

Book	Policy Manual
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5517 - **ANTI-HARASSMENT AND VIOLENCE**

General Statement

Racial, sexual, and religious/ethnic harassment is a form of discrimination which violates Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e, et seq., Title IX of the Education Amendments of 1972, 20 U.S.C. 1681, et seq., and WV Code 5-11-1, et seq., the West Virginia Human Rights Act.

This policy applies to any student, staff member or member of the public during any school related activity or during any education sponsored event whether in a building or other property used or operated by the Board of Education or in any other facility being used by the Board.

No student, staff member or member of the public, during any school related activity or during any education sponsored event, whether in a building or other property used or operated by the Board or in another facility being used by the Board, shall engage in sexual, racial or ethnic/religious harassment or violence. Persons found to have violated this prohibition shall be subject to the penalties in the section of this policy, **Discipline and Other Actions**. The term "staff members", as used in these regulations, shall encompass all employees of the Board.

The Board will act promptly and confidentially to investigate all harassment and violence complaints, formal or informal, verbal or written, and will take appropriate disciplinary action based upon the results of the investigation.

Definitions

A. **Sexual harassment** – Sexual harassment consists of sexual advances, requests for sexual favors, sexually motivated physical conduct, or other verbal or physical conduct or communication of a sexual nature when:

1. submission to the conduct or communication is made a term or condition either explicitly or implicitly of obtaining or retaining employment, or of obtaining an education;
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;
3. creating an intimidating, hostile or offensive or educational environment.

Sexual harassment may include, but is not limited to:

1. verbal or written harassment of a sexual nature or abuse;
2. pressure for sexual activity;
3. inappropriate or unwelcome sexually motivated patting, pinching, or physical conduct;
4. unwelcome sexual behavior or words, including demands for sexual favors, accompanied by implied or overt threats and/or promises concerning an individual's employment or educational status;
5. unwelcome behavior, verbal or written words or symbols, directed at an individual because of gender;
6. the use of authority to emphasize the sexuality of a student in a manner that prevents or impairs that student's full enjoyment of educational benefits, climate or opportunities;
7. unwelcome sexual flirtations, advances, or propositions from a member of the same or opposite sex;
8. verbal abuse of a sexual nature, without regard to whether the verbal abuse specifically refers to sexual characteristics at whom the verbal abuse is directed;
9. verbal or written comments about an individual's body;
10. sexually degrading word(s) or actions used to intimidate, describe an individual or to refer to some aspect of the individual's behavior, appearance, attitude, or conduct;
11. the display, use or dissemination of sexually suggestive gestures, objects, pictures, and/or jokes by any means, including, but not limited to, printed materials and materials displayed by electronic means, sex based labeling or stereotyping with respect to mental, physical, or other abilities, talents, occupational or life goals, etc.;
12. nonsexual conduct, including words or actions, directed toward a person because of their gender that tends to ridicule, criticize, discriminate, or otherwise makes it more difficult for that person to perform their job and/or achieve an education.

It is the responsibility of all students and employees to promote and to maintain an environment free of all types of sexual harassment. Any sexual harassment, as defined, when perpetrated on any student, volunteer, third party or employee by any student, volunteer, third party or employee will be treated as sexual harassment under this policy.

B. **Racial Harassment** – Racial harassment consists of physical, verbal, or written conduct relating to an individual's race when the conduct:

1. has the purpose or effect of creating an intimidating, hostile or offensive working or academic environment;
2. has the purpose or effect of substantially or unreasonably interfering with an individual's work or academic performance;
3. otherwise adversely affects an individual's employment or academic opportunities;

4. racial harassment includes racially degrading word(s) or actions used to intimidate, describe an individual or to refer to some aspect of the individual's behavior, appearance, attitude, or conduct;
5. the display, use, or dissemination of racially motivated gestures, objects, pictures, and/or jokes by any means, including, but not limited to, printed materials displayed by electronic means;
6. race based labeling or stereotyping with respect to mental, physical, or other abilities, talents, occupational or life goals, etc.;
7. unwelcome behavior, verbal or written words or symbols, directed at an individual because of race;
8. conduct, including word(s) or actions, directed toward a person because of their race that tends to distract or otherwise make it more difficult to perform their job and/or achieve an education.

It is the responsibility of all students and employees to promote and to maintain an environment free of all types of racial harassment. Any racial harassment, as defined, when perpetrated on any student, volunteer, third party or employee by any student, volunteer, third party or employee will be treated as racial harassment under this policy.

C. **Religious/Ethnic Harassment** – Religious/ethnic harassment consists of physical, verbal or written conduct which is related to an individual's religion or ethnic background when the conduct:

1. has the purpose or effect of creating an intimidating, hostile or offensive working or academic environment;
2. has the purpose or effect of substantially or unreasonably interfering with an individual's work or academic performance;
3. otherwise adversely affects an individual's employment or academic opportunities;
4. religious/ethnic degrading word(s) or actions used to intimidate, describe an individual or refer to some aspect of the individual's behavior, appearance, attitude or conduct;
5. the display, use or dissemination of degrading religious/ethnic suggestive gestures, objects, pictures, and/or jokes by any means including, but not limited to, printed materials and materials displayed by electronic means;
6. religious/ethnic based labeling or stereotyping with respect to mental, physical or other abilities, talents, occupational or life goals, etc.;
7. conduct, including word(s) or actions, directed toward a person because of their religion or ethnicity that tends to distract or otherwise make it more difficult to perform their job and/or achieve an education.

It is the responsibility of all students and employees to promote and to maintain an environment free of all types of religious/ethnic harassment. Any religious/ethnic harassment, as defined, when perpetrated on any student, volunteer, third party or employee by any student, volunteer, third party or employee will be treated as religious/ethnic harassment under this policy.

D. **Sexual Violence** – Sexual violence is a physical act of aggression or force or the threat thereof which involves the touching of another's intimate parts or forcing a person to touch any person's intimate parts. Intimate parts include the primary genital area, groin, inner thigh, buttocks, or breast, as well as the clothing covering these areas.

Sexual violence may include, but is not limited to:

1. touching, patting, grabbing or pinching another person's intimate parts, whether that person is of the same sex or the opposite sex;
2. coercing, forcing or attempting to coerce or force the touching of anyone's intimate parts;

3. coercing, forcing or attempting to coerce or force sexual intercourse or a sexual act on another;
 4. threatening to force or coerce sexual acts, including the touching of intimate parts or intercourse, on another;
 5. threatening or forcing exposure of intimate apparel or body parts by removal of clothing.
- E. **Racial Violence** - Racial violence is a physical act of aggression or assault upon another because of, or in a manner reasonably related to, race.
- F. **Religious/Ethnic Violence** - Religious/ethnic violence is a physical act of aggression or assault upon another because of, or in a manner reasonably related to, religion or ethnicity.
- G. **Assault** - Assault is defined as an act done with intent to cause fear in another of immediate bodily harm or death; or the threat to do bodily harm to another with present ability to carry out the threat.

Reporting Procedures

- A. In Each School Building. The building principal is the person responsible for receiving oral or written reports of racial, sexual or religious/ethnic harassment or violence at the building level. Upon receipt of a report of student conduct, the principal must notify the Human Rights Officer promptly, and shall commence investigation of the complaint. No later than ten (10) school days of receiving the complaint, a written report will be forwarded to the Human Rights Officer and to the Superintendent.

If the report alleges employee misconduct, the building principal must promptly notify the Human Rights Officer who will initiate, or direct, an investigation of the complaint. This investigation may be conducted by school officials or third parties designated by the Superintendent. Within ten (10) school days of receiving the complaint, the investigating party shall provide a written status report to the Superintendent.

Anytime the report is given to the building principal verbally, the principal shall reduce it to written form before the close of the next working day. If the complaint involves the building principal, the complaint shall be made directly to the Human Rights Officer.

For school buildings/facilities which do not have a building principal, such as the transportation and maintenance departments, the Director of such building or facility will be the person responsible for receiving oral or written reports of racial, sexual or religious/ethnic harassment or violence. All other provisions of the paragraph above apply to such situations, except that the term "Director" shall be substituted for the term "building principal".

- B. County-Wide. The Board hereby designates its Title IX Coordinator as the Human Rights Officer to receive reports or complaints of racial, sexual or religious/ethnic harassment or violence from any individual, employee or victim of racial, sexual or religious/ethnic harassment or violence and also from the building principals as outlined above. If the complaint involves the Human Rights Officer, the complaint or report shall be filed directly with the Superintendent, who shall then be responsible for the investigation and recommendation described in the Investigation and Recommendation section of this policy. The name of the Human Rights Officer, including a mailing address and telephone number, shall be conspicuously posted in the office of each school building and in other buildings to which employees of the Board are assigned to work.
- C. Submission of a complaint or report of racial, sexual or religious/ethnic harassment or violence will not affect the future employment, grades, or work assignments of the person who submits the complaint or report.
- D. Use of formal reporting forms is not mandatory.
- E. All alleged incidents of harassment or violence observed by faculty, staff or other employees of the Board must report the incident to either the building principal or the Human Rights Officer within twenty-four (24) hours of observing the incident.

The Board's investigation of racial, sexual or religious/ethnic harassment or violence complaints will be conducted with maximum effort to protect the confidentiality of all those involved in the complaint or investigative process and to

facilitate prompt resolution of the complaint. School officials may, in their discretion, take immediate steps to protect individual privacy and safety pending resolution.

Investigation and Recommendation

The individual(s) designated by this policy to investigate, shall, upon receipt of a report or complaint alleging racial, sexual, or religious/ethnic harassment or violence, immediately undertake to authorize an investigation. The investigation may be conducted by school officials or by a third party designated by the school officials if necessary. The investigating party shall provide a written report of the result of the investigation and a recommendation of discipline within ten (10) school days to the Superintendent and to the Human Rights Officer. If the Superintendent is the subject of the complaint, the report shall be submitted to the Human Rights Officer and to the President of the Board. The report shall include a determination of whether the allegations have been substantiated as factual and whether they appear to be violations of this policy.

In determining whether alleged conduct constitutes racial, sexual or religious/ethnic harassment or violence, consideration shall be given to the surrounding circumstances, the nature of the conduct involved, relationships between the parties involved, and the context in which the alleged incidents occurred.

The investigation must, at a minimum, consist of personal interviews with the complainant, the individual(s) against whom the complaint is filed, and others who may have knowledge of the alleged incident(s) or circumstance(s) giving rise to the complaint. The investigation may also consist of any other methods, documents, and review of circumstances deemed pertinent by the investigator(s).

Confidentiality

Confidentiality of the filing of complaints, the identity of subjects and witnesses of any complaint, and of any action taken as a result of such complaints is essential to the effectiveness of this policy. Only those individuals necessary for the investigation and resolution of the complaint shall be given information about it. Therefore, the right of confidentiality of complainants, subjects, witnesses, and investigators will be vigorously protected and violations of such confidentiality may, itself, be grounds for disciplinary action.

Results of the Investigation

The result of the investigation of each complaint filed under these procedures will be reported in writing to the complainant and his/her legal guardian by the Superintendent, or, if the Superintendent is the subject of the complaint, by the President of the Board.

Discipline and Other Actions

In determining the appropriate response and/or punishment, the appropriate school official shall consider the surrounding circumstances, the nature of the behavior, past incidents or past or continuing patterns of behavior, the relationships between the parties involved and the context in which the alleged incident occurred.

- A. Upon receipt of a finding that the complaint is substantiated, the appropriate school official shall take action appropriate to the status of the offender (student, staff, or public guest). Such action for students may include all options listed in Policy 5600. Actions for staff may include but not be limited to, warning, suspension, termination, revocation of licensure, notification of law enforcement and/or human services. Actions for public guests may include but not be limited to removal from school property and school sponsored functions, notification of law enforcement and/or human services.
- B. The appropriate school official shall also initiate such other action as is appropriate to ease tensions and affirm the values of respect and understanding in accordance with this policy.
- C. The Superintendent shall immediately file a report with the West Virginia Department of Education of all reports of harassment or violence when an investigation shows that harassment or violence did occur and all actions taken in response to the incident.

D. Student Discipline

In the event the building principal recommends that a student be expelled from school, the student shall be suspended for a period of time not to exceed ten (10) days. The principal shall notify the student's parents, in writing of the recommendation. The principal shall notify the Superintendent, in writing, of his/her decision.

Upon receipt of the principal's recommendation, the Superintendent shall review the allegations contained in the complaint and the investigative report and recommendation. If the allegations in the complaint have been substantiated, the Superintendent shall recommend to the Board that the student be expelled for a period not to exceed one (1) school year.

The principal shall notify the parent of the student, in writing, of the recommendation prior to presenting any evidence to the Board.

Upon notice of the right to be present before the Board at the hearing, the administration shall present evidence in support of its recommendation. If the Board finds, by a preponderance of the evidence, that the provisions of this policy have been violated, the Board shall a) expel the student for up to one (1) school year, or b) expel the student for such other time, up to one (1) school year, as the Board deems just.

The student shall have the opportunity to present evidence to the Board at the hearing, including calling witnesses and cross-examining those of the administration. Nothing in this policy shall prevent the student from being represented by counsel, at his/her expense, nor shall the student be compelled to present any evidence that may tend to incriminate himself/herself.

In the event the student who is accused of committing the act is a student who receives special education and related services, no disciplinary action can be taken until and unless the student's individualized committee has determined that the student's actions did not arise as a result of his/her disability.

Reprisal

The Board will discipline, as appropriate, any individual who retaliates against any person who reports allegations of racial, sexual or religious/ethnic harassment or violence, or any person who cooperates, testifies, assists, or participates in any racial, sexual or religious/ethnic harassment or violence investigation, proceeding, or hearing. "Retaliation" includes, but is not limited to, any form of retaliation or intimidation, reprisal, coercion, provocation, or harassment. The Board will also discipline, as appropriate, any person who falsely reports religious/ethnic, racial or sexual harassment.

Student-Employee Relationships Prohibited

Amorous relationships between employees of the Board and students are prohibited, and staff members found to have violated this prohibition shall be subject to the penalties and disciplinary action defined herein.

Non-Harassment

The Board recognizes that not every advance, conduct, or interaction of a racial, sexual or religious/ethnic or violent nature constitutes harassment. Whether a particular act, conduct, interaction, or incident is a personal, consensual, welcome interaction or social relationship without discriminatory motivation or effect on employment or education status will be determined based upon consideration of all facts and surrounding circumstances.

The Board recognizes that not all reports of allegations of sexual, racial, and/or religious/ethnic harassment will result in findings that such an incident has occurred. However, the Board encourages all persons who believe that they are a victim of such harassment to come forward and affirms its policy that no adverse action will be taken upon the filing of a complaint under this policy, unless it is shown, through investigation, that the complaint is patently false.

Right to Alternative Complaint Procedures

These procedures do not deny the right of any individual to pursue other avenues of recourse which may include the filing charges with the West Virginia Human Rights Commission, filing an employee grievance under WV Code 18-29-1, et seq., filing a citizen's appeal under West Virginia Board of Education Policy 7211, filing a Title IX grievance under the appropriate procedures, filing charges with the Federal Equal Employment Opportunity Commission, or initiating civil or criminal action under State and/or Federal law.

Sexual Harassment as Abuse

Under certain circumstances, sexual harassment may constitute child and/or sexual abuse under Chapter 49 of the West Virginia Code. In such situations, the School District and its employees shall comply with the provisions of law for reporting such abuse.

Dissemination of the Policy

This policy or a summary shall be conspicuously posted throughout each school or facility of the Board in areas accessible to students and staff members.

This policy or a summary shall appear in the Student and Staff Handbooks and, if no handbook is available, a copy shall be distributed to all students, faculty, and staff.

The students and staff of the Board shall be trained on these regulations and on means for effectively promoting the goals of this policy.

The Board policy shall be reviewed at least bi-annually to assure compliance with State and Federal law and with State Board of Education policy.

Groups and persons utilizing school properties for curricular and extra-curricular activities shall be provided a copy of this policy prior to the use of any Board facility. Failure to comply with this policy by a non-student group will result in the immediate forfeiture of the group's use of the school properties.

Implementation and Education

The Human Rights Officer shall develop a program designed to raise the awareness of the different types of harassment, how it manifests itself, and its emotional, educational and legal consequences. Multi-cultural education programs must be established to foster an attitude of understanding and acceptance of individuals from a variety of cultural, ethnic, racial and religious backgrounds.

The Human Rights Officer shall present written and verbal information to all faculty, staff and students at least once annually. Dissemination of written and verbal information may be made by a designee(s) of the Human Rights Officer as appropriate, and such presentation must be age-appropriate for students K-4, 5-8, and 9-12.

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