

TITLE IX NON-DISCRIMINATION POLICY

General

Title IX of the Education Amendments of 1972 and subsequent amendments to that Act declare, in part, that:

"No person in the United States shall on the basis of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance. The amendment in 1987 expanded the definition of program or activity to include all the operations of an educational institution, governmental entity or private employer that receives federal funds.

For purposes of this policy an educational institution means any public or private pre-school, elementary or secondary school.

The provisions of the Title IX Act cover programs such as admissions, recruitment, financial aid, academic

programs, physical education, athletics, grading, discipline and employment in school districts.

Specific prohibitions contained in the Title IX Act declare that a recipient of federal funds shall not, on the

basis of sex:

1. Treat one person differently from another in determining whether such person satisfies any requirement or condition for the provision of such aid, benefit, or service;
2. Provide different aid, benefits, or services or provide aid, benefits, or services in a different manner;
3. Deny any person any such aid, benefit, or service;
4. Subject any person to separate or different rules of behavior, sanctions, or other treatment; or
5. Otherwise limit any person in the enjoyment of any right, privilege, advantage, or opportunity.

The Board shall not administer or operate any test or other criterion for admission or employment which

has a disproportionately adverse effect on persons on the basis of sex unless the use of such test or criterion is shown to predict success in the education program or activity in question and alternative tests

or criteria which do not have such a disproportionately adverse effect are shown to be unavailable.

The Brooke County Board of Education receives Federal financial assistance, and in order to continue receiving such Federal financial assistance, the Board must comply with Title IX and the regulations promulgated through the U.S. Department of Health, Education and Welfare by the Department's Office for

Civil Rights interpreting Title IX. If any program or activity of the school system fails to comply with Title IX,

or the Federal administrative regulations implementing Title IX, public hearings would be held by the Federal government which could result in the termination of Federal funds to this district.

In addition to the sanction of non-receipt of Federal funds, the Board is of the general view that discrimination on the basis of sex in any education program or activity of this district is not to be permitted

except where necessary to accomplish a specific purpose that does not impinge upon essential equality or

fundamental fairness in the treatment of students or employees of this district.

Accordingly, employees of this district are required by this policy to comply with the provisions of this policy and the provisions of Title IX of the Education Amendments of 1972 and all subsequent amendments to that Act.

Notice of Nondiscrimination Policy

The Brooke County Board of Education shall take the steps necessary to notify applicants for admission and employment, students and parents of elementary and secondary school students, employees, sources

of referral of applicants for admission and employment, that it does not discriminate on the basis of sex in

the educational program or activity which it operates, and that it is required by title IX not to discriminate in

such a manner. (See File: ABA Notice of Non-Discrimination Policy)

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BROOKE COUNTY FILE: AC

Compliance Administrator

The Assistant Superintendent of Brooke County Schools, whose address is 1201 Pleasant Avenue, Wellsburg, West Virginia 26070, telephone number (304) 737-3481, shall be designated as the

Compliance Administrator as required by OCR.

(Title IX Education Amendments of 1972)

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BROOKE COUNTY FILE: ACA

EMPLOYMENT PRACTICES UNDER TITLE IX

The Board shall make all employment decisions in any education program or activity operated by such recipient in a nondiscriminatory manner and shall not limit, segregate, or classify applicants or employees

in any way which could adversely affect any applicant's or employee's employment opportunities or status

because of sex.

In general, the following regulations apply to all aspects of the district's employment programs, including

but not limited to, recruitment, advertising, process of application for employment, promotion, granting of

tenure, termination, layoffs, wages, job assignments, employer-sponsored programs, including social or recreational programs and any other term, condition or privilege of employment. The following are some

specific personnel employment practices which are prohibited:

1. Tests: Administration of any test or other criterion which has a disproportionately adverse effect on persons on the basis of sex unless it is a valid predictor of job success and an alternative tests or criterion are unavailable;

2. Recruitment: Recruitment of employees from entities which furnish as applicants only or predominately members of one sex, if such action has the effect of discriminating on the basis of sex:

☒ The Board shall not make pre-employment inquiry as to the marital status of an applicant for employment, including whether such applicant is "Miss or Mrs."

☒ The Board may make pre-employment inquiry as to the sex of an applicant for employment, but only if such inquiry is made equally of such applicants of both sexes and if the results of such inquiry are not used in connection with discrimination prohibited by this part.

3. Compensation: The Board may not establish rates of pay on the basis of sex which result in the payment of wages to employees of one sex at a rate less than that paid to employees of the opposite sex for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions;

4. Job Classification: The Board may not Classify jobs as being for males or females; or maintain or establish separate lines of progression, seniority systems, career ladders, or tenure systems for similar jobs, position descriptions, or job requirements which classify persons on the basis of sex, unless sex is a bona-fide occupational qualification for the positions in question.

5. Fringe Benefits All fringe benefit plans must

9. Sex as a Bona-Fide Occupational Qualification: The Board may take action otherwise prohibited by Title IX provided it is shown that sex is a bona-fide occupational qualification for that action, such that consideration of sex with regard to such action is essential to successful operation of the employment function concerned. A recipient shall not take action pursuant to this section which is based upon alleged comparative employment characteristics or stereotyped characterizations of one or the other sex, or upon preference based on sex of the recipient, employees, students, or other persons, but nothing contained in this section shall prevent a recipient from considering an employee's sex in relation to employment in a locker room or toilet facility used only by members of one sex.

(Title IX Education Amendments of 1972)

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BROOKE COUNTY FILE: ACB

ACCESS TO EDUCATIONAL PROGRAMS UNDER TITLE IX

This policy's prohibition against action by employees or other persons acting in the name and on behalf of

Brooke County Schools which bases any exclusion from participation in, denial of benefits from, or discrimination in, any educational program or activity because of the sex of a student or employee, applies

to all education programs and activities conducted by Brooke County Schools.

This policy's prohibition of sexual discrimination does not apply to the following:

1. Contact sports in physical education classes: Title IX does not prohibit separation of students by sex within physical education classes or activities during participation in wrestling, boxing, rugby, ice hockey, football, basketball, and other sports the purpose or major activity of which involves bodily contact.
2. Ability grouping in physical education classes: Title IX does not prohibit grouping of students in physical education classes and activities by ability as assessed by objective standards of individual performance developed and applied without regard to sex.
3. Human sexuality classes: Classes or portions of classes in elementary and secondary schools that deal primarily with human sexuality may be conducted in separate sessions for boys and girls.
4. Choruses: Schools may make requirements based on vocal range or quality that may result in a chorus or choruses of one or predominantly one sex.

Substantially Equal Factors

Factors the Department of Health, Education, and Welfare, will consider, either individually or in the aggregate as appropriate, in determining whether classes or extracurricular activities are substantially equal

include, but are not limited to, the following: the policies and criteria of admission, the educational benefits

provided, including the quality, range, and content of curriculum and other services and the quality and availability of books, instructional materials, and technology, the qualifications of faculty and staff,

geographic accessibility, the quality, accessibility, and availability of facilities and resources provided to the

class, and intangible features, such as reputation of faculty.

Periodic Evaluations

The Board must conduct periodic evaluations to ensure that single-sex classes or extracurricular activities

are based upon genuine justifications and do not rely on overly broad generalizations about the different

talents, capacities, or preferences of either sex and that any single-sex classes or extracurricular activities

are substantially related to the achievement of the important objective for the classes or extracurricular activities.

Evaluations must be conducted at least every two years.

Access to Career Education Programs

The Brooke County Board of Education shall not, on the basis of sex, exclude any person from admission to any career education program operated within the school system.

Marital or Parental Status

The Brooke County Board of Education shall not apply any rule concerning a student's actual or potential parental, family, or marital status which treats students differently on the basis of sex. Accordingly the Board shall implement the following guidelines:

1. Shall not make pre-admission inquiry as to the marital status of an applicant for admission or employment, including whether such applicant is "Miss" or "Mrs." The Board may make preadmission inquiry as to the sex of an applicant for admission, but only if such inquiry is made equally of such applicants of both sexes and if the results of such inquiry are not used in connection with discrimination prohibited by Title IX.

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2. The Board shall not discriminate against any student, or exclude any student from its education program or activity, including any class or extracurricular activity, on the basis of such student's pregnancy, childbirth, false pregnancy, termination of pregnancy or recovery therefrom, unless the

student requests voluntarily to participate in a separate portion of the program or activity of the Board.

3. The Board may require such a student to obtain the certification of a physician that the student is physically and emotionally able to continue participation so long as such a certification is required of all students for other physical or emotional conditions requiring the attention of a physician.

4. In the event the Board operates a portion of its education program or activity separately for pregnant students, admittance to which is completely voluntary on the part of the student shall ensure that the separate portion is comparable to that offered to non-pregnant students.

5. The Board shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom in the same manner and under the same policies as any other temporary disability with respect to any medical or hospital benefit, service, plan or policy which the Board administers, operates, offers, or participates in with respect to students admitted to the Board's educational program or activity.

Financial Assistance - The Board shall not:

1. On the basis of sex, provide different amount or types of such assistance, limit eligibility for such assistance which is of any particular type or source, apply different criteria, or otherwise discriminate;

2. Through solicitation, listing, approval, provision of facilities or other services, assist any foundation, trust, agency, organization, or person which provides assistance to any of such recipient's students in a manner which discriminates on the basis of sex; or

3. Apply any rule or assist in application of any rule concerning eligibility for such assistance which treats persons of one sex differently from persons of the other sex with regard to marital or parental status.

Employment Assistance

These regulations apply to all efforts to place students in employment. The district shall, as part of any employment assistance program for students, ensure that all employment opportunities are made available without discrimination on the basis of sex and refuse participation in its student employment program to employers who would practice such discrimination.

Counseling

1. The Board shall not discriminate against any person on the basis of sex in the counseling or guidance of students or applicants for admission.
2. In selecting testing or other materials for appraising or counseling students, the Board shall not use different materials for students on the basis of their sex or use materials which permit or require different treatment of students on such basis unless such different materials cover the same occupations and interest areas and the use of such different materials is shown to be essential to eliminate sex bias. The Board shall develop and use internal procedures for ensuring that such materials do not discriminate on the basis of sex.
3. Where the use of a counseling test or other instrument results in a substantially disproportionate number of members of one sex in any particular course of study or classification, the Board shall take such action as is necessary to assure that such disproportion is not the result of discrimination in the instrument or its application.

Instructional Resources

Nothing in this policy shall be interpreted as requiring or prohibiting or abridging in any way the use of particular instructional resources or curricular materials

(Title IX Education Amendments of 1972)

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ACCESS TO ATHLETIC PROGRAMS UNDER TITLE IX

No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, be treated

differently from another person or otherwise be discriminated against in any interscholastic, intercollegiate,

club or intramural athletics offered by the Brooke County Board of Education, and no recipient shall provide

any such athletics separately on such basis.

Separate Teams

Notwithstanding the requirements of the above paragraph, the Board may operate or sponsor separate teams for members of each sex where selection for such teams is based upon competitive skill or the activity involved is a contact sport. However, where a recipient operates or sponsors a team in a particular

sport for members of one sex but operates or sponsors no such team for members of the other sex, and athletic opportunities for members of that sex have previously been limited, members of the excluded sex

must be allowed to try-out for the team offered unless the sport involved is a contact sport. For the purposes

of this part, contact sports include boxing, wrestling, rugby, ice hockey, football, basketball and other sports

the purpose or major activity of which involves bodily contact.

Equal opportunity

When the Board elects to operate or sponsor interscholastic, intercollegiate, club or intramural athletics, it

shall provide equal athletic opportunity for members of both sexes. In determining whether equal opportunities are available Federal Authorities will consider, among other factors:

1. Whether the selection of sports and levels of competition effectively accommodate the interests and abilities of members of both sexes;
2. The provision of equipment and supplies;
3. Scheduling of games and practice time;
4. Travel and per diem allowance;
5. Opportunity to receive coaching and academic tutoring;
6. Assignment and compensation of coaches and tutors;
7. Provision of locker rooms, practice and competitive facilities;
8. Provision of medical and training facilities and services; and
9. Provision of housing and dining facilities and services.

Unequal aggregate expenditures for members of each sex or unequal expenditures for male and female

teams if the Board operates or sponsors separate teams will not constitute noncompliance with this section,

but the Office for Civil Rights may consider the failure to provide necessary funds for teams for one sex in

assessing equality of opportunity for members of each sex.

Comparable Facilities

The Board may provide separate toilet, locker room, and shower facilities on the basis of sex, but such facilities provided for students of one sex shall be comparable to such facilities provided for students of the other sex.

Housing

Nothing in this policy shall be interpreted as prohibiting the separation of students by sex in housing for field trips or other reasons. Such separate housing must be comparable in quality and availability.

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Health and Insurance

In providing a medical, hospital, accident, or life insurance benefit, service, policy, or plan to any of its students, the Board shall not discriminate on the basis of sex, or provide such benefit, service, policy, or plan in a manner which would violate provisions of Title IX if it were provided to employees of the recipient.

This section shall not prohibit a recipient from providing any benefit or service which may be used by a different proportion of students of one sex than of the other, including family planning services. However,

any recipient which provides full coverage health service shall provide gynecological care.

(Title IX Education Amendments of 1972)

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RACIAL, SEXUAL, RELIGIOUS, ETHNIC HARASSMENT/VIOLENCE POLICY

Racial, sexual, religious/ethnic harassment and violence is a form of discrimination which violates Sections 703 of title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000C, et. seq., Title IX of the Educational Amendments of 1972, 20 U.S.C. §1681, et. seq., WV Code §5-11-1, §18-2-5, §18-2-5a and §18-2-7b, et. seq., West Virginia Constitution, Art. XII, §2, SBP 4373, and the West Virginia Human Rights Act.

Acts of harassment, intimidation, or bullying that are reasonably perceived as being motivated by any actual

or perceived differentiating characteristic, or by association with a person who has or is perceived to have

one or more of these characteristics, shall be reported using the following list: race; color; religion; ancestry;

national origin; gender; socioeconomic status; academic status; gender identity or expression; physical appearance; sexual orientation; mental/physical/developmental/sensory disability; or other characteristic.

It shall be a violation of this policy for any student, volunteer, outside group, or third party using school facilities, or any employee of the Brooke County School District to harass a student, any person, or an employee through conduct or communication of a racial, sexual or religious/ethnic nature. School facility

shall include any building or property used or operated by the Brooke County Board of Education.

Appropriate personnel within the Brooke County Schools will investigate all complaints of harassment or violence and discipline any student or employee who harasses a student or employee of Brooke County Schools. Penalties for members of the public shall be in compliance with the laws of West Virginia and the

policies of the school system.

Purpose

It is the policy of Brooke County Board of Education that the dignity of each human being shall be considered in all school system activities, and that it is our responsibility to provide and maintain a learning

and working environment that is free from racial, sexual or religious/ethnic harassment, intimidation, bullying

or violence.

Any act of harassment, intimidation, bullying or violence involving students or staff is a violation of this policy and shall not be tolerated by Brooke County Board of Education.

Definitions

1. 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 staff or by a student when:

☐ submission to or rejection of such conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining or retaining employment or obtaining education; or

☐ 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

☐ such 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.

☐ Amorous relationships between board employees and students are prohibited

☐ Sexual harassment may include, but is not limited to the following:

☐ Verbal harassment of a sexual nature or abuse (i.e. graphic verbal commentary relating to an individual's body, sexual prowess or sexual deficiencies);

☐ Pressure, subtle or overt, for sexual activity;

☐ Unwelcome or inappropriate patting, pinching, or contact;

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☐ Sexual behavior or words, including demands for sexual favors, accompanied by implied or overt threats and/or promises concerning an individual's employment or education status;

☐ 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 that student's full enjoyment of educational benefits, climate or opportunities;

☐ Unwelcome or inappropriate letters, telephone calls, e-mails, pictures, cartoons, computer images, or other materials of a sexual nature;

☐ Sexual teasing, jokes, remarks, or questions;

☐ Commenting upon an individual's body or clothing in a sexually offensive manner;

☐ Sexually suggestive looks or gestures.

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

☐ has the purpose or effect of creating an intimidating, hostile or offensive working or academic environment;

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

☐ otherwise adversely affects an individual's employment or academic opportunities.

☐ Racial Harassment may include but is not limited to:

☐ use of demeaning language with racial connotations;

☐ use of language or gestures which imply inferiority of a race;

☐ gestures or words that are disrespectful to a race or individual (jokes are included); and

☐ ignorance or intolerance of cultural differences.

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

☐ has the purpose or effect of creating an intimidating, hostile or offensive working or academic environment;

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

☐ otherwise adversely affects an individual's employment or academic opportunities.

☐ Religious/Ethnic Harassment may include but is not limited to:

☐ use of demeaning language with religious or ethnic connotations;

☐ use of language or gestures which imply inferiority of a religious or ethnic group; and

☐ gestures or words that are disrespectful to a religion or ethnic group or individual

(jokes are included).

4. Sexual Violence--It 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:

- ☐ touching, patting, grabbing, or pinching another person's intimate parts whether of the same sex or the opposite sex;
- ☐ coercing, forcing or attempting to coerce or force the touching of anyone's intimate parts;
- ☐ coercing, forcing or attempting to coerce or force sexual intercourse or sexual act on another;
- ☐ threatening to force or coerce sexual acts, including touching of intimate parts or intercourse, on another; or
- ☐ threatening or forcing exposure of intimate apparel or body parts by removal of clothing.

5. Racial Violence--It is a physical act of aggression or assault upon another because of, or in a manner reasonably related to race.

6. Religious/ Ethnic Violence--It is a physical act of aggression or assault upon another because of, or in a manner reasonably related to, religion or ethnicity.

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7. Harassment – As used in this policy, "harassment, intimidation or bullying" means any intentional gesture, or any intentional electronic, written, verbal or physical act, communication, transmission or threat that:

- ☐ A reasonable person under the circumstances should know will have the effect of any one or more of the following:
- ☐ Physically harming a student;
- ☐ Damaging a student's property;
- ☐ Placing a student in reasonable fear of harm to his or her person; or
- ☐ Placing a student in reasonable fear of damage to his or her property;
- ☐ Is sufficiently severe, persistent or pervasive that it creates an intimidating, threatening or emotionally abusive educational environment for a student; or

☒ Disrupts or interferes with the orderly operation of the school.

☒ As used in this policy, 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.

8. 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.

Extent of Coverage

1. 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 Brooke County Board of Education.
2. This policy applies to individuals attending any school, school-system or Brooke County Board of Education sponsored event, regardless of location.
3. Building facilities and other property of the Brooke County Board of Education shall not be leased or loaned to any individual or organization in violation of this policy.
4. Any individual or organization working in cooperation with the Brooke County Board of Education programs, including but not limited to mentoring, Aco-op, shadowing programs, internships and volunteers, are required to abide by this policy.
5. This policy applies to any individual or group conducting official business within the Brooke County Board of Education service area.

Brooke County Board of Education Complaint and Investigation Procedures

Any person who believes s/he has been the victim of sexual harassment, bullying, intimidation, or harassment by a student or an employee of the Brooke County Board of Education must report the alleged

acts immediately to an appropriate Brooke County Board of Education official as designated by this policy.

The Brooke County Board of Education encourages the reporting party or complainant to use the report form available from the building principal or the Brooke County Board of Education Office.

1. In Each School Building: The building principal or assistant principal (hereby referred to as the principal) is the person responsible for receiving oral or written reports of a complaint, the principal must see that the complaint is committed to writing before the close of the next working day. The principal will also develop and implement a strategy for protecting a victim from additional harassment, intimidation or bullying.

If the complaint is against a student enrolled in the school, the principal will investigate the complaint within ten (10) school days and submit a written report of the investigation and its findings to the Title IX Coordinator. If the principal determines that the accused party has violated this policy, the principal will notify parents/guardians and take disciplinary action as outlined in the code-of-conduct or School Discipline Guidelines.

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Complaints involving sexual harassment of a student by an employee must be reported immediately to the Superintendent or Title IX Coordinator for Brooke County Board of Education. If the complaint is against the employee, the principal will notify the Human Rights Officer or Brooke County Board of Education Title IX Coordinator who will conduct the investigation. The Human Rights Officer or Brooke County Board of Education Title IX Coordinator will prepare a report from the facts gathered from the investigation and present it to the Superintendent for his/her review and recommendations.

2. District Wide: The Brooke County 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 or a supervisor, the complaint can be filed with the Assistant Superintendent, or Superintendent who shall then be responsible for the investigation and recommendation described in the Agency Action Reporting Section of this policy.

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.

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.

Timelines for Investigation and Recommendation

1. A complete investigation of any student-related incidents as described in the Complaint and Investigation Procedures Section shall be conducted within 10 school days after the complaint is filed unless exceptional circumstances require additional time. The following steps should be followed in conducting the investigation of alleged sexual harassment of a student by an adult employee of the Brooke County Board of Education. The investigator or investigating party shall provide a written report on the Brooke County Board of Education 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.

☐ The recipient of a complaint or any employee who knows or reasonably believes that a student has been the victim of sexual harassment is responsible to ensure that the complaint and relevant information is reported to the principal or designee.

☐ The complaint must be placed in writing by either the complainant, recipient of the complaint, principal, or designee using the designated complaint form. The completed form shall be submitted to the Title IX Coordinator by the principal within two school days.

☐ The person accused of the harassment shall be notified promptly of the investigation after the complaint is placed in writing or the investigator otherwise determines there are reasonable grounds to believe an incident of harassment has occurred. The investigator will advise the accused that, as per this policy, there will be no retaliation against the reporter of the harassment or others testifying or involved in the investigation.

☐ A full, confidential interview with the complainant by an investigator not employed at the school site shall be promptly initiated. Unless the complainant is eighteen (18) years or older, the complainant must have a parent/guardian present or consent given for the interview.

☐ The investigator shall obtain in writing or reduce the response to writing and provide the complainant with a summary for signature of the contents of the allegations, the names of any witnesses and supporting documents and evidence.

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☐ The investigator should confirm whether the appropriate reports were made to the police and/or child protective services and if any immediate need exists for the complainant including scheduling changes or counseling.

☐ The investigator will individually interview any witnesses identified with each witness directed to keep the matter confidential. The investigator will, at the end of each interview, advise the complainant or witness that no persons should retaliate as per Section V.F. of this policy. Additionally, the complainant and witness will be advised to promptly report any specific action of retaliation to the investigator.

☐ The accused employee will be interviewed by the investigator once all witnesses identified by the complainant have been interviewed and supporting documents or evidence gathered.

☐ The accused employee shall be provided, at the time of the interview, the harassment policy and the procedures for the investigation of allegations under that policy.

☐ The investigator shall question the accused regarding the alleged allegations and obtain the names of any witnesses and supporting documents and evidence. The response must immediately be reduced to writing and a summary for signature provided to the accused. The accused may be given an opportunity to provide a hand written statement of events.

☐ The accused and all witnesses will be advised that the matter should remain confidential with the exception of the right of the accused to discuss the matter with a hearing representative or attorney and that retaliation is prohibited.

☐ Once all identified witnesses have been interviewed and all supporting documents or evidence gathered, the investigator shall provide a written report with accompanying

documentation to the Title IX Coordinator and Superintendent The report shall summarize the allegations, describe the basis

for the investigator's conclusions and set forth recommended action. The scope of the investigation should be documented even if the result is inconclusive.

☐ The investigation shall continue until concluded and a report submitted despite student hesitancy or the resignation or retirement of the accused.

☐ The investigator shall assemble an investigative file maintained in a secure and confidential manner by the Title IX Coordinator with the Superintendent having the right and authority to review the file. The file shall contain the time line or activity log maintained by the investigator detailing dates, times or activity undertaken in the investigative process.

2. A complete investigation of any employee-related incidents 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 of Schools. If the Superintendent is the subject of the complaint, the report will be submitted to the President of the Brooke County Board of Education.

☐ The complaint must be placed in writing by either the complainant, recipient of the complaint, principal, or designee using the designated complaint form. The completed form shall be submitted to the Title IX Coordinator by the principal within two school days.

☐ The person accused of the harassment shall be notified promptly of the investigation after the complaint is placed in writing or the investigator otherwise determines there are reasonable grounds to believe an incident of harassment has occurred. The investigator will advise the accused that, as per this policy (section V.F), there will be no retaliation against the reporter of the harassment or others testifying or involved in the investigation.

☐ A full, confidential interview with the complainant by an investigator not employed at the school site shall be promptly initiated.

☐ The investigator shall obtain in writing or reduce the response to writing and provide the complainant with a summary for signature of the contents of the allegations, the names of any witnesses and supporting documents and evidence.

☐ The investigator should confirm whether the appropriate reports were made to the police or

appropriate authorities and if any immediate need exists.

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☐ The investigator will individually interview any witnesses identified with each witness directed to keep the matter confidential. The investigator will, at the end of each interview, advise the complainant or witness that no persons should retaliate as per Section V.F. of this policy.

Additionally, the complainant and witness will be advised to promptly report any specific action of retaliation to the investigator.

☐ The accused employee will be interviewed by the investigator once all witnesses identified by the complainant have been interviewed and supporting documents or evidence gathered.

☐ The accused employee shall be provided, at the time of the interview, the harassment policy and the procedures for the investigation of allegations under that policy.

☐ The investigator shall question the accused regarding the alleged allegations and obtain the names of any witnesses and supporting documents and evidence. The response must immediately be reduced to writing and a summary for signature provided to the accused. The accused may be given an opportunity to provide a hand written statement of events.

☐ The accused and all witnesses will be advised that the matter should remain confidential with the exception of the right of the accused to discuss the matter with his/her hearing representative or attorney and that retaliation is prohibited.

☐ Once all identified witnesses have been interviewed and all supporting documents or evidence gathered, the investigator shall provide a written report with accompanying documentation to the Title IX Coordinator and Superintendent. The report shall summarize the allegations, describe the basis for the investigator's conclusions and set forth recommended action. The scope of the investigation should be documented even if the result is inconclusive.

☐ The investigation shall continue until concluded and a report submitted despite hesitancy or the resignation or retirement of the accused.

☐ The investigator shall assemble an investigative file which shall be maintained in a secure and confidential manner by the Title IX Coordinator with the Superintendent having the right and authority to review the file. The file shall contain the time line or activity log maintained by the

investigator detailing dates, times or activity undertaken in the investigative process.

3. 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 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.

4. The rights to confidentiality, both of the complainant and of the accused will be respected consistent with the Brooke County Board of Education's legal obligation, and with the necessity to investigate allegations of misconduct and to take corrective action when this conduct has occurred.

5. 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.

6. The Board will take appropriate action against any student, 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 an investigation, or who testifies, assists or participates in a proceeding or hearing relating to such harassment or violence. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment. The agency will take appropriate action against any pupil, teacher, or administrator or other school personnel who falsely reports religious/ethnic, racial, or sexual harassment.

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Board Action and Reporting

Upon receipt of a report substantiated by the investigation, the county superintendent will take appropriate

action against those found to have violated this policy.

Such action for students may include, but is not limited to, warning, suspension, exclusion, expulsion depending upon the severity of the offense,

Such action for employees may include, but is not limited to, warning, suspension, termination and revocation of licensure.

The Superintendent shall also initiate such other action as is appropriate to ease tensions and to affirm the values of respect and understanding. 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.

Special note: If an investigation reveals that an employee or student making the complaint has falsely (and in

bad faith or out of malice) accused another employee or student of harassment as defined in this policy, the

complaining individual maybe subject to discipline, including but not limited to oral or written reprimand,

suspension, termination of employment, and/or discipline under the Student Code of Conduct.

Parents and/or other members of the public who falsely (and in bad faith or out of malice) accuse an employee

or student of harassment as defined in this policy, are advised that they may be subject to civil action in the court system and may be referred to the appropriate law enforcement agency for possible criminal action.

Prevention Programs

The Board will develop and implement an education program for each programmatic level, K- 4, 5-8, and 9-12, which includes character education as well as a program for all faculty and staff.

The programs, at a minimum must: raise awareness of the different types of harassment, how it manifests itself, its devastating emotional and educational consequences, and its legal consequences.

In addition, multicultural education programs will be developed and implemented for faculty, staff and students to foster an attitude of understanding and acceptance of individuals from a variety of cultural, ethnic, racial, and religious backgrounds.

Dissemination of Policy and Training

1. This policy or a summary shall be conspicuously posted throughout each of the Board's facilities in areas accessible to pupils and staff members.
2. 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.
3. The Board will develop and implement training for students and staff on these regulations and on means for effectively promoting the goals of this policy.
4. This policy shall be reviewed at least bi-annually for compliance with state and federal law and state board of education policy.

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Source: Board of Education Minutes

Adopted: 11/18/94

Amended: 8/7/95; 2/9/98; 4/9/01; 10/8/01; 1/27/03; 9/23/13; 11/10/14; 1/26/15

Last Reviewed: 7/01/16; 3/24/18