaint and investigate.)
- 5) If the alleged perpetrator is a member of the Board, the Board attorney is the investigator. (In such cases, whoever receives a complaint of discrimination, harassment, or bullying shall immediately notify the Superintendent who shall direct the Board attorney to respond to the complaint and investigate. Unless the Board chair is the alleged perpetrator, the Superintendent shall also notify the Board chair of the complaint.)

- b. As applicable, the investigator shall immediately notify the Title IX, Section 504, ADA, or other relevant coordinator of the complaint, and, as appropriate, may designate the coordinator to conduct the investigation.
- c. The investigator shall explain the process of the investigation to the complainant and the alleged perpetrator.
- d. Written documentation of all formal reports and complaints, as well as the school system's response, must be maintained in accordance with policy [1710/4021/7230](#).
- e. Failure to report, investigate, and/or address claims of discrimination, harassment, or bullying may result in disciplinary action.

## 2. Conducting the Investigation

- a. The investigator is responsible for determining whether the alleged act(s) constitutes a violation of policy [1710/4021/7230](#) or policy [1730/4022/7231](#). In so doing, the investigator shall impartially, promptly, and thoroughly investigate the complaint. The investigator shall interview (1) the complainant; (2) the alleged perpetrator(s); (3) individuals identified as witnesses by the complainant or alleged perpetrator(s); and (4) any other individuals, including other possible victims, deemed likely to have relevant information. The alleged perpetrator shall be notified of the general nature of the allegations. The investigation will include a review of all evidence presented by the complainant or alleged perpetrator.
- b. The complaint and investigation will be kept confidential to the extent possible. Information may be shared only with individuals who need the information in order to investigate and address the complaint appropriately and those with a legal right to access the information. Any requests by the complainant for further confidentiality will be evaluated within the context of the legal responsibilities of the school system.
- c. The investigator shall review the factual information gathered through the investigation to determine whether, based on a preponderance of the evidence, the alleged conduct constitutes discrimination, harassment, or bullying, giving consideration to all factual information, the context in which the alleged incidents occurred, the age, and maturity of the complainant and alleged perpetrator(s), and any other relevant circumstances.

## 3. Notice to Complainant and Alleged Perpetrator

- a. The investigator shall provide written notification to 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 investigator shall specify whether the complaint was substantiated and, if so, shall also specify:
  - 1) reasonable, timely, age-appropriate, corrective action intended to end the discrimination, harassment, or bullying, and prevent it from recurring;
  - 2) as needed, reasonable steps to address the effects of the discrimination, harassment, or bullying on the complainant; and

3) as needed, reasonable steps to protect the complainant from retaliation as a result of communicating the complaint.

b. Information regarding specific disciplinary action imposed on the alleged perpetrator(s) will not be given to the complainant unless the information relates directly to the complainant (e.g., an order requiring the perpetrator not to have contact with the complainant).

c. If the investigator determines that the complaint was substantiated, the perpetrator(s) shall be subject to discipline or other corrective steps, as described in policy [1710/4021/7230](#). If the corrective steps involve actions outside the scope of the investigator's authority, the Superintendent or designee will be notified so that responsibility for taking the corrective steps may be delegated to the appropriate individual.

d. Each alleged perpetrator will be provided with a written summary of the results of the investigation in regard to whether the complaint was substantiated, whether the alleged perpetrator violated relevant law or Board policies by his or her actions, and what, if any, disciplinary actions or consequences may be imposed upon the perpetrator in accordance with Board policy. The perpetrator may appeal any disciplinary action or consequence in accordance with Board policy and law. However, an appeal by the perpetrator of disciplinary action does not preclude school officials from taking appropriate action to address the discrimination, harassment, or bullying.

#### 4. Appeal

a. If the complainant is dissatisfied with the results of the investigation, he or she may appeal the decision to the Superintendent. If the alleged perpetrator is the assistant superintendent of human resources or the Superintendent, the complainant may appeal directly to the Board in accordance with the procedure described in subsection D.4.b below. The appeal must be submitted in writing within five days of receiving the notice of the results of the investigation. The Superintendent or designee may review the documents, conduct any further investigation necessary, or take any other steps the Superintendent or designee determines to be appropriate in order to respond to the complaint. The Superintendent or designee shall provide a written response within 10 days after receiving the appeal, unless further investigation is needed.

b. If the complainant is dissatisfied with the Superintendent's or designee's response or preventative measures, he or she may appeal the decision to the Board in writing within five days of receipt. If the appeal identifies a final administrative decision resulting in an alleged violation of a specified federal law, State law, State Board of Education policy, State rule, or local Board Policy, the complainant shall be entitled to a hearing before the Board of Education pursuant to Policy 2500, Hearings Before the Board. All other appeals will be treated as requests for discretionary review and will be forwarded to the Chair and Vice Chair for consideration. The Chair and Vice Chair will review the request and notify the complainant within ten days from receipt whether the Board will grant discretionary review. If the Chair and Vice Chair do not agree, the request for discretionary review will be allowed. The Board's consideration of

discretionary appeals will take place in closed session and will be limited to a review of the written record, without a hearing, unless the Chair and Vice Chair determine that a hearing is necessary. Hearings before the Board will be held within thirty days of receipt of the written appeal or as soon thereafter as is reasonably practicable. The Board will provide a written response within ten days after any appeal has been considered and decided.

#### **E. TIMELINESS OF PROCESS**

If any school official charged with investigating the complaint or reviewing the investigation fails at any step in the process to communicate a decision within the specified time limit, the complainant will be entitled 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, review, or report. The school official shall 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.

Failure by the complainant at any step in the process to appeal a complaint 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 and the reason for the delay and the investigator has consented in writing to the delay.

#### **F. GENERAL REQUIREMENTS**

1. No reprisals or retaliation of any kind will be taken by the Board or by any employee of the school system against the complainant or other individual on account of his or her filing a complaint or report or participating in an investigation of a complaint or report filed and decided pursuant to this policy, unless the person knew or had reason to believe that the complaint or report was false or knowingly provided false information.
2. All meetings and hearings conducted pursuant to this policy will be private.
3. The Board and school system officials will consider requests to hear complaints from a group, but the Board and officials have the discretion to hear and respond to complainants individually.
4. The complainant may be represented by an advocate, such as an attorney, at any meeting with school system officials. Should the complainant choose to be represented by an attorney, an attorney for the school system may also be present.
5. Should, in the judgment of the Superintendent or designee, the investigation or processing of a complaint require that an employee be absent from regular work assignments, such absences shall be excused without loss of pay or benefits. This shall not prevent the Superintendent or designee from suspending the alleged perpetrator without pay during the course of the investigation.

#### **G. RECORDS**

Records will be maintained as required by policy [1710/4021/7230](#).

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](#); Family Educational Rights and Privacy Act, [20 U.S.C. 1232g](#); 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); [Gebser v. Lago Vista Independent School District](#), 524 U.S. 274 (1998); [Davis v. Monroe County Board of Education](#), 526 U.S. 629 (1999); [G.S. 115C-407.15 through -407.18](#)

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WAKE COUNTY BOARD OF EDUCATION

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