

A POLICY STATEMENT OF
THE HANCOCK COUNTY BOARD OF EDUCATION
New Cumberland, West Virginia 26047

RACIAL, SEXUAL, RELIGIOUS/ETHNIC HARASSMENT/VIOLENCE POLICY

This policy has legal basis in WV Constitution Article XII; WV Code 18-2-5, 18-2-5a and 18-2-7b; Title VII of the U.S. Civil Rights Act of 1964; Title IX of the Education amendments of 1972; EEO Guidelines, 29 C.F.R. Section 1604.11 and other relevant policies of the WV Board of Education and the Regional Education Service Agency VI (RESA-6).

It is the policy of the Hancock County Board of Education that the dignity of each human considered in all school system activities, and that it is our responsibility to provide and maintain learning and working environment that is free from racial, sexual or religious/ethnic harassment, intimidation, bullying or violence.

Any act of harassment, intimidation or violence involving students or staff is a violation of this policy and shall not be tolerated by the Hancock County Board of Education.

Definitions

1. Sexual Harassment consists of unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact and other inappropriate verbal or physical conduct or communication of a sexual nature when made by any member of the agency staff or by a student when:
 - submission to or rejection of such conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining or retaining employment or obtaining education; or
 - submission to or rejection of such conduct or communication by an individual is used as a basis for academic or employment decisions affecting that individuals employment or education; or
 - such conduct or communication has the purpose or effect of substantially interfering with an individual's academic or professional performance or creating an intimidating, hostile or offensive employment or educational environment.

Sexual harassment may include, but is not limited to the following:

- unwelcome verbal harassment or abuse in matters pertaining to sexuality including sexual rumors or name calling, peer and same sex harassment;
- unwelcome pressure for sexual activity;
- unwelcome touching, patting, physical contact, grabbing or punching;
- unwelcome sexual behavior or words with demeaning implications or gestures;
- unwelcome demands for sexual favors accompanied by promises (implied or overt) of preferential treatment with regard to employment or educational status;
- unwelcome behavior, verbal or written words or symbols directed at an individual because of gender;
- the use of authority to emphasize the sexuality of a student in a manner that prevents or impairs the student's full enjoyment of educational benefits, climate or opportunities;
- unwelcome suggestive or obscene letters or notes, dehumanizing graffiti;
- the display of suggestive pictures, cartoons, or objects;
- the use of threats or demands for sexual favors;
- the use of inappropriate comments about one's body; dirty jokes or stories; dehumanizing graffiti; display of suggestive cartoons or objects; or
- the use of assault or attempted assault which is gender based.

2. Racial Harassment consists of physical, verbal, or written conduct relating to a person's race when the conduct:
 - has the purpose or effect of creating an intimidating, hostile or offensive working or academic environment;
 - has the purpose or effect of substantially or unreasonably interfering with an individual's work or academic performance; or
 - otherwise adversely affects an individual's employment or academic opportunities.

Racial Harassment may include but is not limited to:

- use of demeaning language with racial connotations
- use of language or gestures which imply inferiority of a race
- gestures or words that are disrespectful to a race or individual (jokes are included)
- ignorance or intolerance of cultural differences

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

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

Religious/Ethnic Harassment may include but is not limited to:

- use of demeaning language with religious or ethnic connotations
- use of language or gestures which imply inferiority of a religious or ethnic group
- gestures or words that are disrespectful to a religion or ethnic group or individual (jokes are included)

4. Sexual Violence is a physical act of aggression or force or 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:

- touching, patting, grabbing, or pinching another person's intimate parts whether of the same sex or the opposite sex;
- coercing, forcing or attempting to coerce or force the touching of anyone's intimate parts;
- coercing, forcing or attempting to coerce or force sexual intercourse or sexual act on another; or
- threatening to force or coerce sexual acts, including touching of intimate parts or intercourse, on another;
- threatening or forcing exposure of intimate apparel or body parts by removal of clothing.

5. Racial Violence is a physical act of aggression or assault upon another because of, or in a manner reasonably related to race.
6. 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.
7. Harassment, intimidation or bullying is any intentional gesture, or any intentional written, verbal or physical act or threat that a reasonable person under the circumstances should know will have the effect of:
 - harming a student;
 - damaging a student's property;

- placing a student in reasonable fear of harm to his or her person; and/or
 - placing a student in reasonable fear of damage to his or her property, or sufficiently severe, persistent or pervasive that it creates an intimidating, threatening or abusive educational environment for a student.
8. Assault is an act done with intent to cause fear in another of immediate bodily harm or death; the threat to do bodily harm to another with present ability to carry out the threat.

Extent of Coverage

Any form of harassment, intimidation, or bullying observed by a student or school personnel must be reported to the building principal. A school employee, student or volunteer is individually immune from a cause of action for damages arising from reporting said incident, if that person:

- In good faith, reports an incident or harassment, intimidation or bullying;
- Makes a report to the appropriate school official as designated by this policy; and
- Makes the report in compliance with the procedures as specified in policy.

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 a county board of education;
- individuals attending any school, school-system sponsored event, regardless of location; and
- any individual or group conducting official business within the service area.

Building facilities and other property of the school system shall not be leased or lent to any individual or organization in violation of this policy.

Any individual or organization working in cooperation with the school-system, including but not limited to mentoring, “co-op,” shadowing programs, internships and volunteers, are required to abide by this policy.

Complaint Procedures/Investigation

Any person who believes he or she has been the victim of sexual harassment, bullying, intimidation, or harassment by a student or an employee of the school district must report the alleged acts immediately to an appropriate school district as designated by this policy. The local Board of Education encourages the reporting party or complainant to use the report form available from the building principal, the County Board of Education office.

In Each School Building: The building principal or assistant principal (hereby referred to as the principal) is the person responsible for receiving oral or written reports of a complaint, the principal must see that the complaint is committed to writing before the close of the next working day. The principal will also develop and implement a strategy for protecting a victim from additional harassment, intimidation or bullying.

If the complaint is against a student enrolled in the school, the principal will investigate the complaint within ten (10) school days and submit a written report of the investigation and its findings to the Title IX Coordinator. If the principal determines that the accused party has violated this policy, the principal will notify parents and take disciplinary action as outlined in the code-of-conduct or School Discipline Guidelines.

Complaints involving sexual harassment of a student by an employee must be reported immediately to the Superintendent. If the complaint is against the employee, the principal will notify the Human Rights Officer who will conduct the investigation. The Human Rights Officer will prepare a report from the facts gathered from the investigation and present it to the Superintendent for his/her review and recommendations.

District Wide: The County Board hereby designates its Title IX Coordinator as the Board's Human Rights Officer to receive complaints of sexual harassment from any individual, employee, or victim of sexual harassment, and also from the building principal(s) as outlined above. If the complaint involves the Human Rights Officer or a supervisor, the complaint can be filed with the Assistant Superintendent, or the Superintendent, who shall then be responsible for the investigation and recommendation described in Section VI of this policy.

Reporting sexual harassment and the subsequent filing of a complaint will not affect future employment decision, grades, or work assignments of the person who makes the complaint or report.

Although use of formal reporting forms is not mandatory, when possible, individuals should use those forms provided to document a complaint.

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 complaint 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 complaints, subjects, witnesses, and investigators will be vigorously protected and violations of such confidentiality may itself be grounds for disciplinary action.

Timelines for Investigation and Recommendation

A complete investigation of any student-related incidents as described in Section IV shall be conducted within 10 school days after the complaint is filed unless exceptional circumstances require additional time. The following steps should be followed in conducting the investigation of alleged sexual harassment of a student by an adult employee of the school district. The investigator or investigating party shall provide a written report on the school district form designated within five working days after the completion of the investigation. A copy of the report will be forwarded to the Human Rights Officer.

The recipient of a complaint or any employee who knows or reasonably believes that a student has been the victim of sexual harassment is responsible to ensure that the complaint and relevant information is reported to the principal or designee.

1. The complaint must be placed in writing by either the complainant, recipient of the complaint, principal, or designee using the designated complaint form. The completed form shall be submitted to the Title IX Coordinator by the principal within two school days.
2. The person accused of the harassment shall be notified promptly of the investigation after the complaint is placed in writing or the investigator otherwise determines there are reasonable grounds to believe an incident of harassment has occurred. The investigator will advise the accused that, as per this policy (section V.F), there will be no retaliation against the reporter of the harassment or others testifying or involved in the investigation.
3. A full, confidential interview with the complainant by an investigator not employed at the school site, shall be promptly initiated. Unless the complainant is eighteen (18) years or older, the complainant must have a parent/guardian present or consent given for the interview.
4. The investigator shall obtain in writing or reduce the response to writing and provide the complainant with a summary for signature of the contents of the allegations, the names of any witnesses and supporting documents and evidence.
5. The investigator should confirm whether the appropriate reports were made to the police and/or child protective services and if any immediate need exists for the complainant including scheduling changes or counseling.
6. The investigator will individually interview any witnesses identified with each witness directed to keep the matter confidential. The investigator will, at the end of each interview, advise the complainant or witness that no persons should retaliate as per Section V.F. of this policy. Additionally, the complainant and witness will be advised to promptly report any specific action of retaliation to the investigator.
7. The accused employee will be interviewed by the investigator once all witnesses identified by the complainant have been interviewed and supporting documents or evidence gathered.

8. The accused employee shall be provided, at the time of the interview, the harassment policy and the procedures for the investigation of allegations under that policy.
9. The investigator shall question the accused regarding the alleged allegations and obtain the names of any witnesses and supporting documents and evidence. The response must immediately be reduced to writing and a summary for signature provided to the accused. The accused may be given an opportunity to provide a hand written statement of events.
10. The accused and all witnesses will be advised that the matter should remain confidential with the exception of the accused's right to discuss the matter with a hearing representative or attorney and that retaliation is prohibited.
11. Once all identified witnesses have been interviewed and all supporting documents or evidence gathered, the investigator shall provide a written report with accompanying documentation to the Title IX Coordinator and Superintendent. The report shall summarize the allegations, describe the basis for the investigator's conclusions and set forth recommended action. The scope of the investigation should be documented even if the result is inconclusive.
12. The investigation shall continue until concluded and a report submitted despite student hesitancy or the resignation or retirement of the accused.
13. The investigator shall assemble an investigative file maintained in a secure and confidential manner by the Title IX Coordinator with the Superintendent and General Counsel having the right and authority to review the file. The file shall contain the time line or activity log maintained by the investigator detailing dates, times or activity undertaken in the investigative process.
14. Any student guilty of harassing, intimidating or bullying will be subject to the Hancock County Schools Code of Conduct.

A complete investigation of any employee-related incidents as described in Section IV shall be conducted as soon as reasonably feasible after the complaint is filed unless exceptional circumstances require additional time. The investigator shall provide a written report within five working days after the completion of the investigation to the Superintendent of Schools. If the Superintendent is the subject of the complaint, the report will be submitted to the President of the Board of Education.

1. The complaint must be placed in writing by either the complainant, recipient of the complaint, principal, or designee using the designated complaint form. The completed form shall be submitted to the Title IX Coordinator by the principal within two school days.
2. The person accused of the harassment shall be notified promptly of the investigation after the complaint is placed in writing or the investigator otherwise determines there are reasonable grounds to believe an incident of harassment has occurred. The investigator will advise the accused that, as per this policy (section V.F), there will be no retaliation against the reporter of the harassment or others testifying or involved in the investigation.
3. A full, confidential interview with the complainant by an investigator not employed at the school site, shall be promptly initiated.
4. The investigator shall obtain in writing or reduce the response to writing and provide the complainant with a summary for signature of the contents of the allegations, the names of any witnesses and supporting documents and evidence.
5. The investigator should confirm whether the appropriate reports were made to the police or appropriate authorities and if any immediate need exists.
6. The investigator will individually interview any witnesses identified with each witness directed to keep the matter confidential. The investigator will, at the end of each interview, advise the complainant or witness that no persons should retaliate as per Section V.F. of this policy. Additionally, the complainant and witness will be advised to promptly report any specific action of retaliation to the investigator.
7. The accused employee will be interviewed by the investigator once all witnesses identified by the complainant have been interviewed and supporting documents or evidence gathered.
8. The accused employee shall be provided, at the time of the interview, the harassment policy and the procedures for the investigation of allegations under that policy.
9. The investigator shall question the accused regarding the alleged allegations and obtain the names of any

witnesses and supporting documents and evidence. The response must immediately be reduced to writing and a summary for signature provided to the accused. The accused may be given an opportunity to provide a hand written statement of events.

10. The accused and all witnesses will be advised that the matter should remain confidential with the exception of the accused's right to discuss the matter with a hearing representative or attorney and that retaliation is prohibited.
11. Once all identified witnesses have been interviewed and all supporting documents or evidence gathered, the investigator shall provide a written report with accompanying documentation to the Title IX Coordinator and Superintendent. The report shall summarize the allegations, describe the basis for the investigator's conclusions and set forth recommended action. The scope of the investigation should be documented even if the result is inconclusive.
12. The investigation shall continue until concluded and a report submitted despite hesitancy or the resignation or retirement of the accused.
13. The investigator shall assemble an investigative file maintained in a secure and confidential manner by the Title IX Coordinator with the Superintendent and General Counsel having the right and authority to review the file. The file shall contain the time line or activity log maintained by the investigator detailing dates, times or activity undertaken in the investigative process.

To ascertain whether alleged behavior constitutes sexual harassment, consideration will be given to the situation, the nature of the sexual advances, the relationships between the parties involved, and the conditions in which the alleged incidents occurred. The investigation may consist of personal interviews with the complainant, the individual(s) against who the complaint is filed, and others who may have knowledge of the alleged event(s) that prompted the complaint. The investigation may also incorporate other procedures and/or records that may be necessary to complete the investigation. School officials may, if necessary, take immediate steps to protect the individual(s) making the complaint prior to the completion of their investigation.

The rights to confidentiality, both of the complainant and of the accused, will be respected consistent with the school district's legal obligation, and with the necessity to investigate allegations of misconduct and to take corrective action when this conduct has occurred.

A complainant may use an alternative complaint procedure where applicable - including filing charges with the West Virginia Human Rights Commission, EEOC, DHHR, initiating civil action or seeking redress under the state criminal statutes and/or federal law.

The Hancock County Board will take appropriate action against any pupil, teacher, administrator or other school personnel who retaliates against any person who reports alleged religious/ethnic, racial or sexual harassment or violence or any person who testifies, assists or participates in an investigation, or who testifies, assists or participates in a proceeding or hearing relating to such harassment or violence. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment. The board will take appropriate action against any pupil, teacher, or administrator or other school personnel who falsely reports religious/ethnic, racial, or sexual harassment.

Action and Reporting

Upon receipt of a report substantiated by the investigation, the county superintendent or the Hancock County Board of Education will take appropriate action against those found to have violated this policy. Such action may include, but is not limited to, warning, suspension, exclusion, expulsion, termination and revocation of licensure.

The county superintendent or the Hancock County Board of Education shall also initiate such other action as is appropriate to ease tensions and to affirm the values of respect and understanding.

The county superintendent or the Hancock County Board of Education shall immediately file a report with the West Virginia Department of Education of all reports of harassment or violence when investigation shows that harassment or violence did occur and all action taken in response to the incident.

Prevention Programs

Hancock County Board of Education will develop and implement an education program for each programmatic level, K-4, 5-8, and 9-12, which includes character education as well as a program for all faculty and staff. The programs, at a minimum must: raise awareness of the different types of harassment, how it manifests itself, it's devastating emotional and educational consequences, and its legal consequences. In addition, multicultural education programs will be developed and implemented for faculty, staff and students to foster an attitude of understanding and acceptance of individuals from a variety of cultural, ethnic, racial, and religious backgrounds.

Dissemination of Policy and Training

This policy or a summary shall be conspicuously posted throughout each agency's facilities in areas accessible to pupils and staff members and shall appear in the student and staff handbooks; if no handbook is available, a copy will be distributed to all students, faculty, and staff.

Hancock County Board of Education will develop and implement training for students and staff on these regulations and on means for effectively promoting the goals of this policy. The policy shall be reviewed at least bi-annually for compliance with state and federal law and state board of education policy.

Date Adopted: 2/28/94
Date Amended: 9/11/95; 10/27/97; 11/13/00; 6/24/02; 7/07/03; 12/17/07
Date Reviewed: 11/23/15

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