

NCSBA Special Update: July 2020
Summary of New Policies

New Policy	Whose Conduct is Prohibited and on What Basis?	Who is Protected?	Who Can Make a Report?	Who Can File a Complaint?	What Triggers an Investigation?	Notes	Relevant Statute(s)
1710/4020/7230 Discrimination and Harassment Prohibited by Federal Law	Students, employees, and others are prohibited from discrimination and harassment based on any federally protected class except sex (race, color, national origin, religion, disability).	Generally, anyone participating in the education program or activity of the school system.	Anyone	<ul style="list-style-type: none"> Students Employee reports and complaints of own victimization should go through policy 7232.¹ 	<ul style="list-style-type: none"> Written complaints must be investigated. A preliminary inquiry is required for reports; reports may be investigated if warranted. 	Visitor allegations are handled outside the process in this policy; they go through board's complaint process in policy 1742/5060, Responding to Complaints.	ADA/Section 504 Title IV Title VI
1720/4030/7235 Title IX Nondiscrimination on the Basis of Sex	Generally, prohibits discrimination or harassment on the basis of sex.	Generally, anyone participating in the education program or activity of the school system	Anyone	Directs aggrieved individuals to the board's grievance policies for students and employees for complaints of sex discrimination and to policies 1725/4035/7236 and 1726/4036/7237 for sexual harassment, specifically.	N/A	The purpose of this policy is to meet the board's obligation to provide notice of nondiscrimination on the basis of sex.	Title IX
1725/4035/7236 Title IX Sexual Harassment – Prohibited Conduct and Reporting Process	Students, employees, and others are prohibited from harassment based on sex.	Everyone participating in the education program or activity of the school system.	Anyone	N/A (Complaints are filed under 1726/4036/7237)	Investigation of reports is NOT PERMITTED.	<ul style="list-style-type: none"> Discipline may not be imposed based on a report. Must provide supportive measures in response to a report. See regulation 1725/4035/7236-R for key definitions. 	Title IX
1726/4036/7237 Title IX Sexual Harassment Grievance Process	The policy does not itself prohibit conduct; it provides a process for investigating and resolving formal complaints of sexual harassment in violation	See above	N/A	ONLY: <ul style="list-style-type: none"> Victims who are participating or attempting to participate in the education program or activity 	<ul style="list-style-type: none"> All formal written complaints must be investigated in accordance with prescribed Title IX procedures unless they can be dismissed because the conduct alleged does not amount to sexual harassment under Title IX, 	<ul style="list-style-type: none"> Very detailed requirements apply to the investigation, adjudication, and appeal processes. To discipline for Title IX sexual harassment, 	Title IX

¹ The standard for hostile environment harassment applicable to employees is slightly different between Title VI and Title VII. To minimize confusion, the Title VI standard for hostile environment sexual harassment is not directly addressed in policy. Consult the board attorney to ensure that all applicable legal standards are considered when an employee is the complaining party.

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	of policy 1725/4035/7236.			<ul style="list-style-type: none"> The Title IX coordinator 	<ul style="list-style-type: none"> or for certain other limited reasons. The investigator and the decision-maker cannot be the same person. 	a formal complaint is required and must be substantiated by a preponderance of the evidence or agreed to through an informal resolution.	
4329/7311 Bullying and Harassing Behavior Prohibited	Students, employees, and others are prohibited from engaging in bullying or harassing behavior.	Students are protected from all bullying and harassing conduct as defined in the policy, including conduct that creates a hostile education environment; employees are protected from some conduct but not conduct that creates a hostile environment.	Anyone	<ul style="list-style-type: none"> Anyone Complaints alleging bullying and harassing behavior based on a protected class should be handled in accordance with the appropriate federal policy, i.e., 1710/4020/7230, 1725/4035/7236, or 7232. 	Serious violations and complaints must be investigated. What constitutes a “serious” violation is left to the discretion of school officials.	This policy covers bullying or harassment that is not already prohibited by policy 1710/4020/7230 or policy 1725/4035/7236, such as bullying based on socio-economic status, or sexual harassment of a student that does not rise to the level of a violation of Title IX.	G.S. 115C-407.15 <i>et seq.</i>
7232 Discrimination and Harassment in the Workplace	Employees are prohibited from engaging in discrimination and harassment based on race, color, religion, national origin, military affiliation, genetic information, sex, age (40 or older), disability, or on certain state law grounds.	Employees and applicants	Employees and applicants	Employees and applicants	Written complaints must be investigated; reports may be investigated.	The definition of sexual harassment in this policy is different than in policy 1725/4035/7236 due to differences in the legal standards under the applicable laws. Conduct that does not meet the definition of sexual harassment under policy 1725/4035/7236 may constitute sexual harassment under this policy.	Title VII

The following policies have been superseded by the new policies above and have been removed from the PLS policy manual:

- 1710/4021/7230 Prohibition Against Discrimination, Harassment, and Bullying
- 1720/4015/7225 Discrimination, Harassment, and Bullying Complaint Procedure