

ANTI-DISCRIMINATION, HARASSMENT AND BULLYING
(STUDENT POLICY)

ECU provides its commitment to equality of opportunity and prohibits unlawful discrimination based on protected classes, as provided by its *Notice of Nondiscrimination and Affirmative Action Policy*.

The ECU COMMUNITY SCHOOL is committed to promoting the worth and dignity of all individuals. It believes that all employees and students should be treated with respect and be free of unlawful discrimination, harassment, and bullying as a part of a safe, orderly, caring and inviting working and learning environment. The ECU Community School will not tolerate any form of unlawful discrimination, retaliation, harassment or bullying in any of its educational or employment activities.

The ECU COMMUNITY SCHOOL will not tolerate any form of unlawful discrimination or harassment in any of its education activities or programs. All forms of prohibited discrimination and harassment are subject to this policy except the following, for which the board has established more specific policies.

- Discrimination and harassment on the basis of sex is addressed in the ECU Community School's Title IX Nondiscrimination on the Basis of Sex, Policy 10-400.
- Discrimination and harassment in employment is addressed in the University's *Notice of Nondiscrimination and Affirmative Action Policy, POL05.25.02*.

ECU Policies are available at <https://www.ecu.edu/prr>

Students and parents or guardians may report complaints alleging discrimination on the basis of sex (other than sexual harassment) in a program or activity of the school system occurring against a person in the United States through the process provided in ECU Community School Antidiscrimination, Harassment, and Bullying Complaint Procedure (Policy 10-210-P)

In addition, the process set out in this policy for bringing complaints does not apply to the following.

- Complaints of sexual harassment will be brought in accordance with the processes established in ECU Community School Title IX Grievance Process (Policy 10-402).
- Employee allegations of discrimination or harassment will be addressed using the process established in the University's *Resolving Allegations of Discrimination Regulation*.
- Employee complaints of sexual harassment shall be brought in accordance with the process established in the University's *Title IX Compliance and Resolution Regulation-Interim* and accompanying Appendix B.

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I. Definitions

For purposes of this policy, the following definitions apply:

A. School employee

School employee means any of the following: an employee of East Carolina University or an independent contractor or an employee of an independent contractor of the ECU Community School.

B. Student

Student is a person who has been assigned to the ECU Community School.

C. 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.

D. Harassment

Prohibited harassment is deliberate unwelcome conduct directed at another person or group of persons based on their membership in a legally protected class that creates a hostile environment. Harassment does not have to include intent to harm, be directed at a specific target, or involve repeated incidents.

1. Harassment behavior is any pattern of gestures or written, electronic or verbal communications, or any physical act or any threatening communication that:

- a. 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
- b. 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 and that the conduct is objectively severe or pervasive enough that a reasonable person would agree that it is harassment. A hostile environment may be created through pervasive or persistent misbehavior or a single incident, if sufficiently severe.

Harassment includes, but is 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.

It is possible for harassment, including sexual or gender-based harassment, to occur in various situations. For example, harassment 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.

Sexual Harassment is prohibited by the Community School's Title IX Nondiscrimination on the Basis of Sex (Policy 10-400).

~~2. 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:~~

- ~~— 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;~~
- ~~— 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~~
- ~~— 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, 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 conduct are sufficiently serious to create a sexually hostile environment.~~

Commented [KM11]: This is now addressed in Title IX Sexual Harassment Policy 10-400 to 10-402

13.2. 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. Bullying behavior

Bullying may be characterized as offensive, intimidating, malicious, or insulting behavior. It is an abuse or misuse of power through means intended to undermine, humiliate, denigrate, or injure the recipient. It is 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. Cyber-bullying is one type of bullying behavior.

II. **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 ECU Community School.

This Policy applies to behavior that takes place:

- A. in any school building or on any school premises before, during or after school hours;
- B. on any bus or other vehicle as part of any school activity;
- C. during any school-sponsored activity or extracurricular activity;

- D. at any time or place when the individual is subject to the authority of school personnel; and
- E. at any time or place when the behavior has a direct and immediate effect on maintaining order and discipline in the schools.

III. **Prohibited Behaviors and Consequences**

Students, ECU Community School employees, volunteers and visitors are expected to behave in a civil and respectful manner. The ECU Community School expressly prohibits unlawful discrimination, harassment and bullying.

In accordance with G.S. 14-458.2 (Cyber-bullying of school employee by student; penalty), it is unlawful for a student to use a computer or computer network to do any of the following:

- A. With the intent to intimidate or torment a school employee
 - 1. Build a fake profile or Web site.
 - 2. Post or encourage others to post on the Internet private, personal, or sexual information pertaining to a school employee;
 - 3. Post a real or doctored image of the school employee on the Internet.
 - 4. Access, alter, or erase any computer network, computer data, computer program, or computer software, including breaking into a password-protected account or stealing or otherwise accessing passwords.
 - 5. Use a computer system for repeated, continuing, or sustained electronic communications, including electronic mail or other transmissions, to a school employee.
- B. Make any statement, whether true or false, intending to immediately provoke, and that is likely to provoke any third party to stalk or harass a school employee.

- C. Copy and disseminate, or cause to be made, an unauthorized copy of any data pertaining to a school employee for the purpose of intimidating or tormenting that school employee (in any form, including, but not limited to, any printed or electronic form of computer data, computer programs, or computer software residing in, communicated by, or produced by a computer or computer network).
- D. Sign up a school employee for a pornographic Internet site with the intent to intimidate or torment the employee.
- E. Without authorization of the school employee, sign up a school employee for electronic mailing lists or to receive junk electronic messages and instant messages, with the intent to intimidate or torment the school employee.

Students are expected to comply with the behavior standards established in the Student/Parent Handbook, the Code of Student Conduct, and/or ECU Community School policies. 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. Students will be disciplined in accordance with the Procedure 10-206-P (Code of Student Conduct) and/or other appropriate policies/procedures.

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.

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.

IV. Assignment of students convicted of cyber-bullying

Any student who is convicted under G.S. 14-458.2 of cyber-bullying a school employee shall be transferred to another school within the local school administrative unit. Consideration will be given for placement in an alternative learning program for a finite period of time. If there is no other appropriate school within the local school administrative unit, the student shall be transferred to a different class or assigned to a teacher who was not involved as a victim of the cyber-bullying. Notwithstanding the provisions in this section, the principal may modify, in writing, the required transfer of an individual student on a case-by-case basis.

V. Notice

The **Dean or his designee** 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 ECU Community School website, and copies of the Policy must be readily available in the principal's office. Notice of this Policy must appear in all student and employee handbooks and in any ECU Community School publication that sets forth the comprehensive rules, procedures and standards of conduct for students and employees.

VI. Training Programs

The Dean or his designee directs the principal to make all staff and students aware of all policies, procedures, etc. concerning discrimination, harassment, and bullying.

As funds are available, the ECU [CommunityLab](#) School will provide additional training for students, employees and volunteers who have significant contact with students regarding the school'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 the school building, at school bus stops, and on cell phones and the Internet.

VII. Anti-Discrimination Coordinator

The ECU Community School principal is as designated Anti- Discrimination, Harassment and Bullying Coordinator / Section 504 Coordinator and shall participate in training by the Department of Public Instruction pertaining to anti-discrimination, anti-harassment and anti-bullying.

The Coordinator shall coordinate the school system's efforts to comply with and carry out its ~~Title IX~~, Section 504 and ADA responsibilities, which include investigating any complaints communicated to school officials alleging noncompliance with ~~Title IX~~, Section 504 or the ADA or alleging actions which would be prohibited by those laws.

VIII. Evaluation

The **Dean or his designee** shall evaluate the effectiveness of efforts to correct or prevent discrimination, harassment and bullying and shall share these evaluations periodically with the Community School Advisory Board.

Legal References: Age Discrimination in Employment Act of 1967, 29 U.S.C. 621 et seq.; 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 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; 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); Oncale v. Sundowner Offshore Services, 523 U.S. 75 (1998); G.S. 115C-335.5, -407.9 through -407.12; 126-16; State Board of Education Policy HRS-A-007

Cross References:

University Policies, Regulations and Rules:
ECU Notice of Nondiscrimination and Affirmative Action Policy
ECU Title IX Compliance and Resolution Regulation-Interim;
ECU Resolving Allegations of Discrimination Regulation- Interim

Community School Policies:

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Antidiscrimination, Harassment, and Bullying Complaint Procedure (Policy 10-210-P)
Student and Parent Grievances Procedure (Policy 10-212-P)

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Title IX Nondiscrimination on the Basis of Sex (Policy 10-400)
Title IX Conduct and Reporting (Policy 10-401)
Title IX Grievance Process (Policy 10-402)
Child Abuse or Related Threats to Child Safety (Policy 10-620 and 10-620-P)

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