



Book Neola Policy Templates for Processing

Section 5000 Students - Marked

Title ANTI-HARASSMENT AND VIOLENCE

Code po5517

Status

5517 - ANTI-HARASSMENT AND VIOLENCE

General Statement

Racial, sexual, and religious/ethnic harassment is a form of discrimination which violates Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e, et seq., Title IX of the Education Amendments of 1972, 20 U.S.C. 1681, et seq., and WV Code 5-11-1, et seq., the West Virginia Human Rights Act.

It is the policy of the Board of Education to maintain an education and work environment that is free from all forms of unlawful harassment and violence.

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 Board of Education or in any other facility being used by the Board.

The Board will vigorously enforce its prohibition against discriminatory harassment based on race, color, national origin, sex (including sexual orientation and transgender identity), disability, age, religion, ancestry, or genetic information (collectively, "Protected Classes") that are protected by Federal civil rights laws (hereinafter referred to as "unlawful harassment"), and encourages those within the School District community as well as third parties, who feel aggrieved to seek assistance to rectify such problems. The Board will investigate all allegations of harassment and in those cases where unlawful harassment is substantiated, the Board will take immediate steps to end the harassment, prevent its reoccurrence, and remedy its effects. Individuals who are found to have engaged in unlawful harassment will be subject to appropriate disciplinary action.

For purposes of this policy, "School District community" means students, administrators, and professional and classified staff, as well as Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Board.

For purposes of this policy, "third parties" include, but are not limited to, guests and/or visitors on School District property (e.g., visiting speakers, participants on opposing athletic teams, parents), vendors doing business with, or seeking to do business with, the Board, and other individuals who come in contact with members of the School District community at school-related events/activities (whether on or off School District property).

The Board will act promptly and confidentially to investigate all harassment and violence complaints, formal or informal, verbal or written, and will take appropriate disciplinary action based upon the results of the investigation.

Other Violations of the Anti-Harassment Policy

The Board will also take immediate steps to impose disciplinary action on individuals engaging in any of the following prohibited acts:

- A. Retaliating against a person who has made a report or filed a complaint alleging unlawful harassment, or who has participated as a witness in a harassment investigation.
- B. Filing a malicious or knowingly false report or complaint of unlawful harassment.
- C. Disregarding, failing to investigate adequately, or delaying investigation of allegations of harassment, when responsibility for reporting and/or investigating unlawful harassment charges comprises part of one's supervisory duties.

Furthermore, the Board is committed to providing an educational setting that is safe, secure, and free from harassment and bullying for all of its students and school employees. Policy 5517.01 Bullying addresses those instances of bullying and harassment which do not rise to the level of legally protected harassment under Federal law, but are, nonetheless, behaviors that may occur on school grounds, at school-sponsored events, on school buses, at school bus stops and through school computer networks and through other electronic communication or transmission that will not be tolerated and must be appropriately identified, reported, investigated, and, when substantiated, be the subject of appropriate disciplinary action. An electronic act, communication, transmission or threat includes but is not limited to one which is administered via telephone, wireless phone, computer, pager or any electronic or wireless device whatsoever, and includes but is not limited to transmission of any image or voice, email or text message using any such device.

Definitions

A. **Sexual harassment** – Sexual harassment consists of sexual advances, requests for sexual favors, sexually motivated physical conduct, or other verbal or physical conduct or communication of a sexual nature when:

- 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;
- 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;
- 3. creating an intimidating, hostile or offensive or educational environment.

Sexual harassment may include, but is not limited to:

- 1. verbal or written harassment of a sexual nature or abuse;
- 2. pressure for sexual activity;
- 3. inappropriate or unwelcome sexually motivated patting, pinching, or physical conduct;
- 4. sexual behavior or words, including demands for sexual favors, accompanied by implied or overt threats and/or promises concerning an individual's employment or educational status;

5. unwelcome behavior, verbal or written words or symbols, directed at an individual because of gender;
6. 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;
7. unwelcome sexual flirtations, advances, or propositions from a member of the same or opposite sex;
8. verbal abuse of a sexual nature, without regard to whether the verbal abuse specifically refers to sexual characteristics at whom the verbal abuse is directed;
9. verbal or written comments about an individual's body;
10. sexually degrading word(s) or actions used to intimidate, describe an individual or to refer to some aspect of the individual's behavior, appearance, attitude, or conduct;
11. the display, use or dissemination of sexually suggestive gestures, objects, pictures, and/or jokes by any means, including, but not limited to, printed materials and materials displayed by electronic means, sex based labeling or stereotyping with respect to mental, physical, or other abilities, talents, occupational or life goals, etc.;
12. nonsexual conduct, including words or actions, directed toward a person because of their gender that tends to ridicule, criticize, discriminate, or otherwise makes it more difficult for that person to perform their job and/or achieve an education.

It is the responsibility of all students and employees to promote and to maintain an environment free of all types of sexual harassment. Any sexual harassment, as defined, when perpetrated on any student, volunteer, third party or employee by any student, volunteer, third party or employee will be treated as sexual harassment under this policy.

NOTE: Sexual conduct/relationships with students by District employees or any other adult member of the District community is prohibited, and any teacher, administrator, coach, or other school authority who engages in sexual conduct with a student may also be guilty of the criminal charge of "sexual abuse or sexual assault as set forth in Article 8B, Chapter 61 of the West Virginia Code. The issue of consent may be irrelevant in regard to such criminal charge. In addition, under certain circumstances, sexual harassment may constitute child and/or sexual abuse under Chapter 49 of the West Virginia Code. In such situations, the Board shall comply with the provisions of law for reporting such abuse.

B. Racial Harassment – Racial harassment consists of physical, verbal, or written conduct relating to an individual'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;
3. otherwise adversely affects an individual's employment or academic opportunities;
4. racial harassment includes racially degrading word(s) or actions used to intimidate, describe an individual or to refer to some aspect of the individuals behavior, appearance, attitude, or conduct;

5. the display, use, or dissemination of racially motivated gestures, objects, pictures, and/or jokes by any means, including, but not limited to, printed materials displayed by electronic means;
6. race based labeling or stereotyping with respect to mental, physical, or other abilities, talents, occupational or life goals, etc.;
7. unwelcome behavior, verbal or written words or symbols, directed at an individual because of race;
8. conduct, including word(s) or actions, directed toward a person because of their race that tends to distract or otherwise make it more difficult to perform their job and/or achieve an education.

It is the responsibility of all students and employees to promote and to maintain an environment free of all types of racial harassment. Any racial harassment, as defined, when perpetrated on any student, volunteer, third party or employee by any student, volunteer, third party or employee will be treated as racial harassment under this policy.

C. 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:

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;
3. otherwise adversely affects an individual's employment or academic opportunities;
4. religious/ethnic degrading word(s) or actions used to intimidate, describe an individual or refer to some aspect of the individual's behavior, appearance, attitude or conduct;
5. the display, use or dissemination of degrading religious/ethnic
6. suggestive gestures, objects, pictures, and/or jokes by any means including, but not limited to, printed materials and materials displayed by electronic means;
7. religious/ethnic based labeling or stereotyping with respect to mental, physical or other abilities, talents, occupational or life goals, etc.;
8. conduct, including word(s) or actions, directed toward a person because of their religion or ethnicity that tends to distract or otherwise make it more difficult to perform their job and/or achieve an education.

It is the responsibility of all students and employees to promote and to maintain an environment free of all types of religious/ethnic harassment. Any religious/ethnic harassment, as defined, when perpetrated on any student, volunteer, third party or employee by any student, volunteer, third party or employee will be treated as religious/ethnic harassment under this policy.

D. 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:

1. touching, patting, grabbing or pinching another person's intimate parts, whether that person is 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 a sexual act on another;
 4. threatening to force or coerce sexual acts, including the 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** - 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** - 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** - Assault is defined as an act done with intent to cause fear in another of immediate bodily harm or death; or the threat to do bodily harm to another with present ability to carry out the threat.

Reports and Complaints of Harassing Conduct

Members of the School District community, which includes all staff, and third parties are encouraged to promptly report incidents of harassing conduct to an administrator, supervisor, or other School District official so that the Board may address the conduct before it becomes severe, pervasive, or persistent.

Members of the School District community or third parties who believe they have been unlawfully harassed by another member of the School District community or a third party are entitled to utilize the Board's complaint process that is set forth below.

If, during an investigation of alleged bullying, aggressive behavior and/or harassment in accordance with Policy 5517.01 - Bullying, the principal believes that the reported misconduct may have created a hostile work environment and may have constituted unlawful discriminatory harassment based on a Protected Class, the principal shall report the act of bullying, aggressive behavior and/or harassment to one of the Anti-Harassment Compliance Officers who shall investigate the allegations in accordance with this policy. While the compliance Officer investigates the allegation, the principal shall suspend his/her Policy 5517.01 investigation to await the Compliance Officer's written report. The Compliance Officer shall keep the principal informed of the status of the Policy 5517 investigation and provide him/her with a copy of the resulting written report.

Anti-Harassment Compliance Officers

The Board designates the following individuals to serve as "Anti-Harassment Compliance Officers" for the District (hereinafter referred to as the "COs").

Adam Henkins _____
(Name)

Director of Safe, Supportive Schools & Athletics _____
(District Title)

304-291-9210 x1516 _____
(Telephone Number)

13 S. High St., Morgantown, WV 26501 _____
(Office Address)

ahenkins@k12.wv.us _____
(E-mail Address)

Angela Hayes _____
(Name)

Director of Psychological Services _____
(District Title)

304-291-9210 _____
(Telephone Number)

13 S. High St., Morgantown, WV 26501 _____
(Office Address)

acaterin@k12.wv.us _____
(E-mail Address)

The names, titles, and contact information of these individuals will be published annually:

- A. on the School District's web site.
- B. on each individual school's web site.

The COs will be available during regular school/work hours to discuss concerns related to unlawful harassment, to assist students, other members of the School District community, and third parties who seek support or advice when informing another individual about "unwelcome" conduct, or to intercede

informally on behalf of the individual in those instances where concerns have not resulted in the filing of a formal complaint and where all parties are in agreement to participate in an informal process.

COs shall accept complaints of unlawful harassment directly from any member of the School District community or a visitor to the District, or receive complaints that are initially filed with a school building administrator. Upon receipt of a complaint, either directly or through a school building administrator, a CO will begin either an informal or formal process (depending on the request of the person alleging the harassment or the nature of the alleged harassment), or the CO will designate a specific individual to conduct such a process. In the case of a formal complaint, the CO will prepare recommendations for the Superintendent or will oversee the preparation of such recommendations by a designee. All members of the School District community must report incidents of harassment that are reported to them to the CO within two (2) business days of learning of the incident.

Any Board employee who directly observes unlawful harassment of a student is obligated, in accordance with this policy, to report such observations to one (1) of the COs within two (2) business days. Additionally, any Board employee who observes an act of unlawful harassment is expected to intervene to stop the harassment, unless circumstances make such an intervention dangerous, in which case the staff member should immediately notify other Board employees and/or local law enforcement officials, as necessary, to stop the harassment. Thereafter, the CO, or designee must contact the student, if age eighteen (18) or older, or the student's parents if under the age of eighteen (18), within two (2) business days to advise him/her/them of the Board's intent to investigate the alleged misconduct, including the obligation of the CO or designee to conduct an investigation following all the procedures outlined for a formal complaint.

Reporting Procedures

- A. In Each School Building. The building principal is the person responsible for receiving oral or written reports of racial, sexual or religious/ethnic harassment or violence at the building level. Upon receipt of a report of student conduct, the principal must notify the School District's Anti-Harassment Compliance Officer promptly, and shall commence investigation of the complaint. No later than ten (10) school days of receiving the complaint, a written report will be forwarded to the School District's Anti-Harassment Compliance Officer and to the Superintendent.

If the report alleges employee misconduct, the building principal must promptly notify the School District's Anti-Harassment Compliance Officer who will initiate, or direct, an investigation of the complaint. This investigation may be conducted by school officials or third parties designated by the Superintendent. Within ten (10) school days of receiving the complaint, the investigating party shall provide a written status report to the Superintendent.

Anytime the report is given to the building principal verbally, the principal shall reduce it to written form before the close of the next working day. If the complaint involves the building principal, the complaint shall be made directly to the School District's Anti-Harassment Compliance Officer.

For school buildings/facilities which do not have a building principal, such as the transportation and maintenance departments, the Director of such building or facility will be the person responsible for receiving oral or written reports of racial, sexual or religious/ethnic harassment or 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".

- B. District-Wide. The Board hereby designates its Title IX Coordinator as the School District's Anti-Harassment Compliance Officer to receive reports or complaints of racial, sexual or religious/ethnic harassment or violence from any individual, employee or victim of racial, sexual or religious/ethnic harassment or violence and also from the building principals as outlined above. If the complaint involves the School District's Anti-Harassment Compliance Officer, the complaint or report shall be filed directly with the Superintendent, who shall then be responsible for the investigation and recommendation described in the Investigation and Recommendation section of this policy. The name of the School District's Anti-Harassment Compliance Officer, including a 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.

- C. Submission of a complaint or report of racial, sexual or religious/ethnic harassment or violence will not affect the future employment, grades, or work assignments of the person who submits the complaint or report.
- D. Use of formal reporting forms is not mandatory.
- E. All alleged incidents of harassment or violence observed by faculty, staff or other employees of the Board must report the incident to either the building principal or the School District's Anti-Harassment Compliance Officer within twenty-four (24) hours of observing the incident.

The Board's investigation of racial, sexual or religious/ethnic harassment or violence complaints will be conducted with maximum effort to protect the confidentiality of all those involved in the complaint or investigative process and to facilitate prompt resolution of the complaint. School officials may, in their discretion, take immediate steps to protect individual privacy and safety pending resolution.

Investigation and Recommendation

The individual(s) designated by this policy to investigate, shall, upon receipt of a report or complaint alleging racial, sexual, or religious/ethnic harassment or violence, immediately undertake to authorize an investigation. The investigation may be conducted by school officials or by a third party designated by the school officials if necessary. The investigating party shall provide a written report of the result of the investigation and a recommendation of discipline within ten (10) school days to the Superintendent and to the School District's Anti-Harassment Compliance Officer. If the Superintendent is the subject of the complaint, the report shall be submitted to the School District's Anti-Harassment Compliance Officer and to 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.

In determining whether alleged conduct constitutes racial, sexual or religious/ethnic harassment or violence, consideration shall be given to the surrounding circumstances, the nature of the conduct involved, 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 complainant, the individual(s) against whom the complaint is filed, and others who may have knowledge of the alleged incident(s) or circumstance(s) giving rise to the complaint. The investigation may also consist of any other methods, documents, and review of circumstances deemed pertinent by the investigator(s).

Confidentiality

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 complaints 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.

Results of the Investigation

The result of the investigation of each complaint filed under these procedures will be reported in writing to the complainant and his/her legal guardian by the Superintendent, or, if the Superintendent is the subject of the complaint, by the President of the Board.

Discipline and Other Actions

In determining the appropriate response and/or punishment, the appropriate school official 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 incident occurred.

- A. Upon receipt of a finding that the complaint is substantiated, the appropriate school official shall take action appropriate to the status of the offender (student, staff, or public guest). Such action for students may include all options listed in West Virginia State Board of Education policy 4373 and local Policy 5600. Actions for staff may include but not be limited to, warning, suspension, termination, revocation of licensure, notification of law enforcement and/or human services. Actions for public guests may include but not be limited to removal from school property and school sponsored functions, notification of law enforcement and/or human services.
- B. The appropriate school official shall also initiate such other action as is appropriate to ease tensions and affirm the values of respect and understanding in accordance with this policy.
- C. The Superintendent shall immediately file a report with the West Virginia Department of Education of all reports of harassment or violence when an investigation shows that harassment or violence did occur and all actions taken in response to the incident.

Nothing in this policy shall prohibit contacting law enforcement or other personnel, including the Human Rights Commission, regarding the actions of any party subject to a complaint.

Retaliation

The Board will discipline, as appropriate, any individual who retaliates against any person who reports allegations of racial, sexual or religious/ethnic harassment or violence, or any person who cooperates, testifies, assists, or participates in any racial, sexual or religious/ethnic harassment or violence investigation, proceeding, or hearing. "Retaliation" includes, but is not limited to, any form of retaliation or intimidation, reprisal, coercion, provocation, or harassment. The Board will also discipline, as appropriate, any person who falsely reports religious/ethnic, racial or sexual harassment.

Student-Employee Relationships Prohibited

Amorous relationships between employees of the Board and students are prohibited, and staff members found to have violated this prohibition shall be subject to the penalties and disciplinary action defined herein.

Non-Harassment

The Board recognizes that not every advance, conduct, or interaction of a racial, sexual or religious/ethnic or violent nature constitutes harassment. Whether a particular act, conduct, interaction, or incident is a personal, consensual, welcome interaction or social relationship without discriminatory motivation or effect on employment or education status will be determined based upon consideration of all facts and surrounding circumstances.

The Board recognizes that not all reports of allegations of sexual, racial, and/or religious/ethnic harassment will result in findings that such an incident has occurred. However, the Board encourages all persons who believe that they are a victim of such harassment to come forward and affirms its policy that no adverse action will be taken upon the filing of a complaint under this policy, unless it is shown, through investigation, that the complaint is patently false.

Right to Alternative Complaint Procedures

These procedures do not deny the right of any individual to pursue other avenues of recourse which may include the filing charges with the West Virginia Human Rights Commission, filing an employee grievance

under WV Code 18-29-1, et seq., filing a citizen's appeal under West Virginia State Board of Education policy 7211, filing a Title IX grievance under the appropriate procedures, filing charges with the Federal Equal Employment Opportunity Commission, or initiating civil or criminal action under State and/or Federal law.

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 and its employees shall comply with the provisions of law for reporting such abuse.

Dissemination of the Policy

This policy or a summary shall be conspicuously posted throughout each school or facility of the Board in areas accessible to students and staff members.

This policy shall appear in the Student and Staff Handbooks and, if no handbook is available, a copy shall be distributed to all students, faculty, and staff.

The students and staff of the Board shall be trained on these regulations and on means for effectively promoting the goals of this policy.

The Board policy shall be reviewed at least bi-annually to assure compliance with State and Federal law and with West Virginia State Board of Education policy.

Groups and persons utilizing school properties for curricular and extra-curricular activities shall be provided a copy of this policy prior to the use of any Board facility. Failure to comply with this policy by a non-student group will result in the immediate forfeiture of the group's use of the school properties.

Education and Training

The School District's Anti-Harassment Compliance Officer shall develop a program designed to raise the awareness of the different types of harassment, how it manifests itself, and its emotional, educational and legal consequences. Multi-cultural education programs must be established to foster an attitude of understanding and acceptance of individuals from a variety of cultural, ethnic, racial and religious backgrounds.

The School District's Anti-Harassment Compliance Officer shall present written and verbal information to all faculty, staff and students at least once annually. Dissemination of written and verbal information may be made by a designee(s) of the School District's Anti-Harassment Compliance Officer as appropriate, and such presentation must be age-appropriate for students K-4, 5-8, and 9-12.

Legal

West Virginia State Board of Education policy 4373

WV Code 18-2-7b and 49-6A-2

20 U.S.C. 1681 et seq.

29 U.S.C. 621 et seq.

29 U.S.C. 794

29 C.F.R. Part 1635

42 U.S.C. 12101 et seq.

42 U.S.C. 2000d et seq.

42 U.S.C. 2000e et seq.

42 U.S.C. 2000ff et seq., The Genetic Information and Nondiscrimination Act

42 U.S.C. 1983

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