

PERSONNEL

NON-DISCRIMINATION GRIEVANCE PROCEDURES

I. Policy

The Board declares it to be the policy of this district to provide an equal opportunity for all students to achieve their maximum potential through the programs offered in the schools regardless of race, color, age, creed, religion, gender, sexual orientation, ancestry, national origin, handicap/disability, or any other legally protected classification. The district shall provide to all students, without discrimination, course offerings, counseling, assistance, employment, athletics and extracurricular activities.

The Board declares it be the policy of this district to provide to all persons equal access to all categories of employment in this district, regardless of race, color, age, creed, religion, gender, sexual orientation, ancestry, national origin, familial status, handicap/disability, or any other legally protected classification.

Further, in all other respects, the Board declares it to be the policy of this district that no person shall be excluded from participation in, be denied the benefits of, or otherwise subjected to unlawful discrimination on the ground of race, color, age, creed, religion, gender, sexual orientation, ancestry, national origin, handicap/disability or any other legally protected classification with respect to any of its programs or activities or in the employment of any personnel.

Berkeley County Schools is committed to having a school environment free from sexual harassment, including gender-based harassment. The District prohibits sexual harassment in the school environment, including all academic, extracurricular and school-sponsored activities. Students are encouraged to immediately report incidents of harassment. Staff must promptly report to the school principal all incidents of harassment of which they become aware, by whatever means they become aware. The District will investigate formal and informal complaints of harassment.

Harassing conduct may take many forms, including verbal acts and name-calling; graphic and written statements, which may include use of cell phones or the Internet; or other conduct that may be physically threatening, harmful, or humiliating. Harassment does not have to include intent to harm, be directed at a specific target, or involve repeated incidents. Harassment creates a hostile environment when the conduct is sufficiently severe, pervasive, or persistent so as to interfere with or limit a student's ability to participate in or benefit from the services, activities, or opportunities offered by a school. When such harassment is based on race, color, national origin, sex, or disability, it violates the civil rights laws that OCR enforces.

45 A school is responsible for addressing harassment incidents about which it knows or
46 reasonably should have known. In some situations, harassment may be in plain sight,
47 widespread, or well-known to students and staff, such as harassment occurring in
48 hallways, during academic or physical education classes, during extracurricular
49 activities, at recess, on a school bus, or through graffiti in public areas. In these cases,
50 the obvious signs of the harassment are sufficient to put the school on notice. In other
51 situations, the school may become aware of misconduct, triggering an investigation that
52 could lead to the discovery of additional incidents that, taken together, may constitute a
53 hostile environment. In all cases, schools should have well-publicized policies
54 prohibiting harassment and procedures for reporting and resolving complaints that will
55 alert the school to incidents of harassment.

56 When responding to harassment, a school must take immediate and appropriate action
57 to investigate or otherwise determine what occurred. The specific steps in a school's
58 investigation will vary depending upon the nature of the allegations, the source of the
59 complaint, the age of the student or students involved, the size and administrative
60 structure of the school, and other factors. In all cases, however, the inquiry should be
61 prompt, thorough, and impartial.

62 If an investigation reveals that discriminatory harassment has occurred, a school must
63 take prompt and effective steps reasonably calculated to end the harassment, eliminate
64 any hostile environment and its effects, and prevent the harassment from recurring.
65 These duties are a school's responsibility even if the misconduct also is covered by an
66 anti-bullying policy, and regardless of whether a student has complained, asked the
67 school to take action, or identified the harassment as a form of discrimination.

68 The district shall make reasonable accommodations for identified physical and mental
69 impairments that constitute disabilities, consistent with the requirements of federal and
70 state laws and regulations.

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72 **Sexual Harassment and other types of harassment (as defined below) are forms of**
73 **unlawful discrimination and are expressly prohibited under this policy. These**
74 **procedures apply to complaints of sex discrimination (including sexual**
75 **harassment, sexual assault and sexual violence) by employees, students or third**
76 **parties.**

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78 This policy covers, without limitation, sexual harassment by a student to another student;
79 a student to an employee; an employee to a student; and employee to an employee; a
80 third party to a student or employee; a student or employee to a third party; a male to a
81 male; a female to a female; a male to a female; and a female to a male.

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83 **The Board encourages students, employees, and third parties who have been**
84 **subject to discrimination to promptly report such incidents to designated**
85 **employees. The Board's informal complaint filings procedure is optional.**

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89 II. Definitions

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91 A. Harassment

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93 Harassment has been defined in various ways in state and federal law and
94 regulation. The Board recognizes that these definitions are important standards and
95 it will develop its policy to comply with them. It is also the Board's goal, in developing
96 its policy, to prevent incidents of misbehavior from occurring and/or escalating, to
97 promote a positive school environment, and to limit liability.

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99 Harassment as the creation of a hostile environment by conduct or by verbal threats,
100 intimidation or abuse that has or would have the effect of unreasonably and
101 substantially interfering with a student's educational performance, opportunities or
102 benefits, or mental, emotional or physical well-being; or conduct, verbal threats,
103 intimidation or abuse that reasonably causes or would reasonably be expected to
104 cause a student to fear for his or her physical safety. Such conduct, verbal threats,
105 intimidation or abuse, includes, but is not limited to conduct, verbal threats,
106 intimidation or abuse based on a person's actual or perceived: race; color; weight
107 national origin; ethnic group; religion; religious practice; disability; sex; sexual
108 orientation; and/or gender (which includes a person's actual or perceived sex, as well
109 as gender identity and expression).

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111 For purposes of this policy, "harassment" shall consist of verbal, written, graphic, or
112 physical conduct relating to an individual's race, color, national origin/ethnicity,
113 ancestry, gender, age, disability/handicap, sexual orientation, religion, creed, or any
114 other legally protected classification when such conduct:

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116 1. Is sufficiently severe, persistent, or pervasive that it affects an individual's ability
117 to participate in or benefit from an educational program or activity or to perform
118 job functions, or creates an intimidating, threatening, or abusive educational or
119 work environment.

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121 2. Has the purpose or effect or substantially or unreasonably interfering with an
122 individual's academic or work performance.

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124 3. Otherwise adversely affects an individual's learning or employment opportunities.

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126 4. The term "harassment" also includes all activity which constitutes "sexual
127 harassment."

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129 **B. Sexual Harassment**

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131 **For purposes of this policy, "sexual harassment" shall consist of unwelcome**
132 **sexual advances, requests for sexual favors, and other inappropriate verbal,**
133 **written, graphic, or physical conduct of a sexual nature when:**

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1. **Submission to such conduct is made explicitly or implicitly a term or condition of a student's academic status or an individual's employment.**
 2. **Submission to or rejection of such conduct is used as the basis for academic or employment decisions affecting the individual.**
 3. **Such conduct deprives a student of educational aid, benefits, services, or treatment.**
 4. **Such conduct is sufficiently severe, persistent, or pervasive that it has the purpose or effect of substantially interfering with a student's school performance or on employee's job performance, or creating an intimidating, hostile, or offensive educational or working environment.**

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Examples of conduct that may constitute sexual harassment include, but are not limited to, sexual flirtations, advances, touching or propositions; verbal abuse of a sexual nature; graphic or suggestive comments about an individual's dress or body; sexually degrading words to describe an individual; jokes; pin-ups; calendars; objects; graffiti; vulgar statements; abusive language; innuendoes; references to sexual activities; overt sexual conduct; or any conduct that has the effect of unreasonably interfering with a student's ability to work or learn or creates an intimidating, hostile, or offensive learning or working environment.

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C. Sexual Assault

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Sexual assault is any unwanted, non-consensual sexual contact against any individual by another. Sexual assault can occur either forcibly (against a person's will) or when a person cannot give consent (under the age of consent, intoxicated, developmentally disabled, mentally/physically unable to consent, etc.).

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D. Sexual Violence

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Sexual violence refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's use of drugs or alcohol. An individual also may be unable to give consent due to an intellectual or other disability. A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, and sexual coercion. All such acts of sexual violence are forms of sexual harassment covered under Title IX.

179 **E. Sexual Discrimination**

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181 **Sexual Discrimination means differential treatment based on sex.**

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183 **F. Disability Harassment**

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185 Disability harassment is defined as intimidation or abusive behavior toward a student
186 based on disability that creates a hostile environment by interfering with or denying a
187 student's participation in or receipt of benefits, services or opportunities in the
188 institution's program. Harassing conduct can take many forms, including verbal acts
189 and name-calling, as well as nonverbal behavior like graphic and written statements,
190 or conduct that is physically threatening, harmful or humiliating.

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192 When harassing behavior is so severe, persistent or pervasive that it creates a
193 hostile environment, it can violate a student's 504/ADA rights. This is so, even if
194 there are no tangible effects on the student but where the harassment is serious
195 enough to adversely affect the student's ability to participate in or benefit from the
196 educational program.

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198 Bullying/harassment of a student with a disability could constitute discrimination and
199 a violation of federal law (IDEA, Section 504, ADA), not just state law or school
200 district policy.

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202 **G. Racial Harassment**

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204 Racial harassment consists of physical, verbal or written conduct relating to an
205 individual's race when the conduct has the purpose or effect of creating an
206 intimidating, hostile or offensive working or academic environment; has the purpose
207 or effect of substantially or unreasonably interfering with an individual's work or
208 academic performance; or otherwise adversely affects an individual's employment or
209 academic opportunities.

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211 H. Racial violence is a physical act of aggression or assault upon another because of,
212 or in a manner reasonably related to, race.

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214 **I. Religious/ethnic harassment**

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216 Religious/ethnic harassment consists of physical, verbal or written conduct which is
217 related to an individual's religion or ethnic background when the conduct: has the
218 purpose or effect of creating an intimidating, hostile or offensive working or academic
219 environment; has the purpose or effect of substantially or unreasonably interfering
220 with an individual's work or academic performance; or otherwise adversely affects an
221 individual's employment or academic opportunities.

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223 J. Religious/ethnic violence is a physical act of aggression or assault upon another
224 because of, or in a manner reasonably related to, religion or ethnicity.

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226 III. Delegation of Responsibility

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228 In order to maintain a program of nondiscrimination practices and a learning and
229 working environment that is in compliance with applicable laws and Regulations, the
230 Board designates the Assistant Superintendent of Student Services as the district's
231 Compliance Officer to serve as the coordinator and/or compliance official for purposes of
232 Title IX of the Educational Amendments Act of 1972, the Americans with Disabilities
233 Act of 1990, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation
234 Act of 1973 and all other nondiscrimination statutes and regulations. The Compliance
235 Officer shall publish and disseminate a notice of this policy and complaint
236 procedure at least annually to students, parents/guardians, employees, and the public,
237 together with either a copy of this policy or a statement how to obtain a copy of this
238 policy. A copy of this policy will be distributed to all buildings and facilities within the
239 district, and included or referenced in all student or employee handbooks, online or in
240 print. **Nondiscrimination statements shall include the position, office address and
241 telephone number of the Compliance Officer, which is as follows:**

242
243 **RONALD STEPHENS**
244 **ASSISTANT SUPERINTENDENT OF STUDENT SERVICES**
245 **BERKELEY COUNTY SCHOOLS**
246 **401 SOUTH QUEEN STREET**
247 **MARTINSBURG, WEST VIRGINIA 25401**
248 **TELEPHONE: (304)267-3500**

249
250 A school is responsible for addressing incidents of harassment about which it knows, or
251 reasonably should have known, regardless of when the misconduct is covered by an
252 anti-bullying policy, the student has not complained for asked the school to take action or
253 the student has not identified the harassment as “disability harassment” or a form of
254 discrimination.

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256 IV. Implementation

257
258 The Compliance Officer is responsible to monitor the implementation of
259 nondiscrimination procedures in the following areas:

- 260
- 261 1. Curriculum and Materials—Review of curriculum guides, textbooks and supplemental
262 materials for discriminatory bias.
 - 263
 - 264 2. Training—Provision of training for students and staff to identify and alleviate
265 problems of discrimination and unlawful harassment. Provision of training to all
266 building principals to investigate complaints under this policy.
- 267

- 268 3. Student Access—Review of programs, activities, and practices to ensure that all
269 students have equal access and are not segregated except when permissible by law
270 or regulation.
271
- 272 4. District Support—assurance that like aspects of the school program receive like
273 support as to staffing and compensation, facilities, equipment and related matters.
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- 275 5. Student Evaluation—Review of tests, procedures, and guidance and counseling
276 materials for stereotyping and discrimination.
277
- 278 6. Employment Relations—
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- 280 a. Development of position qualifications, job descriptions and essential job
281 functions.
 - 282
 - 283 b. Recruitment materials and practices.
 - 284
 - 285 c. Procedures for screening, interviewing and hiring.
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 - 287 d. Promotions
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 - 289 e. Disciplinary actions, up to and including terminations.
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- 291 7. Reports and Complaints—Administration of the reporting and complaint procedure
292 provided in this policy.
293

294 Each employee shall be responsible to maintain a learning and working
295 environment free from all forms of unlawful discrimination and harassment, and
296 to report all incidents of unlawful discrimination or harassment which he/she
297 observes or is informed about to the building principal or Compliance Officer.
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299 Each student shall be responsible to respect the rights of their fellow students
300 and district employees and to ensure an environment free from all forms of
301 unlawful discrimination and harassment, and to report all incidents of unlawful
302 discrimination or harassment which he/she observes or is informed about to the
303 building principal or Compliance Officer.
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305 V. Complaint Procedure

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307 A. Reporting Violations; Filing Complaints

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- 309 1. A student (or his/her parent/guardian), employee, or third party who believes
310 he/she has been subject to conduct that constitutes a violation of this policy is
311 encouraged to report the incident to the building principal as soon as possible;

312 however, such reporting or filing of informal complaints is optional. A student
313 may also report incidents/violations to any school employee, including, but not
314 limited to: teacher, coach/advisor, counselor, or administrator.

315
316 2. Any school employee who suspects or is notified that a student has been subject
317 to conduct that constitutes a violation of this policy, shall report the incident to the
318 building principal as soon as possible (not later than twenty-four (24) hours
319 unless extenuating circumstances justify a reasonable extension of that deadline)
320 and to law enforcement, where appropriate and the West Virginia Department of
321 Health and Human Resources, where appropriate. If it is not possible to contact
322 the building principal in a timely fashion, the school employee shall report the
323 incident to the Compliance Officer or another building principal as soon as
324 possible.

325
326 3. If the building principal is the subject of the complaint or otherwise not impartial,
327 the student, third party, or employee shall report the incident directly to the
328 Compliance Officer. If the Compliance Officer is also a subject of the complaint
329 or otherwise not impartial, the report shall be made to another building principal.

330
331 4. All Complaints by a student (or his/her parent/guardian), employee, or third party
332 who asserts that he/she has been subject to conduct that constitutes a violation
333 of this policy shall be made in writing on the form attached to this policy (which
334 will be made available by the building principal or Compliance Officer). If the
335 incident was initially reported orally, the building principal or Compliance Officer
336 shall inform the student, parent/guardian, employee, or third party of the right to
337 file a complaint and the complaint procedure, and shall promptly provide all
338 necessary forms and assistance to enable the complainant to file an appropriate
339 written complaint if he/she so desires.

340
341 5. The building principal or Compliance Officer shall inform any complainant or
342 potential complainant who is a minor that he/she may be accompanied by a
343 parent/guardian during all steps of the complaint procedure.

344
345 6. Complaints shall be filed within thirty (30) calendar days after any incident
346 alleged to constitute a violation of this policy or they shall be deemed untimely,
347 unless special circumstances exist which justify a later filing.

348
349 7. Even if no formal written complaint has been filed by or on behalf of a person
350 who alleges he/she has been subjected to conduct that constitutes a violation of
351 this policy, any building principal or Compliance Officer who receives a report of
352 a possible violation of this policy shall cause an informal investigation to be
353 made, and take all necessary interim actions reasonably calculated to prevent
354 any violations during the periods before the completion of informal and formal
355 procedures under this policy. If the informal investigation suggests that there has

356 been a violation of this policy, the school principal and/or Compliance Officer
357 shall be informed. The school principal and/or Compliance Officer shall review
358 the matter, conduct such further investigation as he/she deems appropriate, and,
359 if he/she concludes that there has been a violation of this policy, the school
360 principal and/or Compliance Officer shall take prompt, corrective action to ensure
361 that conduct violating this policy ceases and will not recur, and to remedy any
362 effects of the violation for which the district is responsible. The school principal
363 and/or Compliance Officer shall also initiate such disciplinary procedures as
364 he/she deems appropriate. The filing of informal complaints is optional.
365

366 **8. Nothing in this policy prevents any person from reporting violations to a**
367 **law enforcement agency. Where appropriate, a matter may be referred to**
368 **law enforcement and/or Child Protective Services; however these**
369 **procedures must be followed regardless of whether the matter is also**
370 **being investigated by another agency except that the District must comply**
371 **with law enforcement requests for cooperation and such cooperation may**
372 **require the District to temporarily suspend the fact-finding aspect of an**
373 **investigation while the law enforcement agency is in the process of**
374 **gathering evidence. The District will promptly resume its investigation as**
375 **soon as notified by the law enforcement agency that it has completed the**
376 **evidence gathering process, which typically takes three to 10 calendar**
377 **days, although the delay in the District's investigation may be longer in**
378 **certain circumstances. The District will implement appropriate interim**
379 **steps during the law enforcement agency's investigation period to provide**
380 **for the safety of the alleged victim(s) and the school community and the**
381 **avoidance of retaliation. The District will also maintain on-going contact**
382 **with the alleged victim throughout the investigation.**
383

384 **9. The District will offer counseling services to any person found to have**
385 **been subjected to harassment and, where appropriate, to the person who**
386 **committed the harassment.**
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388 **10. The District will offer academic support services to any person found to**
389 **have been subjected to harassment.**
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391 B. Appointment of Initial Investigator
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393 Upon receiving a written complaint of discrimination, the building principal shall
394 immediately notify the Compliance Officer. (If the Compliance Office is the subject
395 of the complaint or otherwise not impartial, the building principal shall notify the
396 Superintendent of Schools. The Compliance Officer (or Superintendent) shall authorize
397 the building principal to investigate the complaint, unless the building principal is the
398 subject of the complaint, is otherwise not impartial, or is unable to conduct the
399 investigation. In the later case, the Compliance Office (or Superintendent) shall

400 authorize another building principal or administrator who is not the subject of the
401 complaint and who is impartial to conduct the initial investigation. If no administrators
402 are able to conduct the investigation, the Superintendent shall designate a qualified third
403 party to conduct the investigation.

404
405 District employees and officials shall ensure that the initial investigator shall be
406 appointed and initiate a formal investigation within 24 hours after the filing of a written
407 complaint under this policy, unless extenuating circumstances justify a reasonable
408 extension of that deadline.

409
410 In the event the person designated to conduct the initial investigation shall be unable to
411 complete the investigation in a timely manner, the Compliance Officer (or
412 Superintendent) shall authorize another appropriate person to complete the initial
413 investigation.

414
415 At Hedgesville Middle School, Principal Elizabeth Adams is designated as the individual
416 with primary responsibility to investigate all discrimination and harassment complaints.
417 At Hedgesville Middle School, Assistant Principal, William Harper, is designated as a
418 second administrator to serve as a back-up in the event that the primary person,
419 Principal Elizabeth Adams, is unavailable to respond, due to her absence or other
420 circumstances.

421 422 C. Rights During Complaint Procedure

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424 The building principal or other person designated to conduct the initial investigation
425 shall be responsible to:

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427 1. When any student is to be interviewed in connection with an investigation pursuant
428 to a Level 3 or Level 4 behavior (as described in the Expected Behavior in Safe and
429 Supportive Schools Policy) , a reasonable effort shall be made to contact the
430 student's parent, custodian or guardian and invite them to be present during such
431 interview, provided such parental notification does not compromise overall
432 school/student safety. Parental notification is encouraged at level 2 and
433 discretionary at level 1.
- 434
435 2. Permit an employee to be accompanied by a representative at any conference,
436 meeting or hearing with the employee that may lead to disciplinary action against
437 that employee.
- 438
439 3. Provide an opportunity for the complainant and the accused to present witnesses
440 and other evidence.
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442 4. Take all necessary interim actions reasonably calculated to prevent any other
443 violations of this policy prior to the completion of the complaint procedure.

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- 5. Comply with the confidentiality requirements of this policy.
- 6. Notify the complainant and the accused of the status of the investigation and complaint procedure on a periodic basis and at appropriate stages of the procedure.**
- 7. Insure that when a complaint of sexual harassment has been filed by or on behalf of a female student or employee, a female counselor shall be present at all discussions and meetings with the student or employee if requested by the student or employee; and that when a complaint of sexual harassment has been filed by or on behalf of a male student or employee, a male counselor shall be present at all discussions and meetings with the student or employee if requested by the student or employee.

After the initial investigation has been completed, the school principal and/or Compliance Officer shall be responsible to implement the above requirements until the conclusion of the complaint procedure.

- 8. Investigation
 - 1. The formal investigation shall include individual interviews with the complainant, the accused, and others with knowledge relative to the incident. The investigator may also evaluate any other information and materials relevant to the investigation, and shall consider all information presented by the complainant and the accused. Every attempt will be made to conduct and complete the investigation as thoroughly and speedily as possible. **The school principal and/or compliance officer shall maintain on-going contact with the victim throughout the investigation.**
 - 2. The obligation to conduct this investigation shall not be negated by the fact that a criminal or insurance investigation of the incident is pending or has been concluded.
 - 3. All school administrators, including Principal Elizabeth Adams and Assistant William Harper at Hedgesville Middle School, receive specialized training in investigating disability discrimination and harassment complaints.
 - 4. This policy provides for an adequate, reliable and impartial investigation. 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. All parties involved must be given an opportunity to present witness and other evidence. The investigation may also consist of any other methods and review of circumstances deemed pertinent by the investigator.

- 488 5. Some student misconduct that falls under the Districts' Anti-Harassment policy may
489 also trigger responsibilities under the District's Grievance policy and procedures
490 preventing discrimination against students on the basis of race, color, national
491 origin, sex or disability. Individuals receiving complaints of "discrimination" or
492 "harassment" should consider both sets of District policies that prohibit both
493 discrimination and harassment based on race, color, national origin, sex or
494 disability.
495
- 496 6. Consequences for the failure of an employee to properly respond to violations of this
497 policy are specified in West Virginia Board of Education Policy 5310-Performance
498 Evaluation of School Personnel.
499

500 D. Investigative Report

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- 502 1. The building principal or other person designated to conduct the initial
503 investigation shall prepare a written report within 10 school days following the
504 reported violation, unless additional time to complete the investigation is
505 required. In that case, the investigator shall report on the status of the
506 investigation to the complainant, the accused, and the Compliance Officer at the
507 expiration of the 10 day period and 5 school days thereafter. Although the
508 District may extend the investigation when necessary, it must insure that the
509 completion provides a prompt and equitable resolution.
510
- 511 2. The written report shall include a summary of the investigation; findings of fact
512 and an explanation of the evidence in support of such findings (including a
513 determination with respect to the factual allegations of the complaint);
514 conclusions whether there have been any violations of this policy based on the
515 factual findings and a discussion of the reasons for such conclusions; and a
516 recommended disposition of the complaint, including any recommended district
517 action.
518
- 519 3. Copies of the report shall be provided to the complainant, the accused, and the
520 Compliance Officer. Any such copies shall be redacted as necessary to comply
521 with the confidentiality requirements of this policy.
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523 E. District Action

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525 **If the investigation or appeal results in a finding that the complaint is factual and**
526 **constitutes a violation of this policy, the district shall take prompt, corrective**
527 **action reasonably calculated to ensure that such conduct ceases and will not**
528 **recur, and to remedy any effects of the violation for which the district is**
529 **responsible. District action within the authority of administration shall be**
530 **implemented as recommended in the investigation and appeal process. The**
531 **school principal and/or Compliance Officer shall contact the individual harassed**
532 **within a reasonable period of time following the conclusion of the investigation to**

533 assess whether there has been on-going harassment or retaliation and to
534 determine whether additional supportive measures are needed.

535
536 Any student or employee who is found to have engaged in conduct constituting
537 unlawful discrimination or harassment in violation of this policy shall be subject
538 to discipline up to and including expulsion from school or termination of
539 employment. Disciplinary actions and procedures shall be consistent with the
540 Expected Behaviors in Safe and Supportive Schools Policy, Board policies and
541 district procedures, and other applicable state and federal laws, rules,
542 regulations, and constitutional requirements. Possible disciplinary action for
543 students may include verbal warning, referral to support staff or agencies for
544 counseling or other therapeutic services, suspension or expulsion from school.

545 Remedies available to victims and/or witnesses of harassment and/or
546 discrimination shall include, as appropriate, provision of resources, including
547 counseling and/or academic services and other strategies to educate the school-
548 wide population regarding awareness of harassment and discrimination issues
549 through the guidance program or other appropriate means. Appropriate steps
550 to end harassment may include separating the accused harasser and the target,
551 providing counseling for the target and/or harasser, or taking disciplinary action
552 against the harasser. These steps should not penalize the student who was
553 harassed. In addition, depending on the extent of the harassment, the school
554 may need to provide training or other interventions not only for the perpetrators,
555 but also for the larger school community, to ensure that all students, their
556 families, and school staff can recognize harassment if it recurs and know how to
557 respond. A school also may be required to provide additional services to the
558 student who was harassed in order to address the effects of the harassment,
559 particularly if the school initially delays in responding or responds
560 inappropriately or inadequately to information about harassment. An effective
561 response also may need to include the issuance of new policies against
562 harassment and new procedures by which students, parents, and employees may
563 report allegations of harassment (or wide dissemination of existing policies and
564 procedures), as well as wide distribution of the contact information for the
565 district's Title IX and Section 504/Title II coordinators.

566 F. Appeal

567
568 If the complainant is not satisfied with any finding or recommended corrective action
569 proposed in the investigative report, he/she may submit a written appeal to the
570 Compliance Officer within 10 school days after receipt of the investigative report. If the
571 Compliance Officer is the subject of the complaint or otherwise not impartial, the appeal
572 shall be submitted to the Superintendent who shall designate another administrator to
573 conduct the appeal. If an appropriate administrator cannot be designated, the
574 Superintendent shall designate a qualified third party to conduct the appeal.

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576 An appeal may also be initiated by the Compliance Officer if he/she does not accept
577 without further review the recommended corrective action proposed in the investigative

578 report. In that event, the Compliance Officer shall notify the complainant and the
579 accused that an appeal will be conducted and shall discuss alternative corrective
580 actions with the complainant. (The Compliance Officer may not initiate an appeal if
581 he/she is the subject of the complaint or is otherwise not impartial.)

582
583 The Compliance Officer (or other designated appeal official) shall review the
584 investigation and the investigative report and may also conduct a reasonable
585 supplemental investigation.

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587 The Compliance Officer (or other designated appeal official) shall prepare a written
588 determination with respect to the appeal within 15 school days after initiation of the
589 appeal, unless additional time to complete a supplemental investigation is required. In
590 that case, the appeal officer shall report on the status of the supplemental investigation
591 to the complainant and the accused at the expiration of the 15 day period and every 5
592 school days thereafter. Although the District may extend the investigation when
593 necessary, it must insure that the completion provides a prompt and equitable
594 resolution.

595
596 The written determination shall include a summary of any supplemental investigation;
597 findings of fact and an explanation of the evidence in support of
598 such findings (including a determination with respect to the factual allegations of
599 the complaint); conclusions whether there have been any violations of this policy based
600 on the factual findings and a discussion of the reasons for such conclusions; and a
601 recommended disposition of the complaint, including any recommended district action.

602
603 Copies of the determination on appeal shall be provided to the complainant, the
604 accused, and the person who conducted the initial investigation. Any such copies shall
605 be redacted as necessary to comply with the confidentiality requirements of this policy.

606
607 G. Confidentiality

608
609 Confidentiality of all parties shall be maintained with respect to the filing, investigation,
610 and disposition of all complaints under this policy, consistent with the district's legal and
611 investigative obligations. The district shall not disclose the name of a complainant (or
612 the student on whose behalf a complaint has been filed) to an alleged
613 violator/perpetrator/harasser if the complainant or the parent/guardian of a minor
614 student so requests, but the scope of a reasonable response to the complaint may be
615 limited as a result (e.g., disciplinary action against an accused individual may be limited
616 or precluded).

617
618 Notwithstanding anything to the contrary in this policy, while a complainant has the right
619 to learn the outcome of his/her complaint (i.e., discrimination/ harassment was found),
620 the district shall not disclose to a student or employee to the extent such disclosure is
621 prohibited by the Family Educational Rights and Privacy Act (FERPA) or other

622 applicable laws, regulations, rules, constitutional requirements, or orders. (An exception
623 may apply, for example, in the case of a sanction that directly relates to the victim, such
624 as an order that a violator/perpetrator/harasser stay away from the victim.

625

626 VI. Procedures to Prevent Reprisal

627

628 The Board directs that complaints of discrimination shall be investigated promptly, and
629 corrective action be taken when allegations are substantiated.

630 No reprisals or retaliation may be taken against any person for making any report of
631 discrimination or filing any complaint under this policy in good faith, or for providing
632 truthful information as a witness in any investigation under this policy or in any related
633 proceeding. Any such reprisal or retaliation is in itself unlawful discrimination prohibited
634 by this policy and constitutes an independent violation of this policy.

635

636 A school should take steps to stop further harassment and prevent any retaliation
637 against the person who made the complaint (or was the subject of the harassment) or
638 against those who provided information as witnesses. At a minimum, the school's
639 responsibilities include making sure that the harassed students and their families know
640 how to report any subsequent problems, conducting follow-up inquiries to see if there
641 have been any new incidents or any instances of retaliation, and responding promptly
642 and appropriately to address continuing or new problems. Counseling and/or academic
643 support will be provided by the District to address any impact on the individual harassed
644 and/or any witness to the harassment.

645

646 Disciplinary action will be taken against any student or employee who retaliates against
647 any person who reports alleged violations or any person who testifies, assists or
648 participates in an investigation, or who testifies, assists or participates in a proceeding or
649 hearing relating to such violations. Retaliation includes, but is not limited to, any form of
650 intimidation, reprisal or harassment.

651

652 Adoption Date: REVISED JULY 2013

653