

**Series 3000 Personnel**

**Section 3100 General Provisions**

**Policy 3103 Racial, Sexual, Religious/Ethnic Discrimination,  
Harassment and Violence Grievance Procedure**

**3103.1 Definitions**

3103.1.1 **Discrimination:** Unlawful treatment or denial of normal privileges to persons because of their gender, religious/ethnic background, age, or disability.

3103.1.2 **Sexual Harassment:** Unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct, or other verbal or physical conduct or communication of a sexual nature when:

3103.1.2.1 Submission to the conduct or communication is made a term or condition, either explicitly or implied, for obtaining or retaining employment, or for obtaining an education; or

3103.1.2.2 Submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting the individual's employment or education; or

3103.1.2.3 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.

**3103.1.3 Examples of Sexual Harassment**

3103.1.3.1 Sexual harassment may include but is not limited to:

- a. unwelcome verbal harassment of a sexual nature or abuse;
- 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 threats or promises of preferential treatment with regard to an individual's employment or educational status;
- 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.

3103.1.3.2 Acts of verbal, non-verbal or physical aggression, intimidation or hostility based on sex, but not involving sexual activity or language, can be combined with incidents of sexual harassment to determine if the incidents of sexual harassment are sufficiently serious to create a sexually hostile environment. The prohibition against sexual harassment applies whether the harassment is between people of the same or different gender.

3103.1.3.3 The totality of the circumstances in which the behavior occurs is critical in determining whether a hostile environment exists. Factors to be considered in determining whether a hostile environment exists include, but are not limited to, the degree to which the conduct affected one or more individuals' education or employment; the type, between the alleged harasser and the subject or subjects of harassment; the number of individuals involved; the age and gender of the alleged harasser and the subject or subjects of the harassment; the size of the school, location of the incidents, and context in which they occurred; other incidents at the school or location at which they occurred; and incidents of gender-based, but not sexual harassment.

3103.1.4 **Racial Harassment:** Racial harassment consists of physical, verbal, or written conduct relating to an individual's race when the conduct:

3103.1.4.1 Has the purpose or effect of creating an intimidating, hostile, or offensive working or academic environment.

3103.1.4.2 Has the purpose or effect of substantially or unreasonably interfering with an individual's work or academic performance; or

- 3103.1.4.3 Otherwise adversely affects an individual's employment or academic opportunities.
- 3103.1.5 **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:
- 3103.1.5.1 Has the purpose or effect of creating an intimidating, hostile, or offensive working or academic environment;
  - 3103.1.5.2 Has the purpose or effect of substantially or unreasonably interfering with an individual's work or academic performance; or
  - 3103.1.5.3 Otherwise adversely affects an individual's employment or academic opportunities.
- 3103.1.6 **Sexual Violence:** Sexual violence is any 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.
- 3103.1.6.1 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 or 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 or intimate part or intercourse, on another.
  - e. Threatening or forcing exposure of intimate apparel or body parts by removal of clothing.
- 3103.1.7 **Racial Violence:** Racial violence is a physical act of aggression or assault upon another because of the race of the victim.
- 3103.1.8 **Religious/Ethnic Violence:** Religious/ethnic violence is a physical act of aggression or assault upon another because of the religion or ethnicity of the victim.

3103.1.9       **Assault:** Any act done with intent to cause fear in another of immediate bodily harm or death or any threat to do bodily harm to another with present ability to carry out the threat or any act which reasonably places another in apprehension of imminent bodily harm.

3103.3.2       **Reporting Procedures**

3103.2.1       **School Level -** The building principal shall receive any oral or written complaints of racial, sexual, or religious/ethnic discrimination at the building level.

3103.2.1.1     **Student Misconduct -** Upon receipt of a complaint of student misconduct, the principal shall promptly notify the Board’s Human Rights Officer and shall commence an investigation of the complaint as outlined herein. Upon completion of the investigation, and not later than ten (10) working days after receiving the complaint, a written report shall be forwarded by the principal to the Human Rights Officer and to the superintendent.

3103.2.1.2     **Employee Misconduct -** If the report alleges employee misconduct, the building principal shall promptly notify the Human Rights Officer and shall initiate an investigation of the complaint as outlined herein. This investigation may be conducted by school officials or third parties designated by the superintendent. Within ten (10) working days of receiving the complaint, the investigating party shall provide a written status report to the superintendent.

3103.2.1.3     Whenever the complaint is given to the building principal verbally, the principal shall reduce the complaint 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 Human Rights Officer.

3103.2.2       **Non-school level**

For the school buildings/facilities which do not have a building principal, such as transportation and maintenance departments, the director of such building facility shall be the person responsible for receiving oral or written reports of racial, sexual, or religious/ethnic discrimination. All other provisions of this policy apply to such situations, except that the term “director” shall be substituted for the term “building principal”.

### 3103.2.3 **District Wide**

- 3103.2.3.1 The Harrison County Board of Education hereby designates its Title IX Coordinator as its Human Rights Officer. Any complaint or report filed under this policy shall be filed directly with the superintendent, who shall then be responsible for the investigation and recommendation described in this policy.
- 3103.2.3.2 If the complaint involves the Human Rights Officer, the complaint or report shall be filed directly with the superintendent, who shall then be responsible for the investigation and recommendation described in Section 3103.4 of this policy.
- 3103.2.3.3 The name of the Human Rights Officer, including a mailing address and telephone number, shall be conspicuously posted in the office of each building and in other buildings to which employees of the Harrison County Board of Education are assigned to work.

### 3103.3 **General Guidelines**

- 3103.3.1 Submission of good faith complaint or report of racial, sexual, or religious/ethnic discrimination or harassment will not affect the future employment, grades, or work assignments of the person who submits the complaint or report. However, any employee who makes a false report of racial, sexual, or religious/ethnic discrimination or harassment may be subject to discipline in accordance with the provisions of W. Va. Code 18A-2-8, section 3103.5 of this policy and the county's discipline policies.
- 3103.3.2 The use of formal reporting forms is not mandatory, but such forms will be provided by the Harrison County Board of Education.
- 3103.3.3 All alleged incidents of discrimination or harassment observed by faculty, staff, or other employees of the Harrison County Board of Education (hereinafter "staff members") must be reported to either the building principal or the Human Rights Officer within twenty-four (24) hours of observing the incident. Failure of staff members to report alleged incidents of discrimination shall be considered a violation of this policy and shall be subject to the penalties outlined in Section 5.
- 3103.3.4 Any investigation of racial, sexual, or religious/ethnic discrimination or harassment 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.

- 3103.3.5 Amorous relationships between staff members and students are strictly prohibited, and staff members found to have violated this prohibition shall be subject to the penalties outlined in W. Va. Code 18A-2-8, Section 5 of this policy and any other provision of law or policy.
- 3103.3.6 Under certain circumstances, harassment may constitute child and/or sexual abuse under Chapter 49 of the West Virginia Code. In such situations, all employees shall comply with the provisions of law reporting such abuse.

#### 3103.4 **Investigation and Recommendation**

- 3103.4.1 The individual(s) designated above by this policy to investigate, shall, upon receipt of a report or complaint alleging racial, sexual, or religious/ethnic discrimination or harassment, immediately undertake to authorize an investigation.
  - 3103.4.1.1 The investigation may be conducted by school officials or by a third party designated by the superintendent if necessary.
  - 3103.4.1.2 The investigating party shall provide a written report of the result of the investigation and a recommendation of discipline within ten (10) working days to the superintendent and to the Human Rights Officer.
- 3103.4.2 If the superintendent is the subject of the complaint, the report shall be submitted to the Human Rights Officer and the president of the Harrison County Board of Education.
- 3103.4.3 In determining whether alleged conduct constitutes racial, sexual, or religious/ethnic discrimination, 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.
- 3103.4.4 The investigation must, at a minimum, consist of personal interviews with the complainant, the alleged discriminator(s), 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 and documents deemed pertinent by the investigator(s).

3103.4.5 Upon the conclusion of the investigation, a written report shall be prepared detailing the findings, whether the complaint was found to be credible, whether a violation of the policy was found to have occurred, and the Investigator's recommendation. This report shall be presented to the superintendent and the Human Rights Officer.

3103.4.6 Upon receipt of a recommendation that the complaint is valid, the superintendent, or the Harrison County Board of Education if the superintendent is the alleged discriminator, will take such action as is deemed appropriate based upon the results of the investigation. Such action may include, but is not limited to a warning, suspension, exclusion, expulsion, termination, or referral for revocation of licensure.

3103.4.7 The superintendent must immediately file a report with the West Virginia Department of Education of all reports of discrimination when an investigation shows that discrimination did occur. The report must contain a description of all actions taken in response to the incident.

### 3103.5 **Faculty and Staff Discipline**

If a faculty or staff person is accused of violating this policy, the disciplinary procedures found in the West Virginia Code and state regulations regarding disciplinary action shall apply.

### 3103.6 **Discipline of Non-School Related Personnel**

Should any person that is not an employee or student of Harrison County Schools be found to have violated this policy, such person shall be prohibited from entering any school building, facility, or property and that person shall be referred to the appropriate officials as provided by law. Nothing in this policy shall be construed as prohibiting any person from contacting law enforcement or other appropriate personnel, including the Human Rights Commission, regarding any action.

### 3103.7 **Reprisal**

Retaliation against an individual who reports an incident of discrimination, who participates in or cooperates with an investigation of discrimination, or who testifies, assists, or participates in a hearing related to such investigation is prohibited. The school system will take immediate steps to protect the complainant, students, teachers, or other personnel both during and after the investigation.

3103.8        **Alternative Complaint Procedures**

- 3103.8.1        A complainant may use an alternative complaint procedure where applicable, including filing charges with the West Virginia Human Rights Commission, EEOC, initiating civil action, or seeking redress under state criminal statutes and/or federal law.

3103.9        **Notification**

- 3103.9.1        Notice of this policy will be circulated to all parents, schools, and departments of Harrison County schools on an annual basis and will be incorporated into teacher and student handbooks. It shall be conspicuously posted throughout each school and in offices and classrooms and in areas accessible to students and staff. Training sessions on this policy and the prevention of harassment and violence shall be held for teachers, staff, and students in all schools on an annual basis.

3103.10       **Policy Training and Dissemination**

- 3103.10.1       This policy or a policy summary will be posted in all classrooms and in areas accessible to students and staff and all Harrison County Board of Education buildings. The policy summary will also appear in student and staff handbooks and, if no handbook is available, a copy of the summary will be distributed to all students, faculty, and staff.
- 3103.10.2       The superintendent shall develop and implement training for students and staff on these regulations and on means for effectively promoting the goals of this policy.
- 3103.10.3       The superintendent or the superintendent's designee for compliance with state and federal law and State Board of Education Policy will review this policy at least once every two years.

3103.11       **Prevention Programs**

- 3103.11.1       For each programmatic level K-5, 6-8, 9-12, and for adult, as well as faculty and staff, the superintendent shall develop prevention programs that, at a minimum, raise awareness of different types of discrimination and harassment, how they manifest themselves, their devastating emotional and educational consequences, and the legal consequences.
- 3103.11.2       The superintendent shall develop and implement multi-cultural education programs for faculty, staff, and students that foster an appropriate attitude



of undertaking and acceptance of individuals from a variety of cultural, ethnic, racial, and religious backgrounds and national origins.

**3103.12 Policy Development**

3103.12.1 The superintendent shall develop such administrative regulations as necessary to implement this policy.

**3103.13 Notice to All Staff and Students**

3103.13.1 If you believe you have been subjected to racial, sexual, religious/ethnic discrimination, harassment or violence, including sexual harassment, this is what you should do:

3103.13.1.1 Speak to your principal or other adult in your building, or the Human Rights Officer listed below, about the discrimination, harassment, and/or violence and file a report. The report can be either oral or written.

3103.13.1.2 An investigation will take place, and a written report will be filed by the investigator detailing whether the complaint was found to be credible and whether a violation of the policy was found to have occurred to the alleged discriminator(s) and the complainant.

3103.13.1.3 If you feel that the investigator erred in his/her findings or recommended consequences, you may appeal it to the superintendent or the board of education if the superintendent is involved. If a school employee, student, or member of the public feels that he or she is the victim of racial, sexual, religious/ethnic discrimination, harassment, or violence while on school property or at a school-sponsored event, a complaint may be filed by contacting his or her school principal, or he or she may contact the Title IX/Section 504 Coordinator, Harrison County Board of Education, P.O. Box 1370, Clarksburg, WV 26302-1370, Phone: 624-3325, Ext.3326. You may also file a complaint with some state and federal agencies or in court.

Approved by Harrison County Board of Education

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