

Wilson County Board of Education

Policy Description: Illegal Discrimination/Harassment and Retaliation Page 1 of 6	Policy Number: 5.500	Amended Date: 03/02/09
	Rescinds: 5.501	Issued: 12/05/05

1 The Wilson County Board of Education is committed to safeguarding the right of all employees within the school
2 system to learn and work in an environment that is free from all forms of discrimination/harassment. Any act of
3 discrimination/harassment based on race, color, religion, creed, sex, national origin, age, veteran status,
4 disability, or any other classification protected by law is contrary to basic standards of conduct between
5 individuals and is prohibited.

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7 It is the intent of this policy to set forth guidelines for handling violations of the policy and to specify the related
8 complaint-handling procedure.

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10 This policy applies to all employees, third party members, and consultants of the Wilson County School System.
11 It addresses conduct taking place on school grounds, at any school-sponsored activity, on school-provided
12 transportation, or at any official school bus stop.

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14 It shall be a violation of this policy for any employee, volunteer, third party member, or consultant of the school
15 system to discriminate against or harass a student or an employee through conduct or communication as defined
16 by this policy.

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18 The school system will act to investigate all complaints, either formal or informal, verbal or written, of
19 discrimination/harassment and to discipline any employee who discriminates against or harasses a student or
20 employee of the school system.

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22 Discrimination/harassment are prohibited by one or more of the following: the Equal Employment Opportunity
23 Commission, Title II of the Americans with Disabilities Act, Title IX of the Education Amendments of 1972,
24 Section 504 of the Rehabilitation Act of 1973, Title VI of the Civil Rights Act of 1964, the Tennessee Human
25 Rights Act, state regulations, and board policy.

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DISCRIMINATION/HARASSMENT:

For the purpose of this policy, discrimination/harassment may include, but is not limited to,

1. Graffiti, notes, or cartoons containing discriminatory language; name calling, jokes, or rumors;
2. Negative stereotypes and hostile acts which are based upon a person's race, color, religion, creed, sex, national origin, age, veteran status, disability, or any other classification protected by law;
3. Written or graphic material containing discriminatory comments or stereotypes that is posted or circulated and which is aimed at degrading individuals or members of protected classes;
4. Threatening or intimidating conduct directed at another because of the race, color, religion, creed, sex, national origin, age, veteran status, disability, or any other classification protected by law;
5. A physical act of aggression or assault, or other acts of aggressive conduct upon another because of, or in a manner reasonably related to an individual's race, color, religion, creed, sex, national origin, age, veteran status, disability, or any other classification protected by law;
6. Denial of participation in programs, activities, etc. because of race, color, religion, creed, sex, national origin, age, veteran status, disability, or any other classification protected by law;
7. Denial of job placement, advancement, etc., because of race, color, religion, creed, sex, national origin, age, veteran status, disability, or any other classification protected by law; or
8. Reprisal or Retaliation against any person who reports alleged discrimination/harassment or against any person who testifies, assists, or participates in an investigation, proceeding, or hearing related to a complaint. Retaliation includes, but is not limited to, any form of intimidation, reprisal, harassment or discrimination.

WHEN

1. Submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining or retaining employment, or of obtaining an education; or
2. Submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment or education; or
3. That conduct or communication has the purpose or effect of substantially or unreasonably interfering with an individual's employment or education, or creating an intimidating, hostile, or offensive employment or education environment. Any discrimination/harassment as defined, when perpetrated on any student or employee by any student or employee, will be treated as discrimination/harassment under this policy.

1 **SEXUAL HARASSMENT:**

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3 For the purpose of this policy, sexual harassment may include, but is not limited to, the following:

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5 1. Verbal harassment or abuse;
- 6 2. Subtle pressure for sexual activity;
- 7 3. Inappropriate patting or pinching;
- 8 4. Intentional brushing against a student's or an employee's body;
- 9 5. Demanding sexual favors accompanied by implied or overt threats concerning an individual's
- 10 employment or educational status;
- 11 6. Demanding sexual favors accompanied by implied or overt promises of preferential treatment
- 12 with regard to an individual's employment or educational status; or
- 13 7. Any sexually motivated unwelcome touching.

14
15 **WHEN**

- 16
17 1. Submission to that conduct or communication is made a term or condition, either explicitly or
- 18 implicitly, of obtaining or retaining employment, or of obtaining an education; or
- 19 2. Submission to or rejection of that conduct or communication by an individual is used as a
- 20 factor in decisions affecting that individual's employment or education; or
- 21 3. That conduct or communication has the purpose or effect of substantially or unreasonably
- 22 interfering with an individual's employment or education, or creating an intimidating, hostile, or
- 23 offensive employment or education environment. Any discrimination/harassment as defined,
- 24 when perpetrated on any student or employee by any student or employee, will be treated as
- 25 discrimination/harassment under this policy.

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27 **REPORTING PROCEDURES:**

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29 Any person who believes he/she has been the victim of discrimination/harassment by a student, employee, third

30 party, or consultant, or any third person with knowledge or belief of conduct which may constitute

31 discrimination/harassment shall report the alleged acts immediately to an appropriate school system official as

32 designated by this policy. In all cases, a complaint must be filed within sixty (60) working days from the

33 occurrence of the alleged discrimination/harassment, unless otherwise stipulated in state or federal law.

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1 It should be noted that, at any time, complaints of discrimination/harassment may be made to the appropriate
2 state and/or federal offices.

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4 **a. Step 1:**

5 The school principal/department supervisor is the person responsible for receiving verbal or
6 written reports of discrimination/harassment at Step 1. Students may report alleged incidents
7 to a teacher, counselor, or building administrator who shall immediately notify the building
8 principal. The principal shall inform the student(s) and/or employee(s) of the procedures as
9 outlined in this policy. A complaint shall include the following information: identity of the
10 alleged victim and person accused; location, date, time, and circumstances surrounding the
11 alleged incident; a description of what happened; identity of witnesses; and any other evidence
12 which is relevant.

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14 Upon receipt of a report (verbal or written), the principal/departmental supervisor must notify
15 the Director of Schools, in writing, within twenty-four (24) hours without screening or
16 investigating the report and shall forward the complaint (including any written documents) to
17 the designated building-level/work site complaint managers who shall investigate said
18 complaint and forward a written summary of the investigation to the Principal/Departmental
19 Supervisor, the Director, and the complainant within twenty (20) working days. If the complaint
20 involves the school principal or departmental supervisor, the complaint shall be filed directly
21 with the Director.

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23 **b. Step 2:**

24 If the complaint is not resolved at Step 1, the complainant shall file a formal written complaint
25 with the Director of Schools, using the form available in each school office and work site. This
26 must be filed within five (5) working days of receipt of the written summary. Upon receipt of a
27 formal, written complaint, the Director shall forward said complaint to the appropriate system-
28 level personnel who shall investigate the alleged incident, following guidelines specific to
29 his/her area of responsibility. A written report of the investigation shall be forwarded to the
30 Director, within thirty (30) working days. The Director shall respond to the complainant, in
31 writing, within ten (10) working days of receipt of said report. A copy of the report shall be
32 forwarded to all parties, including the principal/department supervisor.

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34 **c. Step 3:**

35 If the complaint is not resolved at Step 2, the complainant shall request to appear before the
36 Board of Education at the next regular meeting. Upon hearing the alleged complaint, the
37 Board of Education shall respond in writing to the complainant within thirty (30) working days.

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39 It is noted that failure to forward any complaint or report as provided in this policy will result in disciplinary action.
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1 Submission of a complaint or report of discrimination/harassment will not affect an individual's future
2 employment, work assignment, grades, or the right to participate in school activities. A school employee who
3 promptly reports an act of discrimination/harassment to the appropriate school official in compliance with the
4 procedures as set forth in this policy is immune from a cause of action for damages arising from any failure to
5 remedy the reported act.

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7 The school system will respect the confidentiality of the complainant and the individuals against whom the
8 complaint is filed as much as possible, consistent with the school system's legal obligations and the necessity to
9 investigate allegations of discrimination/ harassment and to take disciplinary action when the conduct has
10 occurred.

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12 **INVESTIGATION AND RECOMMENDATION:**

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14 1. The investigation of an alleged incident of discrimination/harassment may consist of personal
15 interviews with the complainant, the individual(s) against whom the complaint is filed, and
16 others who may have knowledge of the alleged incident(s) or circumstances giving rise to the
17 complaint. The investigation may also consist of any other methods and documents deemed
18 pertinent by the investigator. In addition, the school system may take immediate steps, at its
19 discretion, to protect the complainant, students, and employees pending completion of an
20 investigation of the alleged incident.
21 2. The school system recognizes that not every advance or consent of a sexual nature
22 constitutes sexual harassment. Whether a particular action or incident is a personal, social
23 relationship without a discriminatory employment effect requires a determination based on all
24 the facts and surrounding circumstances. In determining whether alleged conduct constitutes
25 sexual harassment, the school system should consider the surrounding circumstances, the
26 nature of the sexual advances, relationships between the parties involved, and the context in
27 which the alleged incident occurred.

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29 **SCHOOL DISTRICT ACTION:**

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31 1. Upon receipt of a recommendation that the complaint is valid, the school system will take such
32 action as appropriate based on the results of the investigation.
33 2. The result of the investigation of each complaint filed under these procedures, and reported in
34 writing to the complainant by the school system, shall document any disciplinary action as a
35 result of the complaint.

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37 **REPRISAL:**

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39 The school system will discipline any individual who retaliates either against any person who reports alleged
40 discrimination/harassment or against any person who testifies, assists, or participates in an investigation,

1 proceeding, or hearing related to a complaint. (Said discipline shall be in accordance with policies and
2 procedures of the Wilson County School System.) Retaliation includes, but is not limited to, any form of
3 intimidation, reprisal, harassment or discrimination.

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5 **FALSE ACCUSATIONS:**

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7 False accusations of discrimination/harassment can have a serious detrimental effect on innocent parties. Any
8 person, who knowingly and intentionally makes a false accusation of discrimination/harassment for any reason
9 which would be contrary to the spirit and intent of this policy, shall be subject to appropriate disciplinary action as
10 stipulated in Board policies and State and Federal Law.

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12 **RIGHT TO ALTERNATIVE COMPLAINT PROCEDURES:**

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14 These procedures do not deny the right of any individual to pursue other avenues of recourse which may include
15 filing charges with the Tennessee Department of Human Rights, or the Office of Civil Rights (state and/or
16 federal), initiating civil action, or seeking redress under state criminal statutes and/or federal law.

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18 **SEXUAL HARASSMENT AS SEXUAL ABUSE:**

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20 Under certain circumstances, sexual harassment may constitute sexual abuse under Tennessee law. In such
21 situations, the school system shall comply with Tennessee law regarding the reporting to appropriate authorities
22 of sexual abuse.

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24 **DISCIPLINE:**

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26 Any school system action taken pursuant to this policy shall be consistent with requirements of applicable
27 negotiated agreements, Tennessee statutes and case law, and school system policies. The school system will
28 take such disciplinary action as it deems necessary and appropriate to end discrimination/harassment and
29 prevent its recurrence.

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31 **NOTIFICATION:**

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33 Information concerning the above policy shall be published annually in the agenda book distributed to every
34 student and in the local print media.

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36 **COMPLAINT MANAGERS:**

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38 The Director of Schools shall designate at least two (2) complaint managers, one of each gender, for each
39 school/worksite. In addition, the Director shall identify the names of system-level managers who are responsible
40 for coordinating the system's compliance efforts.