

PERSONNEL MANAGEMENT/STUDENTS

825.00/1123.00

RACIAL, SEXUAL, RELIGIOUS AND/OR ETHNIC HARASSMENT, BULLYING AND VIOLENCE

A. Rationale

The Mingo County Board of Education believes that the learning and working environments need to be free from any type of harassment, bullying, or violence. The purpose of this policy is to prevent racial, sexual, religious or ethnic harassment, bullying, or violence toward students and staff, to protect the academic environment, and to assure that the Mingo County School System responds to such incidents when they occur in a manner that effectively deters future incidents and affirms respect for individuals.

B. Application

1. These regulations apply to any student, staff member or member of the public, during any school related activity or during any education-sponsored event in a building or other property used or operated by the Board. The term "staff members" as used in these regulations, shall encompass all employees of the Mingo County Board of Education.
2. 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 shall engage in sexual, racial or ethnic, religious harassment, bullying, or violence. Persons found to have violated this prohibition shall be subject to the penalties in Section F of this policy.
3. Amorous relationships between staff members and students are prohibited, and staff members found to have violated this prohibition shall be subject to the penalties outlined in Section F of this policy.

C. Definitions

1. Sexual Harassment - Sexual harassment consists of unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct or other verbal or physical conduct or communication of a sexual nature when:
 - a. 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; or

- b. 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
 - c. 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.
 - d. Sexual harassment may include but is not limited to:
 - 1. unwelcome verbal harassment of a sexual nature or abuse;
 - 2. unwelcome pressure for sexual activity;
 - 3. unwelcome, sexually motivated or inappropriate patting, pinching or physical contact;
 - 4. unwelcome sexual behavior or words, including demands for sexual favors, accompanied by implied or overt threats concerning an individual's employment or educational status;
 - 5. 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;
 - 6. unwelcome behavior, verbal or written words or symbols directed at an individual because of gender;
 - 7. 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.
2. **Racial Harassment** - Racial harassment consists of physical, verbal or written conduct relating to an individual's race when the conduct:
- a. has the purpose or effect of creating an intimidating, hostile or offensive working or academic environment;
 - b. has the purpose or effect of substantially or unreasonably interfering with an individual's work or academic performance;
 - c. otherwise adversely affects an individual's employment or academic opportunities.
3. **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:

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

4. **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:

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

5. **Racial Violence** - 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** - 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. **Assault** - Assault is:

- a. an act done with intent to cause fear in another of immediate bodily harm or death;
- b. the threat to do bodily harm to another with present ability to carry out the threat.

8. Bullying, harassment, and/or intimidation - "Bullying, harassment, and/or intimidation" is an intentional gesture, or written, verbal, or physical act or threat that is sufficiently inappropriate, severe, persistent, or pervasive that it creates an intimidating, threatening, or abusive educational environment or that a reasonable person under the circumstances should know will have the effect of:
 - a. Harming a student;
 - b. placing a student in reasonable fear of harm to his/her person;
 - c. damaging a student's property; or
 - d. placing a student in reasonable fear of damage to his/her property.

D. Complaint Procedure

1. Any person who believes he or she has been the victim of racial, sexual, religious, or ethnic harassment, bullying, or violence by a pupil, teacher, administrator or other school personnel of the Mingo County Board of Education, or any person with knowledge or belief of conduct which may constitute racial, sexual, religious or ethnic harassment, bullying, or violence toward a pupil, teacher administrator or other school personnel shall report the alleged acts immediately. At the school level, the report shall be made to the Principal; At the Central Office level, the report shall be made to the Assistant Superintendent for the department. Nothing in this policy shall prevent any person from reporting harassment, bullying, or violence directly to the county superintendent, state superintendent as appropriate, or to the West Virginia Human Rights Commission, or to a law enforcement agency.
2. Any incidents of harassment, bullying, or violence observed by staff members must be reported to the appropriate school officials.
3. Under certain circumstances, sexual harassment may constitute child and/or sexual abuse and shall be reported in accordance with Chapter 49 of the WV Code.

E. Investigation

Upon receipt of a report alleging religious, ethnic, and racial or sexual harassment, bullying, or violence, an immediate investigation shall be undertaken. A third party designated by the Board, in accordance with this policy and the plan developed collaboratively with state and local agencies that share the purpose of this policy may conduct by Board officials or the investigation.

1. If the report of harassment, bullying, or violence involves only students, the Principal/Designee shall investigate the matter and submit a written report to the Superintendent/designee.
2. If the report of harassment, bullying, or violence involves an employee,

the Principal or Assistant Superintendent shall notify the Superintendent who shall direct the Title IX Coordinator and other staff as appropriate to conduct an investigation.

3. If the complaint is against a member of the public, the Superintendent shall direct the complaint to local law enforcement for investigation and prosecution as appropriate.
4. 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 circumstances giving rise to the complaint. The investigation may also consist of any other methods and review of circumstances deemed pertinent by the investigator(s).
5. The Administrator/Superintendent may take immediate steps to protect the complainant, pupils, teachers, administrators or other personnel pending completion of an investigation of alleged religious, ethnic, racial or sexual harassment, bullying, or violence.
6. The investigation will be completed as soon as practicable. The investigator shall make a written report to the Superintendent upon completion of the investigation. If the complaint involves the Superintendent, the report may be filed directly with 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 in violation of this policy.
7. The result 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/Designee, or, if the Superintendent is subject of the complaint, by 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.
8. 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 complainants, subjects, witnesses, and investigators will be vigorously protected and violations of such confidentiality may itself be grounds for disciplinary action.

F. Disciplinary Action and Reporting

1. Upon receipt of a report substantiated by the investigation, the School Administrator, Superintendent and/or Board, as

appropriate, will take appropriate action against those found to have violated this policy. Such action may include, but is not limited to the following:

- A. Student(s) - warning, suspension, exclusion, alternative school placement, expulsion.
- B. Employee(s) - warning, suspension (with or without pay), and/or termination and revocation of licensure.

In determining the appropriate response and/or punishment, the School Administrator, Superintendent, or Board will 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 incidents occurred. Whether a particular action or incident constitutes a violation of this policy requires a determination based on all the facts and surrounding circumstances.

- 2. The School Administrator/Superintendent shall also initiate such other action as is appropriate to ease tensions and to affirm the values of respect and understanding.
- 3. The Superintendent/designee will immediately file a report on WVEIS with the West Virginia Department of Education and the Mingo County Superintendent's office, of all reports of harassment or violence when an investigation shows that harassment, bullying, or violence did occur, and all action taken in response to the incident.

G. Reprisal

The Superintendent shall take disciplinary action against any pupil, teacher, administrator or other school personnel who retaliates against any person who reports alleged religious, ethnic, racial or sexual harassment, bullying, 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, bullying, or violence. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment. The Superintendent will take disciplinary action against any pupil, teacher, or administrator or other school personnel who falsely reports religious, ethnic, racial, or sexual harassment, bullying, or violence.

H. Preventive Programs

In order to raise awareness of the different types of harassment, bullying, and violence, how it manifests itself, its devastating emotional and educational

consequences, its legal consequences, and to foster an attitude of understanding and acceptance of individuals from a variety of cultural, ethnic, racial and religious backgrounds, a multi cultural educational staff development program will be provided annually for employees; additionally, multi cultural education shall be taught at each programmatic level, K-4, 5-8 and 9-12 with an emphasis on prevention and zero tolerance for racial, sexual, religious, or ethnic harassment, bullying, or violence.

I. Dissemination of Policy and Training

1. This policy or a summary shall be conspicuously posted throughout all facilities in areas accessible to pupils and staff members.
2. This policy shall appear in the student and staff handbooks and if no handbook is available, a copy will be distributed to all students, faculty, and staff.
3. The Principal/Designee at the school level shall review this policy with students and employees, and the Title IX Coordinator at the Central Office level shall review this policy with administrators and central office support staff at the beginning of each school term.
4. The Title IX Coordinator shall review this policy biannually to assure compliance with state and federal law and state board of education policy.

J. Right to Alternative Complaint Guidelines

This policy does not deny the right of any individual to pursue other avenues of recourse, which may include filing charges with the West Virginia Human Rights Commission, initiating civil action or seeking redress under the state criminal status and/or federal law.

LEGAL REFERENCE: STATE BOARD POLICY 2421, W. Va. Constitution, Article XII, §2, and W. Va. Code §§18-2-5, 18-2-5a, and 18-2-7b, Mingo County Discipline and Student Code of Conduct Policy 1102.00, and WV State Board Policy 5902 - Employee Code of Conduct.

ADOPTED: December 2, 1998
REVISED: October 10, 2002

REVISED July 10, 2003