

HUMAN RESOURCES**PROHIBITION OF RACIAL, SEXUAL, RELIGIOUS/ETHNIC HARASSMENT AND VIOLENCE**

This policy has legal basis in W.Va. Constitution Article XII; W.Va. Code §18-2-5, §18-2-5a, §18-2-7b and §18-2C-1; 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 W.Va. Board of Education and the Ohio County Board of Education.

I. THE PURPOSE

- A. It is the policy of Ohio County Board of Education that the dignity of each human being shall be considered in all school system activities, and that it is our responsibility to provide and maintain a learning and working environment that is free from racial, sexual, religious/ethnic harassment or violence.
- B. Any act of racial, sexual, religious/ethnic/ harassment or violence involving students or staff is a violation of this policy and shall not be tolerated by the Ohio County Board of Education.

II. DEFINITIONS

- A. 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 staff or by a student when:
 - 1. 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
 - 2. submission to or rejection of such conduct or communication by an individual is used as a basis for academic or employment decisions affecting that individual's employment or education; or
 - 3. 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.
 - 4. 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.
- to use inappropriate comments about one's body; dirty jokes or stories; dehumanizing graffiti; display of suggestive cartoons or objects.
- to use assault or attempted assault which is gender based.

B. Racial Harassment consists of physical, verbal, or written conduct relating to a person's race when the conduct:

1. has the purpose or effect of creating an intimidating, hostile or offensive working or academic environment;
2. has the purpose or effect of substantially or unreasonably interfering with an individual's work or academic performance; or
3. 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.

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

1. has the purpose or effect of creating an intimidating, hostile or offensive working or academic environment;
2. has the purpose or effect of substantially or unreasonably interfering with an individual's work or academic performance; or
3. 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)

D. 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:

1. touching, patting, grabbing, or pinching another person's intimate parts whether of the same sex or the opposite sex;
2. coercing, forcing or attempting to coerce or force the touching of anyone's intimate parts;

3. coercing, forcing or attempting to coerce or force sexual intercourse or sexual act on another; or
 4. threatening to force or coerce sexual acts, including touching of intimate parts or intercourse, on another:
 5. threatening or forcing exposure of intimate apparel or body parts by removal of clothing.
- E. Racial Violence is a physical act of aggression or assault upon another because of, or in a manner reasonably related to, race.
- F. 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.
- G. 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.

III. EXTENT OF COVERAGE

- A. 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 the Ohio County Board of Education.
- B. This policy applies to individuals attending any school or school sponsored event, regardless of location.
- C. 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.
- D. Any individual or organization working in cooperation with the school system, including but not limited to mentoring, "co-op," shadowing programs, internships and volunteers, is required to abide by this policy.
- E. This policy applies to any individual or group conducting official business within the Ohio County Schools.

IV. COMPLAINT PROCEDURES

Any person who believes he or she has been the victim of racial, sexual, religious/ethnic/harassment by a student or an employee of Ohio County Schools must report the alleged acts immediately to an appropriate school district official as

designated by this policy. Likewise, staff shall report incidents of racial, sexual, religious/ethnic harassment or violence of students of which they are aware. The Ohio County Board of Education encourages the reporting party or complainant to use the report form available from the building principal or the County Board of Education office.

- A. 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 racial/ sexual/religious/ ethnic harassment or violence. If the complaint is against a student enrolled in the school, the principal will investigate the complaint within ten (10) school days or as soon as is practicable and submit a written report of the investigation and its findings to the Title IX Coordinator or Superintendent's designee. 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 student code-of-conduct and/or school handbook. Complaints involving sexual harassment of a student by an employee must be reported immediately to the Superintendent or designee. If the complaint is against the employee, the principal will notify the Human Rights Officer, Title IX Coordinator, or designee who will conduct the investigation. The Human Rights Officer, Title IX Coordinator or designee will prepare a report from the facts gathered from the investigation and present it to the Superintendent for his/her review and recommendations.
- B. District Wide. The Ohio County Board of Education hereby designates its Title IX Coordinator as the Board's Human Rights Officer or Superintendent's designee to receive complaints of racial, sexual, religious/ethnic harassment or violence from any individual, employee, or victim 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's designee who shall then be responsible for the investigation and recommendation described in Section VI of this policy.
- C. Reporting racial, sexual, religious/ethnic harassment or violence 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.

- D. 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. Reports of harassment or intimidation of students are likewise confidential and exempt from disclosure under Chapter 29b of the West Virginia Code.

V. TIME LINES FOR INVESTIGATION AND RECOMMENDATION

- A. 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 racial, sexual, religious/ethnic harassment or violence of a student by an adult employee of Ohio county Schools. The investigator or investigating party shall provide a written report within five working days after the completion of the investigation. A copy of the report will be forwarded to the Human Rights Officer.
 - 1. The recipient of a complaint or any employee who knows or reasonably believes that a student has been the victim of racial, sexual, religious/ethnic harassment or violence is responsible to ensure that the complaint and relevant information is reported to the principal or designee.
 - 2. Complainants or their representatives are encouraged to report the complaint in writing using the designated complaint form. The completed form shall be submitted to the Title IX Coordinator by the principal within two school days.
 - 3. The person accused of the sexual/religious/ethnic harassment or violence 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 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. If a student is accused, the parent(s), custodian(s) or legal guardian(s) shall be notified.

4. A full, confidential interview with the complainant by an investigator not employed at the school site, shall be promptly initiated. However, student related complaints may be investigated by the principal. Unless the complainant is eighteen (18) years or older, the complainant must have a parent/guardian present or consent given for the interview.
5. 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.
6. 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 modification, including scheduling changes or counseling for the complainant.
7. The investigator will individually interview any witnesses identified and advise each witness 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.
8. The accused will be interviewed by the investigator once all witnesses identified by the complainant have been interviewed and supporting documents or evidence gathered.
9. The accused shall be provided, at the time of the interview, the harassment policy and the procedures for the investigation of allegations under this policy.
10. 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. However, the accused may provide a written statement of events.

11. 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.
 12. 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.
 13. The investigation shall continue until concluded and a report submitted despite student hesitancy or the resignation or retirement of the accused.
 14. The investigator shall assemble an investigative file maintained in a secure and confidential manner by the Title IX Coordinator or designee 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.
- B. 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 to the Superintendent of Schools within five working days after the completion of the investigation. If the Superintendent is the subject of the complaint, the report will be submitted to the President of the Board of Education.
1. Complainants, principals or designees are encouraged to place the complaint in writing 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 or violence 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 has occurred. The investigator will advise the accused that, as per this policy

(Section V.F), there will be no retaliation against the complainant 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 for action, such as change of the accused's work schedule or suspension while the complainant is investigated.
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/violence policy and the procedures for the investigation of allegations under this 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 transcribed to writing and a summary for signature provided to the accused. However, the accused will be given an opportunity to provide a 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 of the complainant 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 the 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.
- C. To ascertain whether alleged behavior constitutes racial, sexual, religious/ethnic harassment or violence, consideration will be given to the situation, the nature of the incidents, 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.
- D. 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.
- E. 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.

- F. The Ohio County Board of Education will take appropriate action against any pupil, teacher, administrator or other school personnel who retaliates against any person who reports alleged 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 make false reports under this policy.

VI. ACTION AND REPORTING

- A. Upon receipt of a report substantiated by the investigation, the Superintendent 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 a recommendation to the State Superintendent of Schools for revocation of licensure.
- B. The Superintendent or designee shall also initiate such other action as is appropriate to ease tensions and to affirm the values of respect and understanding.
- C. The Superintendent shall file a report with the West Virginia Department of Education of all reports of racial, sexual, religious/ethnic harassment or violence when investigation shows that harassment or violence did occur and all action taken in response to the incident.

VII. PREVENTION PROGRAMS

Ohio County Schools will develop and implement an education program for each programmatic level, K-4, 5-8, and 9-12, that 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 or violence, how it manifests itself, its 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.

VIII. DISSEMINATION OF POLICY AND TRAINING

- A. This policy or a summary shall be conspicuously posted throughout Ohio County Schools facilities in areas accessible to pupils and staff members.
- B. 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.
- C. Ohio County Schools will develop and implement training for students and staff on these regulations and on means for effectively promoting the goals of this policy.
- D. This policy shall be reviewed at least bi-annually for compliance with state and federal law and State Board of Education policy.

REGULATION REVISED: August 9, 2004

REGULATION ADOPTED: October 11, 1993

OHIO COUNTY BOARD OF EDUCATION

**OHIO COUNTY SCHOOLS
RACIAL, SEXUAL, RELIGIOUS/ETHNIC HARASSMENT OR VIOLENCE COMPLAINT
FORM
STUDENT COMPLAINT**

Name: _____

Date: _____ School: _____

Who was responsible for the harassment or violence? (Be specific)

Describe the harassment or violence.

Date(s), time(s), and place(s) the harassment or violence occurred.

Were other individuals involved in the harassment or violence?

☐ Yes ☐ No

If so, name the individual(s) and what their role was.

Did anyone witness the harassment or violence?

☐ Yes ☐ No

If so, name the witnesses.

What was your reaction to the harassment or violence?

Describe any prior incidents.

Signature of Complainant or Parents/Legal Guardians

Date

OHIO COUNTY SCHOOLS
RACIAL, SEXUAL, RELIGIOUS/ETHNIC HARASSMENT OR VIOLENCE COMPLAINT
FORM

EMPLOYEE COMPLAINT

Name: _____

Date: _____ School: _____

Who was responsible for the harassment or violence? (Be specific)

Describe the harassment or violence.

Date(s), time(s), and place(s) the harassment or violence occurred.

Were other individuals involved in the harassment or violence?

☐ Yes ☐ No

If so, name the individual(s) and what their role was.

Did anyone witness the harassment or violence?

☐ Yes ☐ No

If so, name the witnesses.

What was your reaction to the harassment or violence?

Describe any prior incidents.

Signature of Complainant or Parents/Legal Guardians

Date

Incident Identification Reference

**OHIO COUNTY SCHOOLS
ADMINISTRATIVE INVESTIGATION FORM**

Incident Identification Reference

Date Complaint Filed:

Date of Investigation:

Facts Determined in Investigation:

[illegible]

Recommended disciplinary action:

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Date of follow up conference with complainant: _____

Results of conference:

Other recommended action:

Signature of Administrator