

KANAWHA COUNTY SCHOOLS ADMINISTRATIVE REGULATION

Title IX Grievance Procedure

Series: J12A

Reference: Title IX Educational Amendments of 1972

Issued: 02.21.1980

Revised: 10.16.1980; 10.24.1983; 05.17.2012; 6.18.2015

Revision Number: 4

Page 1 of 17

Title IX of the Education Amendments of 1972 prohibits sex discrimination in educational programs or activities receiving Federal financial assistance. The following grievance procedure has been adopted:

TITLE IX GRIEVANCE PROCEDURE

Purpose

The purpose of this procedure is to provide a way for employees, students and third parties to reach solutions to problems of alleged sex discrimination, including sexual harassment, sexual assault and sexual violence.

Definitions

“Sex discrimination” occurs when a person, because of his or her sex, is denied participation in or the benefits of any education program receiving federal financial assistance. Sex discrimination includes, but is not limited to, disparate treatment based on gender, sexual harassment, sexual violence and sexual assault.

Disparate Treatment Based on Gender means any difference in treatment based on gender unless that is a legitimate nondiscriminatory reason for the difference in treatment.

Sexual Harassment

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

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.

KANAWHA COUNTY SCHOOLS ADMINISTRATIVE REGULATION

Title IX Grievance Procedure

Series: J12A

Reference: Title IX Educational Amendments of 1972

Issued: 02.21.1980

Revised: 10.16.1980; 10.24.1983; 05.17.2012; 6.18.2015

Revision Number: 4

Page 2 of 17

-
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 so sufficiently severe, persistent, or pervasive that it has the purpose or effect of substantially interfering with a student's school performance or an employee's job performance, or creating an intimidating, hostile, or offensive educational or working environment.

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.

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

Employees are strictly prohibited from dating, attempting to cultivate a romantic relationship or becoming involved in inappropriate relationships with students, regardless of the student's age or consent. This prohibition shall be in force at any time so long as the student is considered a student within the school system, including during the summer break, holidays and other times away from school.

Sexual Violence

KANAWHA COUNTY SCHOOLS ADMINISTRATIVE REGULATION

Title IX Grievance Procedure

Series: J12A

Reference: Title IX Educational Amendments of 1972

Issued: 02.21.1980

Revised: 10.16.1980; 10.24.1983; 05.17.2012; 6.18.2015

Revision Number: 4

Page 3 of 17

Sexual Violence is a physical act of aggression or force or the threat thereof which involves the touching of another's intimate parts, or forcing a person to touch any person's intimate parts. Intimate parts include the primary genital area, groin, inner thigh, buttocks or breast, as well as the clothing covering these areas. Sexual Violence may include, but is not limited to:

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

Assault

Assault is an act done with intent to cause fear in another of immediate bodily harm or death; or the threat to do harm to another with present ability to carry out the threat.

In order to maintain a program of nondiscrimination practices and a learning environment that is in compliance with applicable laws and regulations, the Kanawha County Schools designates the Title IX Coordinator as the district's Compliance Officer to serve as the coordinator and/or compliance official for purposes of Title IX of the Educational Amendments Act of 1972.

The Compliance Officer shall publish and disseminate a notice of this policy and complaint procedure at least annually to students, parents/guardians, employees, and the public, together with either a copy of this policy or a statement how to obtain a copy of this policy. A copy of this

policy will be distributed to all buildings and facilities within the district, and included or referenced in all student or employee handbooks.

Nondiscrimination statements shall include the position, office address and telephone number of the Compliance Officer.

The Compliance Officer, together with other appropriate district officials, is responsible to monitor the implementation of nondiscrimination procedures in the following areas:

1. Curriculum and Materials – Review of curriculum guides, textbooks and supplemental materials for discriminatory bias.
2. Training – Provision of training for students and staff to identify and alleviate problems of discrimination and unlawful harassment. Provision of training to all building principals to investigate complaints under this policy.
3. Student Access – Review of programs, activities, and practices to ensure that all students have equal access and are not segregated except when permissible by law or regulation.
4. District Support – Assurance that like aspects of the school program receive like support as to staffing and compensation, facilities, equipment, and related matters.
5. Student Evaluation – Review of tests, procedures, and guidance and counseling materials for stereotyping and discrimination.
6. Employment Relations –
 - a. Development of position qualifications, job descriptions and essential job functions.
 - b. Recruitment materials and practices.
 - c. Procedures for screening, interviewing and hiring.
 - d. Promotions.

KANAWHA COUNTY SCHOOLS ADMINISTRATIVE REGULATION

Title IX Grievance Procedure

Series: J12A

Reference: Title IX Educational Amendments of 1972

Issued: 02.21.1980

Revised: 10.16.1980; 10.24.1983; 05.17.2012; 6.18.2015

Revision Number: 4

Page 5 of 17

-
-
- e. Disciplinary actions, up to and including terminations.
 7. Reports and Complaints – Administration of the reporting and complaint procedure provided in this policy.

Each employee shall be responsible to maintain learning and working environment free from all forms of unlawful discrimination and harassment, and to report all incidents of unlawful discrimination or harassment which he/she observes or is informed about to the building principal or Compliance Officer.

Each student shall be responsible to respect the rights of their fellow students and district employees and to ensure an environment free from all forms of unlawful discrimination and harassment, and to report all incidents of unlawful discrimination or harassment which he/she observes or is informed about to the building principal or Compliance Officer.

Reporting Violations: Filing Complaints

A student (or his/her parent/guardian) who believes he/she has been subject to conduct that constitutes unlawful sex discrimination, including sexual harassment is encouraged to report the incident to the building principal as soon as possible. A student may also report incidents/violations to any teacher, coach/advisor, counselor, or administrator. A complaint may also be filed with the Title IX Coordinator at 200 Elizabeth Street, Charleston, WV 25311, Telephone Number 304-348-1379.

Any school employee who suspects or is notified that a student has been subject to conduct that constitutes unlawful sex discrimination, including sexual harassment, shall report the incident to the building principal as soon as possible (not later than twenty-four (24) hours unless extenuating circumstances justify a reasonable extension of that deadline). If it is not possible to contact the building principal in a timely fashion, the school employee shall report the incident to the Compliance Officer or another administrator as soon as possible.

If the building principal is the subject of the complaint or otherwise not impartial, the student shall report the incident directly to the Compliance Officer. If the Compliance Officer is also a subject of the complaint or

KANAWHA COUNTY SCHOOLS ADMINISTRATIVE REGULATION

Title IX Grievance Procedure

Series: J12A

Reference: Title IX Educational Amendments of 1972

Issued: 02.21.1980

Revised: 10.16.1980; 10.24.1983; 05.17.2012; 6.18.2015

Revision Number: 4

Page 6 of 17

otherwise not impartial, the report shall be made to another administrator or the Superintendent of Schools.

All complaints by a student (or his/her parent/guardian) who asserts that he/she has been subject to conduct that constitutes unlawful sex discrimination, including sexual harassment shall be made in writing on the forms which are available at each school building principal and other working location or from the Compliance Officer). If the incident was initially reported orally, the building principal or Compliance Officer shall inform the student of the right to file a complaint and the complaint procedure, and shall promptly provide all necessary forms and assistance to enable the complainant to file an appropriate written complaint if he/she so desires.

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

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

Even if no formal written complaint has been filed by or on behalf of a student who alleges he/she has been subjected to conduct that constitutes unlawful sex discrimination, including sexual harassment, any building principal or Compliance Officer who receives a report of a possible violation shall cause an informal investigation to be made, and take all necessary interim actions reasonably calculated to prevent any violations during the period before the completion of informal and formal procedures under this policy. If the informal investigation suggests that there has been a violation, the Compliance Officer shall be informed. The Compliance Officer shall review the matter, conduct such further investigation as he/she deems appropriate and, if he/she concludes that there has been a violation, the Compliance Officer shall recommend prompt, corrective action to ensure that the conduct ceases and will not recur, and to remedy any effects of the violation for which the district is responsible. The Compliance Officer shall also recommend such disciplinary procedures as he/she deems appropriate.

Appointment of Initial Investigator

Upon receiving a written complaint of discrimination, the building principal shall either commence an investigation or authorize another administrator or person trained on this policy to commence an investigation, unless the building principal is the subject of the complaint, is otherwise not impartial, or is unable to conduct the investigation. In the latter case, the Compliance Officer shall authorize another administrator who is not the subject of the complaint and who is impartial to conduct the initial investigation. Provided that a complaint that involves a complaint of sexual harassment of a student by an employee shall be reported to and investigated by the Compliance Officer in accordance with the provisions of this policy.

District employees and officials shall ensure that the initial investigator shall be appointed and initiate a formal investigation within forty-eight (48) hours after the filing of a written complaint under this policy, unless extenuating circumstances justify a reasonable extension of that deadline. In the event the person designated to conduct the initial investigation shall be unable to complete the investigation in a timely manner, the Compliance Officer shall authorize another appropriate person to complete the initial investigation.

Rights During Complaint Procedure

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

1. Provide the opportunity for participation by the parents/guardian of a minor student and representation by counsel at any conference, meeting, or hearing with a student and in presenting information.
2. Permit an employee to be accompanied by a representative at any conference, meeting, or hearing with the employee.
3. Provide an opportunity for the complainant and the accused to present witnesses and other evidence.

KANAWHA COUNTY SCHOOLS ADMINISTRATIVE REGULATION

Title IX Grievance Procedure

Series: J12A

Reference: Title IX Educational Amendments of 1972

Issued: 02.21.1980

Revised: 10.16.1980; 10.24.1983; 05.17.2012; 6.18.2015

Revision Number: 4

Page 8 of 17

-
4. Take all necessary interim actions reasonably calculated to prevent any other violations prior to the completion of the complaint procedure.
 5. Comply with the confidentiality requirements of this policy.
 6. Notify the complainant of the status of the investigation and complaint procedure on a periodic basis and at appropriate stages of the procedure.

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

Investigation

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 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, although the investigation may be delayed or suspended at the request of law enforcement while the law enforcement agency is gathering evidence. In the event investigation is delayed at the request of a law enforcement agency, appropriate steps will be taken to provide for the safety of the victim and the school community and to prevent retaliation by any individual, i.e., change in schedule of the victim and or perpetrator, change of school or suspending during the pendency of the investigation.

Investigative Report

The building principal or other person designated to conduct the initial investigation shall prepare a written report within fifteen (15) calendar days after commencing the investigation, unless additional time to complete the investigation is required. In that case, the investigator shall report on the status of the investigation to the complainant, the accused, and the

KANAWHA COUNTY SCHOOLS ADMINISTRATIVE REGULATION

Title IX Grievance Procedure

Series: J12A

Reference: Title IX Educational Amendments of 1972

Issued: 02.21.1980

Revised: 10.16.1980; 10.24.1983; 05.17.2012; 6.18.2015

Revision Number: 4

Page 9 of 17

Compliance Officer at the expiration of the fifteen (15) day period and every fifteen (15) calendar days thereafter. Although the District may extend the investigation when necessary, it must insure that the completion provides a prompt and equitable resolution.

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

The results of the investigation of each complaint filed under these procedures will be reported in writing to the complainant and the accused by the Superintendent or his/her designee.

Appeal

If the complainant is not satisfied with any finding or recommended corrective action proposed in the investigative report, he/she may submit a written appeal to the Compliance Officer within five (5) calendar days after receipt of the results of the investigation. If the Compliance Officer is the subject of the complaint or otherwise not impartial, the appeal shall be submitted to the Superintendent of Schools who shall designate another administrator to conduct the appeal.

An appeal may also be initiated by the Compliance officer if he/she does not accept without further review the recommended corrective action proposed in the investigative report. In that event, the Compliance Officer shall notify the complainant and the accused that an appeal will be conducted and shall discuss alternative corrective actions with the complainant. (The Compliance Officer may not initiate an appeal if he/she is the subject of the complaint or is otherwise not impartial.)

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

KANAWHA COUNTY SCHOOLS ADMINISTRATIVE REGULATION

Title IX Grievance Procedure

Series: J12A

Reference: Title IX Educational Amendments of 1972

Issued: 02.21.1980

Revised: 10.16.1980; 10.24.1983; 05.17.2012; 6.18.2015

Revision Number: 4

Page 10 of 17

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

The written determination shall include a summary of any supplemental investigation; findings of fact and an explanation of the evidence in support of such findings (including a determination with respect to the factual allegations of the complaint); conclusions whether there have been any violations of this policy based on the factual findings and a discussion of the reasons for such conclusions; and a recommended disposition of the complaint, including any recommended district action. The results of the appeal shall be provided to the complainant and the person who conducted the initial investigation.

District Action

If the investigation or appeal results in a finding that the complainant is factual and constitutes a violation, the district shall take prompt, corrective action reasonably calculated to ensure that such conduct ceases and will not recur, and to remedy any effects of the violation for which the district is responsible. District action within the authority of administration shall be implemented as recommended in the investigation and appeal process. Recommendations for district action which require Board approval and/or the approval of persons or entities other than the district or its officers or employees shall not be implemented unless so approved.

Any student or employee who is found to have engaged in conduct constituting unlawful discrimination in violation of this policy shall be subject to discipline up to and including expulsion from school or termination of employment. Disciplinary actions and procedures shall be consistent with the Student Code of Conduct, Board policies and district procedures, and

KANAWHA COUNTY SCHOOLS ADMINISTRATIVE REGULATION

Title IX Grievance Procedure

Series: J12A

Reference: Title IX Educational Amendments of 1972

Issued: 02.21.1980

Revised: 10.16.1980; 10.24.1983; 05.17.2012; 6.18.2015

Revision Number: 4

Page 11 of 17

other applicable state and federal laws, rules, regulations, and constitutional requirements.

Confidentiality

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

Notwithstanding anything to the contrary in this policy, while a complainant has the right to learn the outcome of his/her complaint (*i.e.*, to learn whether the complaint was investigated and whether discrimination/harassment was found), the district shall not disclose to a complainant any sanction or discipline recommended or imposed upon a student or employee to the extent such disclosure is prohibited by the Family Educational Rights and Privacy Act (FERPA) or other applicable laws, regulations, rules, constitutional requirements, or orders. (An exception may apply, for example, in the case of a sanction that directly relates to the victim, such as an order that a violator/perpetrator/harasser stay away from the victim.)

Reprisals

No person shall retaliate against any person who is the victim of or who reports alleged sexual harassment or testifies, assists, or participates in an investigation, proceeding, or hearing related to a sexual harassment complaint. Retaliation includes, but is not limited to any form of intimidation, reprisal or harassment. Persons found guilty of retaliation shall be subject to discipline.

Non-exclusive Remedy

KANAWHA COUNTY SCHOOLS ADMINISTRATIVE REGULATION

Title IX Grievance Procedure

Series: J12A

Reference: Title IX Educational Amendments of 1972

Issued: 02.21.1980

Revised: 10.16.1980; 10.24.1983; 05.17.2012; 6.18.2015

Revision Number: 4

Page 12 of 17

These procedures do not limit the right of any person to pursue other avenues of recourse which may include filing of charges with the West Virginia Human Rights Commission or such other criminal, civil or administrative remedy as may be available.

Investigative Procedures for Sexual Harassment Cases when an Employee is Accused of Sexual Harassment of a Student.

The following steps should be followed in conducting the investigation of alleged sexual harassment of a student by an adult in the Kanawha County school system.

a. 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, his or her designee, or other school level staff members designated to receive such complaints or the Title IX Coordinator (348-1379). If the complaint involves the principal, the student or the recipient may report the problem directly to the Superintendent (348-7732).

b. At the time of the filing of a complaint, the complainant shall be provided a copy of this policy. If the complainant is not the victim, the foregoing information shall be provided to the victim at the earliest opportunity, and, in no event not later than the time the victim is interviewed.

c. The complaint may be oral or written, but any oral complaint must be placed in writing by either the complainant, recipient of the complaint, principal, his or her designee, or other school level staff members designated to receive such complaints, or the Title IX Coordinator (348-1379). The form to be utilized is entitled "Kanawha County Schools Incident Report: Possible Sexual, Racial, Religious/Ethic Harassment Matter". See Attachment 1. Whether or not a written statement has been received from a complainant or victim, the completed form shall be submitted to the Title IX Coordinator by the principal within two school days.

d. If the Superintendent believes there is reasonable evidence indicating the accused violated this policy, the Superintendent will remove the accused from the school setting and place him or her on suspension with pay during the pendency of any investigation and any disciplinary hearing. In the

KANAWHA COUNTY SCHOOLS ADMINISTRATIVE REGULATION

Title IX Grievance Procedure

Series: J12A

Reference: Title IX Educational Amendments of 1972

Issued: 02.21.1980

Revised: 10.16.1980; 10.24.1983; 05.17.2012; 6.18.2015

Revision Number: 4

Page 13 of 17

alternative, the accused may be given an alternative assignment at an alternative site which does not involve the direct instruction or supervision of students.

e. The person accused of the harassment should be notified promptly of the investigation after the complaint is placed in writing or the investigator otherwise determines that there are reasonable grounds to believe that an incident of harassment actually occurred. The accused will be advised that there will be no retaliation against any person for reporting the alleged sexual harassment or for testifying, assisting, or participating in an investigation, proceeding, or hearing relating to the sexual harassment claim.

f. An appropriate investigation shall be promptly initiated with a full, confidential interview with the complainant by an investigator not employed at the school site. At the time the interview is scheduled, the "student" complainant must have a parent or guardian present or consent of the parent or guardian must be given for the interview unless the student is eighteen (18) years or older. Prior to the interview, the Lead Counselor for the school district will designate a counselor from another school in the Kanawha County School system to aid and assist the complainant. This counselor is to be present for any interview or testimony of the student unless declined by the student's parent or guardian or by the student if the student is eighteen years of age or older.

g. The investigator shall obtain from the complainant the content of the allegations, the names of any witnesses, and supporting documents and evidence. The interview with the complainant shall be recorded by mechanical means. In the alternative, the complainant may be given an opportunity to provide a hand written statement of events.

h. The investigator should confirm whether the appropriate reports were made to the police and/or child protective services. Further, the investigator should determine if any immediate needs exist for the complainant, including scheduling changes or counseling.

i. Following an interview with the complainant, the investigator should individually interview any witnesses identified. Each witness shall be directed to keep the matter confidential.

KANAWHA COUNTY SCHOOLS ADMINISTRATIVE REGULATION

Title IX Grievance Procedure

Series: J12A

Reference: Title IX Educational Amendments of 1972

Issued: 02.21.1980

Revised: 10.16.1980; 10.24.1983; 05.17.2012; 6.18.2015

Revision Number: 4

Page 14 of 17

j. At the conclusion of the interview, the complainant and any witnesses will be advised by the investigator that no persons should retaliate against them for reporting the alleged sexual harassment or for testifying, assisting, or participating in an investigation proceeding or hearing related to the sexual harassment claim. Further, the investigator will advise such individuals that should retaliation or reprisal occur he/she shall promptly report the specific actions to the investigator.

k. Once all witnesses identified by the complainant have been interviewed and all supporting documents or evidence has been gathered, the investigator will interview the accused employee.

l. At the time of the interview, the accused employee must be provided a copy of this policy.

m. The investigator shall question the accused regarding the alleged allegations and obtain the names of any witnesses and supporting documents and evidence. The interview with the accused shall be recorded by mechanical means. In the alternative, the accused may be given an opportunity to provide a hand-written statement of events.

n. At the conclusion of the interview, the investigator will again advise the accused that there shall be no retaliation against any person who reported the alleged sexual harassment or testifies, assists, or participates in the investigation proceeding or hearing related to the complaint. The accused and any witnesses he or she identifies will be advised the matter should remain confidential with the exception of the accused's right to discuss the matter with a hearing representative or attorney for proper presentation of a defense at a disciplinary hearing.

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

p. Regardless of whether the student is hesitant about continuing the investigation, or the accused retires or resigns during the pendency of the

KANAWHA COUNTY SCHOOLS ADMINISTRATIVE REGULATION

Title IX Grievance Procedure

Series: J12A

Reference: Title IX Educational Amendments of 1972

Issued: 02.21.1980

Revised: 10.16.1980; 10.24.1983; 05.17.2012; 6.18.2015

Revision Number: 4

Page 15 of 17

investigation, the investigation shall continue until concluded and a report submitted.

q. The investigator shall be responsible for assembling an investigative file which will be maintained by the Title IX Coordinator in a secure and confidential manner. Notwithstanding the Title IX Coordinator's responsibility to maintain the security and confidentiality of the investigative file, the Superintendent and the General Counsel for the school district shall always have the right and authority to review the file. The expungement and deletion of material from the investigative file is prohibited. Further, no separate or private file regarding any allegation of sexual harassment of a student by a school employee shall be maintained by any other employee of the Kanawha County School system.

r. The investigator shall maintain a time line or activity log detailing dates, times and activity undertaken in the investigation process which will be maintained with the investigative file.

s. After review of the written report and documentation, the Superintendent will determine if further investigation is necessary or whether disciplinary action should occur.

t. If the Superintendent determines that a disciplinary hearing is appropriate, the accused employee will be provided written notice specifically stating the grounds upon which the proposed disciplinary hearing is based and specifically state the person(s), date(s), place(s) involved and events so alleged that the employee may identify the nature of the charges and have a legitimate opportunity to prepare a defense. If the student is intended to be called to testify at the hearing, the parents will be notified by mail that the student will be need to be present for testimony, and that the parents, guardians or other representative may be present during the time the student provides sworn testimony. The hearing may be postponed for good cause, however, if the hearing is postponed at the request of the employee and not rescheduled and held within thirty days from the date originally scheduled, the Superintendent may determine that the employee's status will be changed to suspended without pay.

u. In the event a Kanawha County Schools student, or any other person under the age of 18, testifies as a witness in an employee disciplinary hearing, such testimony shall, at the request of any party, be taken by closed

KANAWHA COUNTY SCHOOLS ADMINISTRATIVE REGULATION

Title IX Grievance Procedure

Series: J12A

Reference: Title IX Educational Amendments of 1972

Issued: 02.21.1980

Revised: 10.16.1980; 10.24.1983; 05.17.2012; 6.18.2015

Revision Number: 4

Page 16 of 17

circuit television, teleconference or similar electronic transmission. The testimony of the student or child shall be taken in a room, separate and apart from the room in which the employee is present. The hearing examiner, the court reporter, the attorneys for the parties, the student's or child's parents and any other person the hearing examiner permits for the purpose of providing support for the student or child, in accordance with these regulations or otherwise, shall be present in the room in which the student or child is testifying. The image and voice of the student or child shall be electronically transmitted into the room in which the accused employee is present. The student or child shall testify under oath and shall be subject to examination and cross examination as in the same manner as any other hearing. The hearing examiner may permit consultation between counsel and the parties by adjournment, electronic means or otherwise.

v. If the accused employee retires or resigns following notice of a disciplinary hearing or during the course of a disciplinary hearing, a letter advising that the employee did not conclude the disciplinary hearing will be sent to the West Virginia State Superintendent of Schools, accompanied by a copy of the disciplinary notice and a copy of the report of allegations. A copy of this letter to the West Virginia State Superintendent of Schools advising that the employee did not conclude the disciplinary hearing and the disciplinary notice and report of allegations will be placed in the employee's personnel file. Such information shall remain in an employee's file unless the Board is specifically ordered to remove such by an administrative body or court of competent jurisdiction such as the West Virginia Education and School Employees Grievance Board, Circuit Court, or West Virginia Supreme Court of Appeals.

w. A disciplinary hearing will be conducted by an independent hearing examiner who is not employed by the Board of Education. The hearing examiner shall, within a reasonable time, submit to the Superintendent specific findings of fact and law along with a recommendation for action.

x. The Superintendent will determine whether discipline is appropriate and the employee shall be given written notice of the Superintendent's action along with any recommendation for Board action. Such discipline may include reprimand, suspension, or termination of employment.

KANAWHA COUNTY SCHOOLS ADMINISTRATIVE REGULATION

Title IX Grievance Procedure

Series: J12A

Reference: Title IX Educational Amendments of 1972

Issued: 02.21.1980

Revised: 10.16.1980; 10.24.1983; 05.17.2012; 6.18.2015

Revision Number: 4

Page 17 of 17

y. Any action by the Board of Education will be timely related to the employee, along with any explanation of the employee's right to appeal to the West Virginia Education State Employee's Grievance Board.

z. The Superintendent will report any conviction of a felony, hearing determination or admission by the employee of "immorality" or "willful neglect of duty" to the State Superintendent of Schools.

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