

## The Catamount School Policy 1710

### PROHIBITION AGAINST DISCRIMINATION AND HARASSMENT

Policy Code: 1710

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#### A. PURPOSE

The Catamount School (School) and Western Carolina University (University) acknowledge 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. The School and University prohibit discrimination on the basis of race, ethnicity, color, religion, sex, pregnancy, sexual orientation, gender identity or expression, national origin, age (40 or older), disability, genetic information, political affiliation, and National Guard or veteran status in its education program, which includes all operations, services, and activities of the School, and will provide equal access to the Boy Scouts and other designated youth groups as required by law.

All forms of prohibited discrimination and harassment are subject to this policy except for discrimination and harassment on the basis of sex in violation of Title IX of the Education Amendments Act of 1972.<sup>1</sup> Such discrimination and harassment is addressed separately in Policy 1720/1725, Title IX Prohibited Conduct Policy and Procedures.

Though claims of discrimination or harassment on the basis of disability, as specified in policy 1730, Nondiscrimination on the Basis of Disabilities, are subject to this policy, allegations regarding or related to the identification, evaluation, educational placement, or free appropriate public education of a student under Section 504 or the IDEA may be raised through the system of procedural safeguards established under policy 1730 (for Section 504 complaints) or in accordance with the procedures described in *Parents Rights & Responsibilities in Special Education*, published by the NC Department of Public Instruction (for IDEA complaints).

Employee allegations of discrimination and harassment are addressed by University Policy 53, Unlawful Discrimination.

The School encourages all individuals who believe that they have been discriminated against or harassed in violation of this policy or who have reliable information that another person has been discriminated against or harassed in violation of this policy to report such conduct as soon as possible through the process provided in Section E below. The School takes seriously all reports of unlawful discrimination and harassment and directs school officials to take prompt action to investigate and remedy violations of this policy. The Dean is responsible for providing effective

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<sup>1</sup> Although there is much overlap of conduct that would constitute sex discrimination in violation of Title IX and Title VII, the standards for what constitute discrimination and harassment under those laws are not identical. Conduct that does not violate Title IX may still violate Title VII and may need to be addressed in accordance with this policy.

notice of this policy to students, parents, and employees.

## **B. PROHIBITED BEHAVIORS AND CONSEQUENCES**

### **1. Discrimination, Harassment, and Bullying**

Students, school employees, volunteers, and visitors are expected to behave in a civil and respectful manner. The School and University expressly prohibit unlawful discrimination, harassment, and bullying.

Students are expected to comply with the behavior standards established by School and University policy and the Code of Student Conduct. Employees are expected to comply with school and university policy and regulations. Volunteers and visitors on school property also are expected to comply with School and University 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 school's student behavior management plan (see 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.

When considering if a response beyond the individual level is appropriate, School and University staff should consider the nature and severity of the misconduct to determine whether a classroom, school-wide, or University-wide response is necessary. Such classroom, school-wide, or University-wide responses may include staff training, harassment and bullying prevention programs, and other measures deemed appropriate by The School and University to address the behavior.

### **2. Retaliation**

The School 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 School or University 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 disciplinary action.

### **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 and/or the University.

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. through the use of School or University technological resources;
6. at any time or place when the individual is subject to the authority of school personnel; and
7. at any time or place when the behavior has a direct and immediate effect on maintaining order and discipline in the School.

### **D. DEFINITIONS**

For purposes of this policy, the following definitions apply:

#### **1. Bullying**

Bullying 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 their person or damage to their property; or
- b. that has a direct and immediate effect on maintaining order and discipline in the School.

Bullying 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.

Cyberbullying is a type of bullying that takes place through use of the internet, mobile phones, social media, or other digital technologies. Cyberbullying will be addressed through this policy if it takes place at School or University property or if it has a direct and immediate effect on maintaining order and discipline in the School.

Examples of bullying behavior 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 bullying.

## 2. Discrimination

Discrimination means any act or failure to act, whether intentional or unintentional, that unreasonably and unfavorably differentiates treatment of others based solely on a Protected Status so as to interfere with or limit their ability to participate in or benefit from the services, activities, or privileges offered by the school system's education program.

## 3. Harassment

Harassment is deliberate unwelcome conduct directed at another person or group of persons based on a Protected Status that creates a hostile environment. Harassment does not have to include intent to harm, be motivated by animus, be directed at a specific target, or involve repeated incidents. Harassment creates a hostile environment when the conduct is sufficiently severe, pervasive, or persistent so as to interfere with or limit a person's ability to participate in or benefit from the services, activities, or opportunities offered by the school.

A Hostile Environment is one that a reasonable person (objective standard) would find hostile or abusive and one that a complainant under this policy perceives to be hostile or abusive (subjective standard). Hostile environment is determined by looking at all of the circumstances, including the frequency of the allegedly harassing conduct, its severity, whether it is physically threatening or humiliating, the extent to which the conduct was intended to harm, harass or exploit the complainant, and whether the conduct actually and substantially interferes with an employee's work performance or a student's ability to participate in or to receive benefits, services, or opportunities in the School's education programs and

activities.

Examples of behavior that may constitute harassment include, but are not limited to, acts of disrespect, intimidation, or threats, such as verbal taunts, name-calling and put-downs, derogatory epithets, comments, or slurs, imitating a person's disability-based limitations, mocking a person's accent, making fun of a person's religious garments, jewelry, or displays, 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 hate symbols or derogatory posters or cartoons. Harassment may occur through electronic means, such as through the Internet, email, text message, or video calls.

Petty slights, annoyances, simple teasing, offhand comments, or isolated incidents (unless extremely serious) are not harassment under this policy. Legitimate age-appropriate pedagogical techniques are not considered harassment, is the exercise of legitimate authority administered in a professional and constructive manner.

#### 4. Protected Status

Consistent with federal and state law and policies of the UNC System and Western Carolina University, the School prohibits discrimination and harassment based on the following protected statuses:

- a. Age
- b. Color
- c. Disability
- d. Gender
- e. Gender identity
- f. Gender expression
- g. Genetic information
- h. National origin
- i. Political affiliation
- j. Race
- k. Religion
- l. Sex
- m. Sexual orientation
- n. Veteran or National Guard status

### **E. REPORTING DISCRIMINATION OR HARASSMENT**

#### 1. Reporting Suspected Discrimination or Harassment

Any person who believes that he or she has been discriminated against or harassed in violation of this policy or any third person who knows or suspects conduct that may constitute discrimination or harassment in violation of this policy should inform a school

official designated in Section C below. Reports also may be made anonymously, including through The Catamount School's [reporting portal](#).

## 2. Mandatory Reporting by School Employees

Any employee who witnessed or who has reliable information or reason to believe that another person may have been discriminated against or harassed in violation of this policy must report the offense immediately to the Title IX Coordinator or to the Principal. Any doubt about whether particular conduct is possible discrimination or harassment under this policy or any other policy of the board must be resolved in favor of reporting the conduct.

Employees who observe an incident of harassment are expected to intervene to stop the conduct in situations in which they have supervisory control over the perpetrator and it is safe to do so. If an employee knows of an incident involving discrimination or harassment and the employee fails to report the conduct or take proper action or knowingly provides false information in regard to the incident, the employee will be subject to disciplinary action, up to and including dismissal.

Students, parents, volunteers, visitors, or others are also strongly encouraged to report any actual or suspected incidents of discrimination or harassment.

## 3. Preliminary Inquiry

School officials may make a preliminary inquiry when a report is received to understand what occurred and to determine whether further action under this policy or otherwise is necessary.

# **F. COMPLAINTS AND INVESTIGATION OF DISCRIMINATION OR HARASSMENT**

## 1. Making a Complaint of Discrimination or Harassment

Any person who believes they are the victim of discrimination or harassment in violation of this policy, or any person who has witnessed or who has reliable information that another person has been subject to discrimination or harassment in violation of this policy, may request that school officials investigate and redress any such unlawful conduct by making a formal written complaint to the Title IX Coordinator or the Principal. Complaints and reports can also be made using the [portal](#).

Complaints against School employees will be investigated and addressed pursuant to WCU Policy 53 "Unlawful Discrimination."

## 2. Investigation

School officials shall investigate all formal written complaints received. Reports of discrimination or harassment that are not followed by a formal written complaint may be

investigated when necessary to remedy violations of this policy and may be investigated even if the alleged victim does not seek action by school officials.

- a. The Title IX Coordinator shall refer the matter to the University Investigator or assign a different investigator. As applicable, the investigator shall immediately notify the Section 504, ADA, or other relevant coordinator of the complaint and, as appropriate, may request assistance from the coordinator in conducting the investigation.
- b. If the investigator, after interviewing the complaining party and/or the alleged victim, determines in consultation with the Title IX Coordinator and/or Legal Counsel that the allegations submitted, even if factual, do not constitute discrimination or harassment as defined in this policy or policy 1730, Nondiscrimination on the Basis of Disabilities, school officials shall address the matter outside the scope of this policy. Information regarding the investigator's determination and any further avenues for addressing the complaint will be provided to the complaining party.
- c. Any investigation conducted must be impartial, prompt, and thorough. The investigator shall investigate the facts and circumstances related to the allegation(s) of discrimination or harassment and give the alleged perpetrator an opportunity to respond to the allegations.

The investigator shall consider all the evidence collected, the context in which the alleged incidents occurred, the age and maturity of the parties, and any other relevant circumstances in consultation with the Title IX Coordinator and/or Legal Counsel as appropriate, shall determine whether the alleged act(s) constitutes a violation of this policy, policy 1730, Nondiscrimination on the Basis of Disabilities, and/or any other board policy or expected standard of student or employee behavior.

- d. The complaint and investigation will be kept confidential to the extent possible and consistent with law. 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.

### 3. Investigator's Findings

- a. If the investigator finds that discrimination occurred, the investigator shall take or recommend steps to address the discrimination.
- b. If the investigator finds that harassment occurred, the investigator shall assign or recommend appropriate disciplinary consequences for the perpetrator and/or take or recommend other reasonable measures to eliminate any hostile environment or rectify any wrongful change in

employment and prevent the recurrence of harassment.

- c. If the investigator finds that the conduct did not violate this policy but violated another School policy or expected standard of conduct, the investigator shall refer the matter to the Principal to assign discipline or other action appropriate to the violation.
- d. The investigator shall make a record of the evidence and findings of the investigation and the any recommended discipline and/or other remedial action and provide a copy to the Title IX Coordinator and the Principal.
- e. The investigator shall inform the alleged victim and alleged perpetrator of the outcome of the investigation.

#### 4. Steps to Reasonably End Discrimination or Harassment

- a. The Principal is responsible for taking or causing appropriate action to be taken in response to discrimination and harassment in violation of this policy. Appropriate action must include:
  - a. reasonable, timely, age-appropriate corrective action intended to end the discrimination or harassment and prevent it from recurring;
  - b. as needed, reasonable steps to address the effects of the discrimination or harassment on the victim; and
  - c. as needed, reasonable steps to protect the victim from retaliation as a result of the complaint.
- b. Appropriate steps to end discrimination and harassment may include, but are not limited to, separating the parties, providing counseling for the parties, and/or taking disciplinary action against a perpetrator determined to have violated this policy. The Principal may take non-punitive measures to end or prevent instances of discrimination or harassment regardless of whether any individual has been found responsible for the discrimination or harassment. The Principal also may implement or direct the implementation of classroom-wide or school-wide responses such as additional staff training, harassment prevention programs, and other measures reasonably calculated to end the behavior, eliminate a hostile environment and its effects if one has been created, and prevent recurrence of the behavior.
- c. The Title IX Coordinator shall encourage victims of discrimination and harassment to report any subsequent problems and may conduct follow-up inquiries as warranted to determine if there have been any new incidents of discrimination or harassment or any instances of retaliation.

#### **G. APPEALS**

The alleged victim may appeal the investigator's decision by submitting the appeal in



writing to the Title IX Coordinator within three (3) business days of receiving the notice of outcome of the investigation. The Title IX Coordinator shall refer the appeal to the Dean (unless the alleged perpetrator is the Dean, in which case the Title IX Coordinator will assign an appeal decision-maker who was not involved in the investigation and initial decision). The Dean may review the documents, conduct any further investigation necessary, or take any other steps the Dean determines to be appropriate in order to respond to the complaint. The Dean shall provide a written response within 10 business days after receiving the appeal, unless further investigation is needed.

## **H. TRAINING AND PROGRAMS**

The Title IX Coordinator and Principal shall establish training and other programs that are designed to help eliminate unlawful discrimination and harassment 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.

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.

## **I. NOTICE**

The Principal is responsible for providing effective notice to students, parents, and employees of this policy and of the procedures for reporting and investigating complaints of discrimination, harassment, and bullying established in this Policy. The Principal must ensure that they provide a copy of this Policy to students, employees, and parents or other responsible care givers at the beginning of each school year. In addition, this Policy must be posted on the School website. Notice of the policies must appear in all student and employee handbooks and in any school-publication that sets forth the comprehensive rules, procedures, and standards of conduct for students and employees.

## **J. COORDINATORS**

The University's Title IX Coordinator shall serve as the School's "Title IX Coordinator" (for sex discrimination). The Principal shall serve as the School's "Section 504 Coordinator" and the EC Administrator shall serve as the School's "ADA Coordinator" (for discrimination on the basis of disability). The Principal, along with other employees who may be designated by the Coordinator or Deputy Coordinator, may assist in coordinating these programs. The following individuals shall coordinate the School'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.

1. *Title IX Coordinator and Equity Officer*  
*Age Discrimination Coordinator*  
*Coordinator for Other Non-discrimination Laws*  
Name: Deidre Hopkins  
Office Address: 520 HFR Administration Building, WCU  
Phone Number: 828-227-7116  
Email: dshopkins@wcu.edu
2. *Section 504 Coordinator*  
Name: Angela Lunsford  
Office Address: 100 Smoky Mtn Dr., Sylva, NC  
Phone Number: 828-331-1775  
Email: alunsford@wcu.edu
3. *ADA Coordinator*  
Name: Dr. Tammy Barron  
Office Address: 100 Smoky Mtn Dr., Sylva, NC  
Phone Number: 828-331-1775  
Email: tlbarron@wcu.edu

## **K. RECORDS AND REPORTING**

The Principal shall maintain confidential records of complaints or reports of discrimination, harassment, or bullying. The records must identify the names of all individuals accused of such offenses and the resolution of such complaints or reports. The principal also shall maintain records of training conducted and corrective action(s) or other steps taken by the School to provide an environment free of discrimination and harassment.

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; Boy Scouts of America Equal Access Act, 20 U.S.C. 7905, 34 C.F.R. pt. 108; Individuals with Disabilities Education Act, 20 U.S.C. 1400 *et seq.*; 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 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; Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. 4301 *et seq.*; *Racial Incidents and Harassment Against Students at Educational Institutions; Investigative Guidance*, U.S. Department of Education, Office for Civil Rights (1994), available at <https://www2.ed.gov/about/offices/list/ocr/docs/race394.html>; *Dear Colleague Letter* (Harassment and Bullying), U.S. Department of Education, Office for Civil Rights (2010), available at <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.pdf>; G.S. 115C-407.15 through -407.18; 126-16; 16 N.C.A.C. 6E .0107; *Parent Rights & Responsibilities in*

*Special Education*, (N.C. Dept. of Public Instruction, Exceptional Children Division), available at <https://www.dpi.nc.gov/districts-schools/classroom-resources/exceptional-children/parent-resources#dispute-resolution>.

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