

<p>PRESTON COUNTY BOARD OF EDUCATION</p> <p>FILE: 8 – PERSONNEL MANAGEMENT</p> <p>File: 8-36 Prevention of Sexual Abuse and/or Molestation of Students</p>	<p>Last Reviewed: 6-28-10</p> <p>Next Review: 7-01-12</p>
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The purpose of this policy and the regulations that follow is to prevent sexual abuse and/or molestation of students, to protect the school environment and to assure that our employees respond to such acts, should they occur, in a manner that effectively deters future incidents. Employee response to such incidents shall be an affirmation of the Board of Education’s zero tolerance policy regarding this type of behavior.

Sexual violence (sexual abuse or molestation) in our society has become such an issue that the West Virginia Board of Risk and Insurance Management (BRIM) can no longer find an insurance carrier who is willing to provide excess coverage for employees beyond the one million dollars provided by the state. As of July 1, 2005, school employees may only rely on the one million dollars of coverage for acts involving sexual violence. BRIM will continue to provide five million dollars of excess liability coverage for other types of allegations lodged against school employees.

Sexual violence is a form of discrimination which violates Section 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 Amends 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.

It has always been the responsibility of school employees to protect students from such abhorrent acts, and with the adoption of this policy the Board is strongly reaffirming its commitment to this responsibility. Employees who violate this policy shall be granted full procedural due process, but in the event the allegations are substantiated they shall be summarily suspended and/or terminated. In addition, criminal charges shall be pursued.

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R 8-36-1 Procedures for Implementing the Policy

Definitions:

- ❖ **Sexual Violence (Sexual Abuse or Molestation):** Sexual violence is a physical act of aggression or force or the threat of such action that 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 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 a 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.
- ❖ **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 will comply with the provisions of law for reporting such abuse.
- Legislation in 2005 expanded the crime of sexual exploitation to include acts by a “person in a position of trust to a child.” A person in a position of trust to a child is defined as any person who is acting in the place of a parent and is charged with any of the parent’s rights, duties or responsibilities concerning a child or someone responsible for the general supervision of a child’s welfare, or any person who by virtue of their occupation or position is charged with any duty or responsibility for the health, education, welfare, or supervision of the child. This definition clearly applies to school personnel.
 - A person in a position of trust to a child is now treated the same as a child’s parent, guardian, or custodian for purposes of the felony criminal penalties for abuse of a child and for allowing sexual abuse to be inflicted upon a child. However, these provisions do not apply to a person in a position of trust if that person’s age exceeds the child’s age by less than four years.
(WVC §61-8D-1; §61-8D-5)

Reporting Procedures:

Any person who believes s/he has been a victim of sexual violence (sexual abuse or molestation) by an employee of Preston County Schools, or any third person with knowledge or belief of conduct which may constitute such acts, should report the alleged acts immediately to an appropriate official as designated by these procedures. Preston County School authorities encourage 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 violence 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 violence act 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 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".

❖ District-Wide

The Board designates its Title IX Coordinator as the Human Rights Officer to receive reports or complaints of sexual violence from any individual, employee or victim of sexual 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 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 violence 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 sexual violence and take disciplinary action when the conduct has occurred.

Investigation and 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 sexual violence, consideration will be given to the surrounding circumstances, the nature of the act, 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 sexual 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 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 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.

❖ 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.

❖ 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 affect 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 WV Code §6C-2-1, et. seq., filing a citizen's appeal under West Virginia Board of Education Policy 7211, filing a Title IX grievance under the appropriate procedures, initiating civil action, or seeking redress under state criminal statutes and/or federal law.

Disciplinary Actions:

Employees who violate this policy shall be granted full procedural due process, but in the event the allegations are substantiated the offending employee shall be summarily suspended and/or terminated. In addition, criminal charges will be pursued.

Dissemination of Regulations:

These regulations or a summary of them shall be posed in each of the agency facilities in areas accessible to students and staff members. A complete copy of these regulations can be found in the Preston County Schools Policy Manual.

Prevention Programs:

For each programmatic level, 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 sexual violence, how it maintains itself, its devastating emotional and educational consequences and its legal consequences.

- ❖ Preston County Schools will develop and implement training for all employees and volunteers on these regulations and on means of effectively promoting them.
- ❖ Prevention programs that develop training and awareness of sexual violence will be presented annually through the Preston County Schools Staff Development Program.

The prevention program may be combined with other training programs related to cultural, ethnic, racial and religious discrimination.

R 8-36-2 Supervision of Students

To minimize the opportunity for unacceptable behavior to occur, the Preston County Board of Education requires that at least two adult supervisors shall be present at all times during school sponsored activities. At least one of the supervisors shall be a school employee who has been approved by the Board to act in the capacity of a supervisor.

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Adopted: June 28, 2010
Amended/Revised: