

CHAPTER 2

Marshall County Schools **Racial, Sexual, Religious/Ethnic Harassment/Violence Policy** (Adopted sexual harassment policy September 21, 1993) (Amended to include broader range of harassment May 8, 2001)

2.6 Policy

This policy has legal basis in WV Constitution Article XII; WV Code 18-2-5, 18-2-5A and 18-2-7b; 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 WV Board of Education and the Marshall County Board of Education.

2.6.1 Purpose

- A. It is the policy of Marshall County Schools 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 or religious/ethnic harassment or violence.
- B. Any act of harassment or violence involving students or staff is a violation of this policy and shall not be tolerated by Marshall County Schools

2.6.2 Definition

- 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 agency or by a student when:
 - 1. submission to such conduct or communication is made a term or condition, either explicitly or implicitly, or 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
- unwelcome pressure for sexual activity
- unwelcome touching, patting, physical contact
- 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.

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.
4. 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 of 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.
4. 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.

2.6.3 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 Marshall County Schools.
- B. This policy applies to individuals attending any Marshall County School sponsored event, regardless of location.
- C. Building facilities and other property of Marshall County Schools 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 Marshall County Schools' programs, including but not limited to mentoring, "co-op" shadowing programs, internships and volunteers, are required to abide by this policy.
- E. This policy applies to any individual or group conducting official business within the Marshall County Schools service area.

2.6.4 Marshall County Schools Complaint Procedures/Investigation

Any person who believes he or she has been the victim of sexual harassment by a student or an employee of Marshall County Schools is strongly encouraged to report the alleged acts immediately to an appropriate school official as designated by this policy. The Board of Education encourages the reporting party or complainant to use the report form available from the building principal, 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. If the complaint is against a student enrolled in the school, the principal will investigate the complaint and determine if the accused party has violated this policy. If the principal determines that the accused party has violated this policy, the principal will take disciplinary action. If the complaint is against the employee, the principal will notify the Human Rights Officer who will conduct the investigation. The Human Rights Officer will prepare a report from the facts gather from the investigation and present it to the Superintendent for his/her review and recommendations.
- B. **District Wide.** The Board of Education hereby designates its Title IX Coordinator as the Board's Human Rights Officer to receive complaints of

sexual harassment from any individual, employee, or victim of sexual harassment, and also from the building principal(s) as outlined above. If the complaint involves the Human Rights Officer, the complaint can be filed with the Assistant Superintendent, or the Superintendent, who shall then be responsible for the investigation and recommendation described in Section VI of this policy.

- C. Reporting sexual harassment 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.

2.6.5 Timelines for Investigation and Recommendation

- A. A complete investigation of any student-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 or investigating party shall provide a written report on the form designated within five working days after the completion of the investigation. A copy of the report will be forwarded to the Human Rights Officer.
- 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 within five working days after the completion of the investigation to the Superintendent. If the Superintendent is the subject of the complaint, the report will be submitted to the President of the Board of Education.
- C. To ascertain whether alleged behavior constitutes sexual harassment, consideration will be given to the situation, the nature of the sexual advances, the relationships between the two 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 Marshall County School'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 agency will take appropriate action against any pupil, teacher, administrator or other school personnel who retaliates against any person who reports alleged religious/ethnic, racial or sexual harassment or violence or any person 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 agency will take appropriate action against any pupil, teacher, or administrator or other school personnel who falsely reports religious/ethnic, racial, or sexual harassment.

2.6.5 Agency 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 revocation of licensure.
- B. The superintendent 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 immediately file a report with the West Virginia Department of Education of all reports of harassment or violence when investigation shows that harassment or violence did occur and all action taken in response to the incident.

2.6.6 Prevention Programs

Marshall County Schools will develop and implement an education program for each programmatic level, K-4, 5-8, and 9-12, as well as a program for all faculty and staff. The programs, at a minimum must: raise awareness of the different types of harassment, how it manifests itself, its devastating emotional and educational consequences, and its legal consequences.

In addition, multi-cultural 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.

2.6.7 Dissemination of Policy and Training

- A. This policy or a summary shall be conspicuously posted throughout Marshall 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. Marshall 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. Marshall County Schools policy shall be reviewed at least bi-annually for compliance with state and federal law and state board of education policy.