

**KANAWHA COUNTY BOARD OF EDUCATION POLICY**  
**Series: C53 - Bullying, Harassment and Intimidation**

**53.01 Scope.** This policy is intended to meet the requirements that schools, school property, school bus stops and school sponsored activities in Kanawha County be free from all forms of bullying, harassment, and intimidation.

**53.02 Definitions.**

*Bullying, harassment, and/or intimidation:* means any intentional gesture, or any intentional electronic, written, verbal or physical act, communication, transmission or threat that: 1) a reasonable person under the circumstances should know will have the effect of harming a student, damaging a student's property, placing a student in reasonable fear of harm to his or her person, and/or placing a student in reasonable fear of damage to his or her property; 2) is sufficiently severe, persistent or pervasive that it creates an intimidating, threatening or emotionally abusive educational environment for a student; or 3) disrupts or interferes with the orderly operation of the school.

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. This includes posting material on the internet or social networking sites, i.e., Facebook, MySpace, etc., which has the effect of disrupting the educational process in the school or causes embarrassment, discomfort, or a reluctance to participate in school activities.

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.

When harassment, intimidation or bullying are of a racial, sexual and/or religious/ ethnic nature, the above definition applies to all cases regardless of whether they involve students, staff or the public. Detailed definitions related to inappropriate behavior of this nature are as follows:

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

- submission to the conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining or retaining employment, or of obtaining an education; or
- submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment or education; or that conduct or communication has the purpose or effect of substantially or unreasonably interfering with an individual's employment or education; or
- creating an intimidating, hostile or offensive employment or educational environment.

Amorous relationships between county board employees and students are prohibited.

Sexual harassment may include but is not limited to:

- verbal harassment of a sexual nature or abuse;
- pressure for sexual activity;
- inappropriate or unwelcome patting, pinching or physical contact;
- sexual behavior or words, including demands for sexual favors, accompanied by implied or overt threats and/or promises concerning an individual's employment or educational status;
- behavior, verbal or written words or symbols directed at an individual because of gender; or
- 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/culture or opportunities.

*Racial harassment* consists of physical, verbal or written conduct relating to an individual'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.

*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.

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:

- touching, patting, grabbing or pinching another person's intimate parts, whether that person is 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 a sexual act on another; or threatening to force or coerce sexual acts, including the touching of intimate parts or intercourse, on another.
- threatening or forcing exposure of intimate apparel or body parts by removal of clothing.

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

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

*Persons* - The term "persons" as used herein shall include all students, staff members and members of the public.

*Staff Members* - The term "staff members," as used herein shall encompass all employees and volunteers of Kanawha County Schools.

### **53.03 Purpose.**

The purpose of this policy is to:

- ensure a safe school and working environment for all students and staff members by implementing a successful anti-bullying, harassment and intimidation program which can reduce these anti- social behaviors among persons and produce positive changes in the school and work climate, and
- assure that Kanawha County Schools responds to incidents of bullying, harassment, and intimidation in a manner that effectively addresses the incident, deters similar future incidents, and affirms respect for individuals.

Kanawha County Schools finds that a safe and civil environment in school is necessary for students to learn and achieve high academic standards. Bullying, harassment or intimidation, like other disruptive or violent behavior, is conduct that disrupts both a student's ability to learn and a school's ability to educate its students in a safe, nonthreatening environment.

The Kanawha County Board of Education further finds that students learn by example. The Kanawha County Board of Education charges school administrators, faculty, staff and volunteers, with demonstrating appropriate behavior, treating others with respect and refusing to tolerate bullying, harassment and/or intimidation.

Kanawha County Schools shall collaborate with other state and local agencies in carrying out the purpose of this policy.

It is the intent of the Kanawha County Board of Education to ensure that the learning and working environments of Kanawha County Schools are free from any type of bullying, harassment, and intimidation.

### **53.04 General Statement of Policy.**

This policy applies to all persons at school, on school property or at a school bus stop or during any school-related activity or during any education- sponsored event whether held in a building or within or upon other property used or operated by the Kanawha County Board of Education or in another facility being used by Kanawha County Schools. This policy also applies while traveling to and from school, a school-related activity or an education-sponsored event.

No person, during school or any school-related activity or during any education-sponsored event, whether in a building or other property used or operated by the Kanawha County Board of Education or in another facility being used by Kanawha County Schools shall engage in bullying, harassment, or intimidation. Persons found to have violated this prohibition shall be subject to the penalties in Section 53.07.2 of this policy and any other penalties prescribed by law.

### **53.05 Complaint Procedures.**

**53.05.1** Any person who believes he or she has been the target of any form of bullying, harassment, or intimidation and any person with knowledge or reasonable belief of conduct which may constitute any form of bullying, harassment, or intimidation toward another person shall report the alleged acts promptly to the principal, the designated investigator or the supervisor. Assistance will be provided to individuals in need when filing such complaints. Nothing in this policy shall prevent any person from reporting bullying, harassment, or intimidation directly to the Superintendent or his or her designee, or to the West Virginia Human Rights Commission, a law enforcement agency, or any other appropriate institution or official.

**53.05.2** Any staff member who has or receives notice that a person has or may have been the target of bullying, harassment, or intimidation is required to promptly report the alleged acts to the principal, the designated investigator or supervisor. Failure to do so shall result in disciplinary action.

**53.05.3** In the event the principal, designated investigator or supervisor is the alleged harasser, the report may be made to any teacher, who shall forward such complaint to the Deputy Superintendent, who shall designate an investigator.

**53.05.4** All designated investigators shall be given training by Kanawha County Schools on an annual basis regarding proper investigative and reporting procedures.

**53.05.5** Under certain circumstances, some forms of bullying, harassment, or intimidation may rise to the level of child and/or sexual abuse under Chapter 49 of the West Virginia Code. In such situations, staff member shall comply with the provisions of law for reporting such abuse.

### **53.06 Investigation.**

**53.06.1** Upon receipt of a report or complaint alleging any form of bullying, harassment, and/or intimidation, the principal, designated investigator or the supervisor shall determine whether or not there is reasonable credible evidence to believe that the accused committed an act which would be a violation of this policy. If the principal, designated investigator or supervisor believes there is reasonable credible evidence to believe the individual committed an act which would be a violation of this policy, the principal, designated investigator or supervisor shall promptly undertake or authorize a thorough investigation. The principal or supervisor shall take prompt steps, at his or her discretion, to protect the complainant pending completion of an investigation of alleged bullying, harassment, or intimidation.

**53.06.2** After the investigator has determined that there are reasonable grounds to believe that an incident of bullying, harassment and/or intimidation has occurred, the person accused of bullying, harassment and/or intimidation and his/her parent(s), custodian(s) or guardian(s) should be notified promptly of the resulting investigation. Likewise, the parent(s), custodian(s) or guardian(s) of the target student shall be notified promptly.

**53.06.3** 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. The investigation may also consist of any other lawful methods and review of circumstances deemed pertinent by the investigator.

**53.06.4** The investigation shall be completed forthwith. In the event a student is suspended or recommended for expulsion, or an employee is recommended for disciplinary action as a result of the investigation, the investigator shall make a written report to the Superintendent with a copy to the Office of General Counsel upon completion of the investigation. If the complaint involves the Superintendent, the report may be filed directly with the President of the Board of Education. The report shall include a determination of whether the allegations have been substantiated as factual and whether they appear to be violations of this policy.

**53.06.5** The result of the investigation of each complaint filed under these procedures shall be reported in writing to the subject of the complaint or his/her legal guardian as well as the complainant or his/her legal guardian.

**53.06.6** 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 complainants, subjects, witnesses, and investigators shall be vigorously protected and violations of such confidentiality may themselves be grounds for disciplinary action. Any information relating to a reported incident shall not be subject to disclosure under the provisions of the West Virginia Freedom of Information Act.

### **53.07 Action.**

**53.07.1** In determining both the appropriate school or county response and/or the appropriate punishment for the perpetrator, the surrounding circumstances, the nature of the behavior, past incidents or past or continuing patterns of behavior, the relationships between the parties involved and the context in which the alleged incidents occurred shall be considered. Whether a particular action or incident constitutes a violation of this policy requires a determination based on all the facts and surrounding circumstances.

**53.07.2** If the results of the investigation support disciplinary action, appropriate action may include, but is not limited to, referral to the Student Assistance Team, counseling, warning, written reprimand, suspension, exclusion, expulsion or termination.

**53.07.3** If, after investigation, the principal believes a student has committed an act which would be a violation of this policy, the principal shall refer to the Kanawha County Board of Education Student Behavior Policy for the procedures and practices to follow.

**53.07.4** If, after investigation, a principal or supervisor believes a staff member has committed an act which would be a violation of this policy, the principal or supervisor shall refer the matter to the Superintendent to be handled in accordance with the Kanawha County Schools Administrative Regulation relating to Employee Misconduct.

**53.07.5** Any employee found to be in violation of this policy shall have the investigation report placed in his/her personnel file along with any and all records concerning action taken

as a result of such violation of policy. Those same records shall be promptly transmitted to the State Superintendent of Schools.

**53.07.6** The Superintendent shall also initiate such other action as is appropriate to prevent recurrences and adequately protect persons in accordance with this policy.

### **53.08 Reporting.**

**53.08.1** A principal, designated investigator, supervisor or the Superintendent, or his designee, shall promptly file any report which may be required by applicable rule, regulation, policy or directive of the West Virginia Board of Education or the West Virginia Department of Education relating to allegations or findings of bullying, harassment, and/or intimidation.

**53.08.2** Absent extraordinary circumstances, any report required to be made or filed in accordance with this policy shall be filed within 5 days from the time the person required to make the report obtained knowledge of the incident. The 5 day time period shall not include non-school or non-working days, as applicable. Notwithstanding the foregoing, if there is an imminent threat of physical harm or child abuse, the report shall be made immediately.

**53.09 Reprisal.** It shall be a violation of this policy to retaliate against another person for reporting alleged bullying, harassment, or intimidation or for testifying, assisting, or participating in an investigation, or for testifying, assisting, or participating in a proceeding or hearing relating to such bullying, harassment, or intimidation. Retaliation includes, but is not limited to, any form of intimidation, reprisal, or harassment. Any person guilty of reprisal is subject to the disciplinary action set forth in Section 53.07.2

**53.10 Right To Alternative Complaint Procedures.** These procedures do not deny the right of any person to pursue other avenues of recourse which may include filing charges with the West Virginia Human Rights Commission, initiating civil action, or seeking redress under the state criminal statutes and/or federal law.

**53.11 Prevention Programs.** The Superintendent, in conjunction with the Department of Curriculum and Instruction, the Department of Student Support Services and the Division of Human Resources, shall develop and implement forthwith an education program for each programmatic level, K-5, 6-8, and 9-12, as well as a prevention and response program for all staff and deliver it annually.

### **53.10 Dissemination of Policy and Training.**

**53.11.1** This policy or a summary shall be conspicuously posted throughout each Kanawha County Schools' facilities in areas accessible to all persons.

**53.11.2** This policy shall appear in any student handbook and in any county publication that sets forth the comprehensive rules, procedures and standards of conduct for schools.

**53.11.3** A legible copy of this policy must be disseminated to parents, custodians, or guardians of students along with an explanation of how to report violations of the policy by October 31st of each year.

**53.11.4** This policy shall be submitted to the West Virginia Department of Education upon its adoption. All subsequent revisions shall likewise be remitted to the West Virginia

Department of Education, Office of Student Services and Assessment, on or before the effective date of the revised policy.

**53.11.5** Kanawha County Schools shall develop and implement training for students and all staff members concerning this policy and its implications.

**53.11.6** The Board of Education shall review this policy at least bi- annually for compliance with state law and West Virginia Board of Education policy.

Reference: W. Va. Constitution, Article XII, § 2; and W. Va. Code §§ 18- 2-5, 18-2-5a, 18-2C-1 et seq., and 49-6A-2. West Virginia Board of Education Policy 4373 Issued: June 27, 2002  
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