

TITLE: Racial, Sexual, Religious/Ethnic Harassment and Violence Policy

Reference: WV Constitution, Article XII, § 2, WV Code § 18-2-5, 18-2-5a, and 19-2-7b

1. Purpose

1.1 The purpose of this policy 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 educational institutions respond to harassment and/or violence incidents when they occur in a manner that effectively deters future incidents and affirms respect for individuals. To the extent possible, the Gilmer County Board of Education will collaborate with other state and local agencies in carrying out the purpose of this policy. It is the intent of the Gilmer County School Board to ensure that the learning and working environments are free from any type of harassment or violence.

2. Applications

2.1 These regulations apply to any student, staff member or member of the public during any school related activity or during any education sponsored event whether in a building or other property used or operated by the Gilmer County Board of Education, The term “staff members”, as used in these regulations, shall encompass all employees of the Gilmer County Board of Education.

2.2 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 Gilmer County Board of Education, 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 Section 6.

2.3 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 6.

3. Definitions

3.1 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:

3.1.1 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; or

3.1.2 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; or

3.1.3 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.

3.1.4 sexual harassment may include but is not limited to:

a. unwelcome verbal harassment of a sexual nature or abuse; unwelcome pressure for sexual activity;

b. unwelcome pressure for sexual activity;

c. unwelcome, sexually motivated or inappropriate patting, pinching or physical contact;

d. unwelcome sexual behavior or words, including demands for sexual favors, accompanied by implied or overt threats concerning an individual's employment or educational status;

e. 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; or

f. unwelcome behavior, verbal or written words or symbols directed at an individual because of gender.

g. 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.

3.2 Racial Harassment — Racial harassment consists of physical, verbal or written conduct relating to an individual's race when the conduct:

3.2.1 has the purpose or effect of creating an intimidating, hostile or offensive working or academic environment;

3.2.2 has the purpose or effect of substantially or unreasonably interfering with an individual's work or academic performance; or

3.2.3 otherwise adversely affects an individual's employment or academic opportunities.

3.3 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:

3.3.1 has the purpose or effect of creating an intimidating, hostile or offensive working or academic environment;

3.3.2 has the purpose or effect of substantially or unreasonably interfering with an individual's work or academic performance; or

3.3.3 otherwise adversely affects an individual's employment or academic opportunities.

3.4 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:

- 3.4.1 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; or
 - 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 or body parts by removal of clothing.
- 3.5 Racial Violence - Racial violence is a physical act of aggression or assault upon another because of, or in a manner reasonably related to, race.
- 3.6 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.
- 3.7 Assault - Assault is:
 - 3.7.1 an act done with intent to cause fear in another of immediate bodily harm or death;
 - 3.7.2 the threat to do bodily harm to another with present ability to carry out the threat.

4. Complaint Procedures

4.1 Any person who believes he or she has been the victim of racial, sexual, religious/ethnic harassment by any other person is encouraged to immediately report the alleged acts to any staff member.

4.2 Any staff member who has or receives notice that a student has or may have been the victim of racial, sexual, religious/ethnic is required to immediately report the alleged acts to the designated investigator and their failure to do so shall result in disciplinary action.

4.3 Oral reports shall be considered complaints as well.

4.4 Any person with knowledge or belief that a person has or may have been the victim of racial, sexual, religious/ethnic harassment is encouraged to report the alleged acts to any staff member.

4.5 All incidents of racial, sexual, religious/ethnic harassment shall be reported to agency personnel who shall transmit the information to the designated investigator for immediate appropriate action.

4.6 Under certain circumstances, some forms of racial, sexual, religious/ethnic may rise to the level of child and/or sexual abuse under Chapter 49 of the West Virginia Code. In such situations, the agencies and their employees shall comply with the provisions of law for reporting such abuse.

5. Investigation

5.1 Upon receipt of a report or complaint alleging any form of racial, sexual, religious/ethnic harassment, the designated investigator shall immediately undertake or authorize an investigation. Such investigation shall immediately be conducted by the designated investigator or by a designated third party in accordance with this policy.

5.2 The initiating investigator shall take immediate steps, at its discretion, to protect the complainant pending completion of an investigation of racial, sexual, religious/ethnic harassment.

5.3 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 lawful methods and review of circumstances deemed pertinent by the investigator. When any student is to be interviewed in connection with an investigation pursuant to this policy, the student's parent, custodian, or guardian shall be notified and have the right to be present during such interview.

5.4 The investigation shall be completed forthwith. The investigator shall make a written report to principal or supervisor upon completion of the investigation. If the complaint involves the head of the initiating agency, the report may be filed directly with the initiating agency's governing 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.

5.5 The principal or supervisor shall determine whether the alleged conduct constitutes a violation of this policy.

5.6 In determining the appropriate response and/or punishment, the principal or supervisor 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 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.

5.7 The result of the investigation of each complaint filed under these procedures shall be reported in writing to the subject of the complaint or his/her legal guardian as well as the complainant or his/her legal guardian by the head of the initiating agency, or, if the head of the agency is the subject of the complaint, by the president of the initiating agency's governing board.

5.8 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 shall be vigorously protected and violations of such confidentiality may themselves be grounds for disciplinary action.

6. Agency Action and Reporting

6.1 . Upon receipt of a report of substantiated racial, sexual, religious/ethnic harassment, the head of the agency or his/her governing board shall take appropriate action against those persons found to have violated this policy.

6.2 Appropriate action may include, but is not limited to, warning, written reprimand, suspension, exclusion, expulsion, termination, and suspension or revocation of licensure.

6.3 Any employee found to be in violation of this policy shall have the investigation report placed in his/her personnel file along with any and all records concerning action taken as a result of such violation of policy.

6.4 Those same records shall be immediately transmitted to the State Superintendent of Schools.

6.5 The principal or supervisor shall immediately file a report with the West Virginia Department of Education of all allegations of racial, sexual, religious/ethnic harassment, via WVEIS.

6.6 Upon conclusion of the investigation, principal or supervisor shall file a report, or update their initial report, with the West Virginia Department of Education indicating whether or not the allegations were substantiated and outlining every action taken in response to any report, via WVEIS.

6.7 The head of the agency or the initiating agency's governing board shall also initiate such other action as is appropriate to prevent recurrences and protect persons from racial, sexual, religious/ethnic harassment.

7. Reprisal

7.1 Each school shall develop discipline procedures with which to take appropriate action against any person who retaliates against another person for reporting alleged racial, sexual, religious/ethnic harassment or for testifying, assisting, or participating in an investigation, or for testifying, assisting, or participating in a proceeding or hearing relating to such racial, sexual, religious/ethnic harassment. Retaliation includes, but is not limited to, any form of intimidation, reprisal, or harassment.

8. Right To Alternative Complaint Procedures

8.1 This policy does not deny the right of any person 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 statutes and/or federal law.

9. Prevention Programs

9.1 Gilmer County schools will develop and implement forthwith an education program for each programmatic level, K-5, 6-8, and 9-12, as well as a prevention and response program for all staff and deliver it annually.

9.2 The programs must include, but are not limited to life skills training, character education, anger management, conflict resolution, and peer mediation skills.

9.3 Plans for student and staff training/education programs and their delivery shall be reported to the West Virginia Department of Education, Office of Student Services and Assessment, as scheduled and delivered.

10. Dissemination of Policy and Training

10.1 This policy or a summary shall be conspicuously posted throughout each school, central office, and facilities in areas accessible to all persons.

10.2 This policy shall appear in the student and staff handbooks or agency handbook and copies shall be distributed to those for whom no handbook is available.

10.3 A legible copy of this policy must be disseminated to parents, custodians, or guardians of students along with an explanation of how to report violations of the policy by October 31st of each year.

10.4 Each school shall develop and implement training for students and staff concerning these rules, their implications, and means for effectively promoting the goals of this policy. Each school shall document the date, time, place, number of students in attendance, number of staff in attendance, and the purpose and content of any and all training conducted for students and/or staff and submit this documentation to the West Virginia Department of Education annually.