

<p>PRESTON COUNTY BOARD OF EDUCATION</p> <p>FILE: 11 - STUDENTS</p> <p>File: 11-16 Racial, Sexual, Religious/Ethnic Harassment or Violence against Students and Employees</p>	<p>Last Reviewed: 8-9-10</p> <p>Next Review: 7-1-12</p>
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The purpose of this policy and the regulations that follow is to prevent racial, sexual or religious/ethnic harassment or violence, toward students and staff, to protect the academic environment, and to assure that our employees respond to harassment and/or violence incidents when they occur in a manner that effectively deters future incidents and affirms respect for individuals.

Racial, sexual, religious/ethnic harassment and violence is a form of discrimination which violates Sections 703 of title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000C, et. seq., Title IX of the Educational Amendments of 1972, 20 U.S.C. §1681, et. seq., WV Code §5-11-1, §18-2-5, §18-2-5a and §18-2-7b, et. seq., West Virginia Constitution, Art. XII, §2, SBP 2421, and the West Virginia Human Rights Act.

These regulations shall apply to any student, school employee, school volunteer 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 Preston County Board of Education, or any facility being used by Preston County Board of Education.

The appropriate Preston County Schools personnel will investigate all complaints of harassment or violence and discipline any student or employee who harasses a student or employee of Preston County Schools. Penalties for members of the public shall be in compliance with the laws of West Virginia and the policies of the school system.

The Superintendent shall appoint a county Human Rights Officer who shall be the contact person at the Central Office level who shall process all complaints and reports submitted to the Superintendent's office.

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R 11-16-1 Definitions

- ❖ **Sexual Harassment:** Unwelcome sexual advances, request for sexual favors, sexually motivated physical conduct or communication of a sexual nature when:
 - Submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining or retaining employment, or of obtaining an education; or
 - 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; or
 - That conduct or communication has the purpose or effect of substantially or unreasonably interfering with an individual's employment or education, or creating an intimidating, hostile, or offensive employment or educational environment.

- Sexual harassment may include but is not limited to:
 - Unwelcome verbal harassment of a sexual nature or abuse;
 - Unwelcome or inappropriate letters, telephone calls, or materials of a sexual nature;
 - Sexual teasing, jokes, remarks, or questions;
 - Sexually suggestive looks or gestures;
 - Pressure, subtle or overt, for sexual activity;
 - Unwelcome or inappropriate patting, pinching, or cornering;
 - Intentionally brushing against another's body;
 - Attempted or actual rape or sexual assault;
 - Unwelcome sexual behavior or words, including demands for sexual favors, accompanied by implied or overt threats concerning an individual's employment or educational status;
 - Unwelcome sexual behavior or words, including demands for sexual favors, accompanied by implied or overt promises of preferential treatment with regard to an individual's employment or educational status;
 - 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; or
 - Any unwelcome sexually motivated touching.
- ❖ **Racial or Religious/Ethnic Harassment:** Racial and religious/ethnic harassment consists of physical, verbal or written conduct relating to an individual's race, religious background, 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.
- ❖ **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;
 - Touching, patting, grabbing or pinching another person's intimate parts, whether that person is 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;

- Threatening to force or coerce sexual acts, including the touching of intimate parts or intercourse on another; or
- Threatening or forcing exposure of intimate apparel or body parts by removal of clothing.
- ❖ **Racial or Religious/Ethnic Violence:** Racial or religious/ethnic violence is a physical act of aggression or assault upon another because of race, or in a matter reasonably related to, race, religion, or ethnicity.
- ❖ **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 by a person possessing the ability to carry out the threat.
- ❖ **Amorous Relationships:** Amorous relationships between staff members and non-adult students of the educational agencies served by Preston County Schools are prohibited. Staff members found to have violated this prohibition shall be subject to the disciplinary actions outlined in these procedures.

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R 11-16-2 Reporting Incidents of Harassment and/or Violence

Any person who believes s/he has been a victim of harassment or violence by a student or an employee of Preston County Schools, or any third person with knowledge or belief of conduct which may constitute harassment, should report the alleged acts immediately to an appropriate official as designated by these procedures. The Board encourages the reporting party or complainant to use the report form available from the Human Rights Officer.

❖ **In Each School Building**

The building principal is the person responsible for receiving oral or written reports of sexual harassment at the building level. Upon receipt of a report, the principal must notify the Board's Human Rights Officer immediately without screening or investigating the report. A written report will be forwarded simultaneously to the Human Rights Officer. If the report was given to the building principal verbally, s/he shall reduce it to written form before the close of the next working day and forward it to the Human Rights Officer. Failure to forward any sexual harassment report or complaint as provided herein will result in disciplinary action. If the complaint involves the building principal, the complaint shall be made directly to the Human Rights Officer.

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

❖ **District-Wide**

The Board designates its Title IX Coordinator as the Human Rights Officer to receive reports or complaints of sexual harassment from any individual, employee or victim of sexual harassment 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 these procedures. The name of the Human Rights Officer, including 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.

❖ **Submission of a Complaint or Report**

Submitting a complaint or report concerning sexual harassment will not affect the future employment, grades, or work assignments of the person who submits the complaint or report. The use of formal reporting forms is not mandatory. Preston County Schools will respect the confidentiality of the complainant and the individuals against whom the complaint is filed as much as possible, consistent with the agency's legal obligations and the necessity to investigate allegations of harassment and violence and take disciplinary action when the conduct has occurred.

❖ **Complaints Involving Sexual Child 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 county board of education shall comply with the provisions of law for reporting such abuse.

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R 11-16-3 Conducting an Investigation and making Recommendations

By authority of the Board, the Human Rights Officer, upon receiving a report or complaint alleging racial, sexual, religious/ethnic harassment or violence will immediately authorize an investigation. Upon receipt of a complaint alleging racial, sexual, religious, ethnic harassment or violence; the Human Rights Officer will inform the affected parties of the investigative procedures that will occur. The investigation may be conducted by officials of the school district or by third parties designated by the Superintendent of Schools. In the event the alleged complaint involves a school employee, the Human Rights Officer will inform such employee that a third party investigative official will be authorized to investigate and report. Additionally, the rights of such employee will be fully explained by the Human Rights Officer. The investigating party will provide a written report of the status of the investigation within 10 working days to the Superintendent and the Human Rights Officer. If the Superintendent is the subject of the complaint, the report will be submitted to the Human Rights Officer and the President of the Board.

In determining whether alleged conduct constitutes harassment or violence, consideration will be given to the surrounding circumstances, the nature of the racial, sexual, religious/ethnic advances, 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 complainants, the individuals against whom the complaints are filed, and others who may have knowledge of the alleged incidents or circumstances generating the complaints. The investigation may also consist of any other methods and documents deemed pertinent by the investigators.

In addition, school officials may, in their discretion, take immediate steps to protect the complainant, students, and employees pending completion of an investigation of alleged harassment and violence.

Upon completion of the investigation, the Board's Human Rights Officer will issue a report to the Superintendent. The report will include a recommendation concerning the validity of the complaint. If the Superintendent is the subject of the complaint, the report will be made to the President of the Board.

❖ **Action**

Upon receipt of a recommendation that the complaint is valid, officials of the Preston County Schools will take such action as appropriate based on the results of the investigation. The results of the investigation of each complaint filed under these procedures will be reported in writing to the complainant or his/her legal guardian by the Superintendent of Schools or, if the Superintendent is the subject of the complaint, by the President of the Board. The report will document any disciplinary action taken as a result of the complaint.

The Superintendent (or the President of the Board if the Superintendent is the subject of the complaint) shall immediately file a report with the West Virginia Department of Education when an investigation shows that harassment or violence did occur and all actions taken in response to the incident.

❖ **Non-Harassment**

The Board recognizes that not every advance or comment of a racial, sexual, or religious/ethnic nature constitutes harassment. Whether a particular action or incident is a personal, social relationship without a discriminatory employment effect requires a determination based on all the facts and surrounding circumstances. False accusations of harassment can have a serious detrimental effect on innocent parties and students and employees who falsely report religious/ethnic, racial, or sexual harassment shall also face appropriate disciplinary actions.

The confidentiality of complainants, subjects, witnesses, and investigators will be vigorously protected and only persons essential to the investigation will be given information about it.

Right to Alternative Complaint Procedures:

These procedures do not deny the right of any individual to pursue other avenues of recourse that may include filing charges with the West Virginia Human Rights Commission, filing an employee grievance under WVC §18-29-1, et. seq., filing a citizen's appeal under SBP 7211, filing a Title IX grievance under the appropriate procedures, initiating civil action, or seeking redress under state criminal statutes and/or federal law.

Disciplinary Actions:

Disciplinary action taken pursuant to these procedures for students may include, but are not limited to, warning, suspension or expulsion depending upon the severity of the offenses.

Disciplinary actions for employees may include, but are not limited to warning, suspension, immediate discharge and revocation of licensure.

R 11-16-4 Harassment and Violence Prevention Programs

For each programmatic level, Pre-K, K-5, 6-8, 9-12, adult students, faculty and staff, the Superintendent or his/her designee shall develop prevention programs that, at a minimum, raise awareness of the different types of discrimination, how it maintains itself, its devastating emotional and educational consequences and its legal consequences.

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R 11-16-5 Dissemination of Regulations

At the commencement of each school year, all students and their parents shall be provided with a copy of this policy. Students who transfer into a school during the course of a school year and their parents shall also be provided with a copy of the policy. School administrators shall use school/community communication vehicles to ensure order and public announcement and notification of the contents of the policy, including newsletters, assemblies, and student information packets. A summary statement of this policy will be posted in each classroom.

In addition, the Superintendent or his/her designee shall develop and implement multi-cultural education programs for faculty, staff and students that foster an attitude of understanding and acceptance of individuals from a variety of cultural, ethnic, racial and religious backgrounds and national origins.

R 11-16-6 Reprisal

The Preston County Board of Education will discipline any individual who retaliates against any person who reports alleged harassment or violence or who retaliates against any person who testifies, assists, or participates in an investigation proceeding or hearing relating to a harassment or violence complaint. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment.

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Adopted: August 18, 1999
Amended/Revised: August 9, 2010