

RACIAL, SEXUAL, RELIGIOUS, ETHNIC HARASSMENT AND VIOLENCE AND GENERAL DISCRIMINATION AGAINST STUDENTS AND EMPLOYEES

Purpose

The purpose of this policy and the regulations that follow is to prevent racial, sexual, religious; ethnic and gender harassment or violence, toward students and staff; to protect the academic environment; and to assure that our employees and students respond to harassment and/or violence incidents, when they occur, in a manner that effectively deters future incidents and affirms respect for individuals.

This policy draws its authority from:

Sections 703 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S. C. §2000C, et. Seq (Racial, sexual, religious/ethnic harassment and violence);

Title IX of the Education Amendments of 1972 (amended in 2020) prohibits discrimination based on sex in education programs and activities in federally funded schools at all levels;

WV Code §5-11-1 (The West Virginia Human Rights Act);

West Virginia Constitution, Art. XII, §1;

This policy prohibits acts of sexual harassment or discrimination by any individual against another individual.

Acts of harassment, intimidation, or bullying that are reasonably perceived to be based on: race; color; religion; ancestry; national origin; gender; socioeconomic status; academic status; gender identity or expression; physical appearance; sexual orientation; mental/physical/development sensory disability; or other characteristics shall be reported.

These regulations shall apply to any student, school employee, school volunteer, or members of the public in circumstances over which West Virginia Virtual Academy has reasonable control including during any school related activity or during any school sponsored event whether in a building or other property owned and operated by West Virginia Virtual Academy, or any facility or property being used by West Virginia Virtual Academy.

The appropriate West Virginia Virtual Academy personnel will investigate all complaints of harassment or violence and discipline any student or employee who harasses a

student or employee of West Virginia Virtual Academy. Penalties for members of the public shall be in compliance with the laws of West Virginia and the policies of the school system.

The Executive Director shall appoint a Title IX Coordinator who shall be the contact person at the administrative level who shall process all complaints and reports submitted to the Executive Director and shall have full authority to implement the provisions of this policy.

Employee and Student Expectations and Duties

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 promptly in a manner that is not deliberately indifferent, which s/he observes or is informed about to the Academic Administrator or the Title IX coordinator.

Employees are strictly prohibited from dating, attempting to cultivate a romantic relationship or becoming involved in an inappropriate relationship with students, regardless of the student's age or consent. This prohibition shall be in force as long as the student is considered a student within the school system, including during the summer break, holidays and other times away from school and also shall apply to all graduated students for 12 months after the student's graduation.

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 they observe, or are informed about, to any school employee or to a member of the Title IX Team.

Public Notification of this Policy and its Provisions

The contact information for the West Virginia Virtual Academy's Title IX Coordinator and a copy of the school system's policy shall be posted on the school's website, in each handbook published.

Contact Information:

Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or

written report.

Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address listed for the Title IX Coordinator.

The Title IX Team

The West Virginia Virtual Academy' Title IX Team shall consist of the following:

- ❖ Title IX Coordinator;
- ❖ Academic Administrators;
- ❖ Investigator(s) appointed by the Executive Director as needed;
- ❖ School Counselors; and
- ❖ Decision Makers (Executive Director and/or designee)

Note: The Title IX Coordinator, Investigator and Decision Maker must be three separate and independent individuals.

Definitions and Terminology Associated with Title IX:

- ❖ Sexual Harassment: Conduct on the basis of sex that satisfies one or more of the following:
 - An employee of the district conditions the provision of an aid, benefit, or service of the district on an individual's participation in unwelcome sexual conduct; or
 - Unwelcome conduct determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to the district's education program or activity; or
 - Sexual assault, dating violence, domestic violence, or stalking as defined by state code.
 - Sexual harassment may include but is not limited to:
 - Verbal harassment or abuse (i.e. graphic verbal commentary relating to an individual's body, sexual prowess or sexual deficiencies);
 - 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.

- Pressure, subtle or overt, for sexual activity.
 - Unwelcome or inappropriate patting, pinching, or contact.
 - Intentionally brushing against another's body.
 - Attempted or actual rape or sexual assault.
 - Requesting or demanding sexual favors accompanied by implied or overt threats concerning an individual's employment or education status;
 - Requesting or demanding sexual favors accompanied by implied or overt promises of preferential treatment with regard to an individual's employment or educational status.
 - 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, or
 - Any unwelcome sexually motivated touching
- ❖ **Sexual Violence:** 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;
- 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 sexual act on another;
 - Threatening to force or coerce sexual acts, including the touching of intimate parts of intercourse on another; or
 - Threatening or forcing exposure of intimate apparel or body parts by removal of clothing.
- ❖ **Racial or Religious/Ethnic Harassment:** Racial and religious/ethnic harassment consists of physical, verbal or written conduct relating to an individual's race, religious background, 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.
- ❖ **Racial or Religious/Ethnic Violence:** Racial or religious/ethnic violence is a

physical act of aggression or assault upon another because of race, or in a manner reasonably related to, race, religion, or ethnicity.

❖ **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 by a person possessing the ability to carry out the threat.

❖ **Amorous Relationships:** Amorous relationships between staff members and non-adult students of the educational agencies served by West Virginia Virtual Academy are prohibited. Staff members found to have violated this prohibition shall be subject to the disciplinary actions outlined in these procedures.

❖ **Gender Discrimination:** 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 educational program or activity receiving Federal financial assistance. This rule also applies to employment practices within the school systems.

Terminology Associated with the 2020 Amendments to Title IX

- ❖ **“Actual Knowledge”** means notice of sexual harassment or allegations of sexual harassment to the Title IX Coordinator or any West Virginia Virtual Academy official who has authority to institute corrective measures on behalf of West Virginia Virtual Academy, or any school employee. A formal complaint is not required in order for a school district to have actual knowledge of sexual harassment or allegations of sexual harassment.
- ❖ **“Advisor”** means a parent, guardian, or anyone person chosen by the Complainant or the Respondent to represent them and their interest throughout the grievance procedure.
- ❖ **“Complainant”** means an individual who is alleged to be the victim of conduct that could constitute sexual harassment.
- ❖ **“Decision Maker”** means the Executive Director or designee.
- ❖ **“Exculpatory Evidence”** means evidence that shows a person’s noninvolvement in an act or evidence that can show innocence.
- ❖ **“Formal Complaint”** means a document filed by a complainant or parent on their behalf or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting an investigation of the allegation of sexual harassment.
- ❖ **“Inculpatory Evidence”** means evidence that shows a person’s involvement in an act or evidence that can show guilt.
- ❖ **“Informal Resolution Process”** means an alternative to a full investigation and

adjudication of a formal complaint that can happen with the voluntary consent of both the complainant and respondent where the allegation does not involve an employee sexually harassing a student.

- ❖ **“Preponderance of the Evidence”** means that the evidence shows that the action alleged is more probably to have occurred than to not have occurred.
- ❖ **“Respondent”** means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.
- ❖ **“Supportive Measures”** means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the education programs or activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the educational environment, or deter sexual harassment.

Title IX Coordinator Expectation and Duties

The Title IX Coordinator must understand how the district’s policies and procedures work and be prepared to fulfill the following expectations and duties:

- ❖ Train students and staff on the Title IX grievance procedures, reporting suspected sexual harassment and any other procedures used for investigating reports of sexual violence
- ❖ Identify and address any patterns or systemic problems
- ❖ Cooperate with law enforcement and crisis center
- ❖ Be mindful of school culture and climate and collect and analyze data on school climate as appropriate
- ❖ Be available to meet with students as needed
- ❖ Avoid conflicts of interest
 - Title IX Coordinator must be independent
 - Report directly to the Executive Director
- ❖ The Title IX Coordinator must coordinate responses to all allegations of sex discrimination. This includes:
 - Implementing supportive measures
 - Monitoring outcomes
 - Identifying and addressing any emerging patterns of behavior
- ❖ The Title IX Coordinator, together with other appropriate district officials, are responsible to help monitor the implementation of nondiscrimination procedures in the following areas:

- Curriculum and Materials – Monitoring curriculum grades, textbooks and supplemental materials for discriminatory bias.
- 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.
- Student Access – Monitor programs, activities and practices to ensure that all students have equal access and are not segregated except when permissible by law or regulation.
- District Support – Monitor school programs to assure that male and female programs which are similar receive similar support when it comes to staffing, compensation, facilities, equipment and related matters.

Procedures for Reporting Complaints

A complaint under this policy should be filed as soon as possible after the time of occurrence and within 180 days of the alleged violation(s) of Title IX. Failure of a complainant or appellant to comply with any time limitation in the complaint procedure may result in dismissal of the complaint and/or denial of the appeal.

County-Wide Incidents of Sexual Harassment

Any observed incidents of sexual harassment must be reported to the Title IX Coordinator. Such incidents may be reported in person, over the telephone, or in writing, by any individual, employee, victim, or witness to the harassment.

If the complaint involves the Title IX Coordinator, the complaint or report shall be filed directly with the Executive Director, who shall then be responsible for the investigation and recommendation described in these procedures.

The complainant may attach a written narrative explaining the nature of the complaint to the form. The complaint form or narrative shall contain information that describes the conduct that allegedly constitutes sexual harassment and the date and location of the alleged incident, if known and the identities of the parties involved in the incident, if known.

If a building principal receives an oral or written report of sexual harassment, s/he must notify the Title IX Coordinator immediately without screening or investigating the report. If the report was given to the building principal verbally, s/he shall reduce it to written form before the close of the next working day and forward it to the Title IX Coordinator. The West Virginia Virtual Academy Title IX Formal Complaint Form shall be utilized for all written reports.

Failure to forward any sexual harassment report or complaint as provided herein will result in disciplinary action.

If the complaint involves the building principal, the complaint shall be made directly to the Title IX Coordinator.

It should be noted that the school employees' responsibility to report incidents of sex discrimination, harassment or violence is in addition to their obligation to report suspected child abuse and neglect and sexual abuse as defined in Chapter 49 of the WV Code.

Title IX Coordinator Follow-Up Contact with the Alleged Victim

The Title IX Coordinator shall promptly contact the alleged victim of the sexual harassment and discuss the following:

- ❖ Supportive measures available to immediately relieve any on-going issues and the alleged victim's wishes with respect to supportive measures. Supportive measures are available with or without the filing of a formal complaint. Examples of supportive measures include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, mutual restrictions on contact between the parties and other similar measures. The school district must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the school district to provide the supportive measures.
- ❖ The process for filing the formal complaint.
- ❖ The Title IX Coordinator shall document his/her conversation with the complainant and the allegations presented on the Title IX Formal Complaint Form and inform the complainant's parent or guardian of the complaint.
- ❖ Based on the allegation, the Title IX Coordinator will determine if there was a possible instance of sexual harassment, at which point the complainant/complainant's parents or guardian may decide to pursue a formal investigation. The Title IX Coordinator can also decide to pursue a formal complaint regardless of the complainant/complainant's parents or guardian's consent if the circumstances are such that it would not be reasonable to pursue without consent.

If the complainant is unwilling or unable to provide a written statement including the information set forth above, the school principal or Title IX Coordinator shall ask for such details in an oral interview. In the event the complainant is a student with disabilities, s/he will carefully review the reporting student's IEP or 504 plan to determine what specific accommodations that child should have to aid in their reporting.

Processing a Formal Complaint

Upon receipt of a formal complaint, the Title IX Coordinator shall provide the following written notice to the parties who are known:

- ❖ Notice of the school district's grievance process that complies with this section, including the availability of an informal resolution process;
- ❖ Details of the allegations, parties involved, date, location of alleged conduct.
- ❖ Supportive measures available to immediately relieve any on-going issues and the alleged victim's wishes with respect to supportive measures
- ❖ Statement that the respondent is not presumed responsible until a determination regarding responsibility is made at the conclusion of the grievance process
- ❖ The written notice must inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney and may inspect and review evidence
- ❖ A request for a meeting with the parties and advisors, if they have one, to discuss the allegations
- ❖ Date, time, location, participants and purpose of all meetings with sufficient time to prepare to participate
- ❖ REMEMBER, complainants and respondents must be treated equitably by providing remedies to a complainant where a determination of responsibility for sexual harassment has been made against the respondent and by following a process that complies with the regulations before the imposition of any disciplinary sanctions or other actions that are not supportive measures.

Dismissal of a Formal Complaint

The school district may dismiss the formal complaint or any allegations therein, if at any time during the investigation or hearing:

- ❖ a complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein;
- ❖ the respondent is no longer enrolled or employed by the school district; or
- ❖ specific circumstances prevent the school district from gathering evidence sufficient to reach a determination as to the formal complaint or allegations there. Upon a dismissal, the school district must promptly send written notice of the dismissal and reason(s) therefore simultaneously to the parties.

A notice detailing the dismissal of a complaint will be sent to all parties.

Formal Complaint Investigation and Determination of Responsibility

The Title IX Coordinator shall initially review the written, formal complaint to determine whether the matter falls within the scope of these procedures. Within five (5) days after the complaint submission date, the Title IX Coordinator shall initiate an investigation of the matters alleged, **or** inform the complainant in writing that the matters alleged in the complaint are not within the jurisdiction or authority of the Hampshire County Board of Education to investigate and that the district will not carry out any further investigation. If the matter does not involve allegations of discrimination within the scope of these procedures, the Title IX Coordinator shall forward the matter to the proper district administrative authority for review **or** refer the matter to local policy authorities as appropriate.

If the allegations are deemed to have merit, a trained investigator shall be appointed by the Executive Director and an investigation will be initiated.

The Investigation

The Title IX Coordinator shall oversee a reliable and impartial investigation of the complaint which will be conducted by an investigator designed by the Executive Director.

Both the complainant and the respondent must be provided with a WRITTEN explanation of the allegations with “sufficient details known at the time and with sufficient time (10 days) to prepare a response before any initial interview by the investigator.

Guidelines for conducting the investigation include, but are not limited to:

- ❖ The burden of proof and the burden of gathering evidence rests on the school district and not on the parties;
- ❖ If needed, the Title IX Coordinator will ask for written consent to access medical or counseling records;
- ❖ Throughout this process the school district cannot restrict the ability of either party to discuss the allegations or to gather/present relevant evidence;
- ❖ Supportive measures shall be available to both parties to relieve any ongoing issues;
- ❖ The investigation must, at a minimum, consist of personal interviews with the complainants, the individuals against whom the complaints are filed and others who may have knowledge of the alleged incidents or circumstances generating the complaints. Signed statements shall be obtained from witnesses or other people having pertinent information

about the incident. The investigation may also consist of any other methods and documents deemed pertinent by the investigators.

- ❖ All parties will have an equal opportunity to present witnesses and any inculpatory or exculpatory evidence;
- ❖ Provide the parties with the same opportunities to have others present during the process, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney and not limit the choice or presence of advisor for either the complainant or respondent. However, the school district may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties;
- ❖ The Investigator shall maintain documentation of all proceedings, which may include written findings of facts, transcripts, notes or audio recordings;
- ❖ Prior to completion of the investigative report, the school district must send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy. The parties must have at least ten (10) days to submit a written response, which the investigator will consider prior to completion of the investigative report;
- ❖ The Investigator must create an investigative report that summarizes relevant evidence and send that report to all parties, including advisors, in electronic or hard copy format. Parties may review and provide any written responses they may have within ten (10) calendar days of receiving the investigative report;
- ❖ After the parties have had access to the Investigative Report for at least ten (10) calendar days, the Title IX Coordinator will take all gathered evidence, the investigative report and all responses to the report, to the decision maker to reach a determination regarding responsibility;
- ❖ The Title IX Coordinator must offer additional supportive measures to the complainant and respondent; and
- ❖ For all processes, timelines may be delayed for good cause. Good cause may include considerations such as the absence of a party, party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

Determining Responsibility

After the parties have had access to the Investigative Report for at least ten (10) calendar days, the Title IX Coordinator will take all gathered evidence, the investigative report and all responses to the report, to the Decision Maker to reach a determination

regarding responsibility;

The Decision Maker shall notify both the complainant and respondent in writing within ten (10) days from the receipt of Investigative Report from the Title IX Coordinator.

The Decision Maker shall consider the totality of the evidence and determine whether the preponderance of the evidence (more likely to have occurred than not to have occurred) establishes that the alleged discrimination occurred.

The Written Determination Must Include:

- ❖ Identification of the allegations potentially constituting sexual harassment;
- ❖ A description of the procedural steps taken from the receipt of the formal complaint through the determination, including
 - Any notifications to the parties,
 - Interviews with parties and witnesses;
 - Site visits, and
 - Methods used to gather other evidence,
- ❖ Findings of fact supporting the determination;
- ❖ Conclusions regarding the application of the school district's policies regarding expected student behavior to the facts;
- ❖ A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the school district imposes on the respondent and whether remedies designed to restore or preserve equal access to the school district's education program or activity will be provided by the school district to the complainant; and
- ❖ The school district's procedures and permissible bases for the complainant and respondent to appeal.

The written determination must be provided to the parties simultaneously. The determination regarding responsibility becomes final either on the date that the school district provides the parties with the written determination or the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

The Executive Director shall be responsible for the effective implementation of any remedies.

Informal Resolution Policy and Procedure

An Informal Resolution Process may be facilitated at any time after the formal complaint is filed and prior to the determination regarding responsibility. This process takes the

form of informal mediation and does not involve a full investigation and adjudication. The Informal Mediator shall be appointed by the Executive Director.

- ❖ An informal resolution process is available to any complainant who has filed a formal complaint, provided that the respondent voluntarily agrees to the process with written consent.
- ❖ An impartial qualified individual shall be the mediator for this process. This individual shall not be anyone who was involved in the formal complaint process.
- ❖ Any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the process with respect to the formal complaint.
- ❖ This process is not available to resolve allegations that an employee of West Virginia Virtual Academy sexually harassed a student.
- ❖ A school district may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment.

Appeals from the Formal Complaint Process

Both parties must be offered an appeal from a determination regarding responsibility and from a school district's dismissal of a formal complaint or any allegations therein. Appeals must be in writing and sent to the Executive Director.

An appeal may be made on the following bases:

- ❖ Procedural irregularity that affected the outcome of the matter;
- ❖ New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
- ❖ The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.
- ❖ A school district may offer an appeal equally to both parties on additional bases.

As to all appeals, the school district must:

- ❖ Notify the other parts in writing when an appeal is filed and implement appeal procedures equally for both parties;
- ❖ Ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding

- responsibility or dismissal, the investigator(s) or the Title IX Coordinator;
- ❖ Ensure that the decision-maker(s) for the appeal complies with the standards set forth for the bases for the appeal;
 - ❖ Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
 - ❖ Issue a written decision describing the result of the appeal and the rationale for the result; and
 - ❖ Provide the written decision simultaneously to both parties.

Student and Employee Disciplinary Corrective Actions

Employees and students may be disciplined if it is determined through this procedure that discriminatory action, treatment, harassment or retaliation for complaining, has occurred in violation of federal or state laws or district policies. The Title IX Coordinator shall confer with the appropriate administrators to initiate disciplinary proceedings against the respondent.

Students

Disciplinary actions and procedures shall be consistent with SBP 4373 Expected Behavior in Safe and Supportive Schools, Board policies and district procedures and other applicable state and federal laws, rules, regulations and constitutional requirements.

If the recommended disciplinary consequences involve either a long-term suspension or expulsion, the student is entitled to pursue the hearing and appeal rights pursuant to SBP 4373.

Employees

If the written report of the Decision Maker or an appeal resolution results in a finding that the respondent committed a violation of the West Virginia Virtual Academy' Code of Conduct or any laws or regulations applicable to the respondent, corrective action shall be rendered in accordance with existing district policies to ensure a substantial likelihood that such conduct ceases and will not recur and to remedy any effects of the violation for which the district is responsible.

If the disciplinary consequence involves suspension or termination, the employee's hearing and appeal rights will be governed by West Virginia law and district policies.

Employee and student behavior that rises to the level of possible criminal behavior may be referred to the appropriate legal authorities for review.

Confidentiality

The school district must keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent and any witness, except as may be permitted by the FERPA, including the conduct of any investigation, hearing or judicial proceedings arising thereunder.

Notwithstanding anything to the contrary in this policy, while a complainant has the right to all documents in the investigation and the written determination, the disciplinary action shall not be disclosed to a complainant 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.

Retaliation

No school district or other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing.

Intimidation, threats, coercion or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX, constitutes retaliation.

Right to Alternative Complaint Procedures

These procedures do not deny the right of any individual to pursue other avenues of recourse that may include filing charges with the West Virginia Human Rights Commission, filing an employee grievance under WV Code §18-29-1, et. Seq., filing a citizen's appeal under West Virginia Board of Education Policy 7211, filing a Title IX grievance under the appropriate procedures, initiating civil action, or seeking redress under state criminal status and/or federal law.

Recordkeeping

A school district must maintain for a period of seven (7) years records of:

- ❖ Each sexual harassment investigation including
 - Any determination regarding responsibility
 - Any audio or audiovisual recording or transcript

- Any disciplinary sanctions imposed on the respondent, and
 - Any remedies provided to the complainant designed to restore or preserve equal access to the school district's education program or activity.
 - ❖ Any appeal and the result therefrom;
 - ❖ Any informal resolution and the result therefrom; and
 - ❖ All materials used to train Title IX Coordinators, investigators, decision makers and any person who facilitates an informal resolution process.
- A school district must make this training material publicly available on its website.

For each response required under §106.44, a school district must create and maintain for a period of seven (7) years, records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment.

In each instance, the school district must document the basis for its conclusion that its response was not deliberately indifferent and document that it has taken measures designed to restore or preserve equal access to the school district's education program or activity.

If a school district does not provide a complainant with supportive measures, then the school district must document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

The documentation of certain bases or measures does not limit the school district in the future from providing additional explanations or detailing additional measures taken.

False Complaints

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 complaint shall be dismissed and the complaining individual shall be subject to discipline.

Students, filing of false charges or for acts of reprisal the disciplinary action shall be in accordance with SBP 4373 Acceptable Behavior in Safe and Supportive Schools. For school employees, filing of false charges shall constitute a violation of the Employee Code of Conduct and may subject the employee to disciplinary action.

Parents and/or other members of the public who falsely (and in bad faith and 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.

Relationship of these Procedures and Timelines to Law Enforcement Activities

Nothing in these procedures should in any way be deemed to discourage the complainant from reporting acts subject to these Procedures, including acts of sexual violence, to local law enforcement. In the event that the complainant files a criminal complaint, the Title IX Coordinator should not wait for the conclusion of a criminal investigation or criminal proceeding to begin the district's own Title IX investigation.

Although the District may need to delay temporarily the fact-finding portion of a Title IX investigation while local law enforcement officials are gathering evidence, it is important for the Title IX Coordinator to understand that during this brief delay in the Title IX investigation, the district must take interim measures to protect the complainant in the educational setting. The district should also continue to update the parties on the status of the investigation and inform the parties when the district resumes its Title IX investigation.

Review Schedule

This policy shall be reviewed in accordance with the Policy Review Schedule.

AUTHORITY: Sections 703 of title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000C.et. Seq (Racial, sexual, religious/ethnic harassment and violence); Title IX of the Education Amendments of 1972 (amended in 2020) prohibits discrimination based on sex in education programs and activities in federally funded schools at all levels; WV Code §5-11-1 (The West Virginia Human Rights Act); West Virginia Constitution, Art XII, §1; SBP4373

West Virginia Virtual Academy Title IX Formal Complaint Form

PURPOSE: The purpose of the Title IX grievance procedures is to secure, at the lowest possible level, prompt and equitable resolutions of complaints based on sex discrimination, including complaints of sexual harassment or sexual violence, in violation of Title IX of the Education Amendments of 1972 ("Title IX") and violation of district policies that prohibit these types of discrimination. These procedures apply **only to** complaints alleging discrimination prohibited by Title IX (including sexual harassment and sexual violence).

INSTRUCTIONS: Individuals alleging Title IX discrimination and requesting review are required to complete this form and submit it to the appropriate administration as soon as possible and within 180 days of the alleged violation(s) after the occurrence of the alleged discrimination:

Title IX Complaints:

Contact Information:

Name of Complainant:

Complainant's Address:

Street City/State Zip :

Complainant's Phone Number:

1. School/Office: Grade (if applicable)

2. Nature of Grievance: Please describe the action you believe may be sex discrimination, including complaints of sexual harassment or sexual violence, in violation of Title IX and identify with reasonable particularity and person(s) you believe may be responsible. Please attach additional sheets, if necessary:

3. When did the actions described above occur?

4. Are there any witnesses to this matter? (Please circle) Yes No If yes, please

identify the witnesses:

5. Did you discuss this matter with any of the witnesses identified in Item 4? (Please circle) Yes No

If yes, please identify:

Person(s) to whom you have spoken:

6. Have you spoken to any administrator(s) or other district employee(s) about this matter? (Please circle) Yes No

If yes, please identify:

Person(s) to whom you have spoken:

7. Please describe the result of the discussion(s) identified in Item 6:

PLEASE ATTACH ANY STATEMENTS, NAMES OF WITNESSES, REPORTS OF OTHER DOCUMENTS WHICH YOU FEEL ARE RELEVANT TO YOUR COMPLAINT.

I certify that the foregoing information is true and correct:

Print Name

Signature

Date