

SCOTT COUNTY PUBLIC SCHOOLS POLICY AND PROCEDURE

PREVENTION OF SEXUAL MISCONDUCT AND ABUSE/SEXUAL HARASSMENT

The Scott County School Board demonstrates its commitment to protecting students from sexual misconduct and abuse which includes: sexual violence; sexual harassment; or harassment based on race, national origin, disability or religion all of which fall under TITLE IX. This is accomplished through:

1. Compliance with all state and local laws and regulations related to the screening of prospective employees for the conviction of barrier crimes and founded cases of child abuse and neglect;
2. Compliance with all state laws related to the reporting of suspected child abuse and neglect;
3. Compliance with all state laws and regulations related to reporting to the Virginia Department of Education of resignations and dismissals of licensed employees related to convictions of barrier crimes and founded cases of abuse and neglect;
4. The development, effective implementation and enforcement of clear and reasonable policies governing the interactions of students and school board employees and volunteers;
5. The establishment of channels for reporting by students and parents of suspected misconduct and abuse, and the prompt notification of law enforcement when criminal activity is alleged or suspected; and
6. Disclosure of formal reprimands and dismissals for violating school board policies on sexual misconduct and abuse prevention to school divisions seeking references.

For the purpose of this policy, school personnel include school board members, superintendent, school employees, agents, volunteers, contractors or other persons subject to the supervision and control of the School Division.

I. Policy Statement

Scott County Public Schools is committed to maintaining a learning/working environment prohibiting sexual misconduct including: sexual violence; sexual harassment (including harassment/discrimination against pregnant or parenting students); or harassment based on race, color, religion, national origin, political affiliation, gender/sex, age, marital status or disability of any student or school personnel at school or any school sponsored activity.

It shall be a violation of this policy for any student or school personnel to harass a student or school personnel sexually, or based on race, national origin, disability, or religion. Further, it shall be a violation of this policy for any school personnel to tolerate sexual misconduct; sexual violence; sexual harassment (including harassment of pregnant or parenting students); or harassment of color, religion, national origin, political affiliation, gender/sex, age, marital status, or disability by students, school personnel or third parties participating in, observing or otherwise engaged in school sponsored activities.

Scott County Public Schools shall: (1) promptly conduct a prompt, thorough, and impartial investigation separate from any legal investigation, written or verbal, involving sexual misconduct, sexual violence, sexual harassment (including pregnant or parenting students) and harassment based on color, religion, national origin, political affiliation, gender/sex, age, marital status, race, national origin, or disability; (2) promptly take appropriate action to stop any harassment and (3) take appropriate action against any student or school personnel who violates this policy and take any other action reasonable calculated to end and prevent further harassment of school personnel or students. Scott County Public Schools will use a "preponderance of the evidence" standard of proof when addressing sexual violence. Therefore, if it is more likely than not that sexual violence or harassment occurred, even if there is the slightest likelihood of occurrence, Scott County Public Schools will respond by enacting Title IX.

II. Definitions

Sexual Misconduct means unwanted and unwelcome verbal or physical contact of a sexual nature that is sufficiently severe, persistent, or pervasive to limit a student's ability to participate in or benefit from an education program or activity. Sexual misconduct creates a hostile environment for the student(s) and may include: telling jokes of a sexual nature, sexual teasing, touching, etc. (All of which are forms of sexual harassment covered under Title IX.)

Sexual Violence is defined as physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's use of drugs or alcohol or due to an intellectual or other disability. Acts that fall into the category of sexual violence include rape, sexual assault, sexual battery, sexual abuse, and sexual coercion. (All of which are forms of sexual discrimination prohibited by Title IX.)

Sexual Harassment (Including Pregnant and Parenting Students) is unwelcome conduct of a sexual nature. Sexual harassment can include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature when:

1. Submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining or retaining employment or education; or
2. Submission to or rejection of the conduct or communication by an individual is used as a factor in decisions affecting that individual's employment or education; or
3. That conduct or communication substantially or unreasonably interferes with an individual's employment or education, or creates an intimidating, hostile or offensive employment or educational environment (i.e. the conduct is sufficiently serious to limit a student's or employee's ability to participate in or benefit from the educational program or work environment).

Sexual harassment of a student can deny or limit, on the basis of sex, the student's ability to participate in or to receive benefits, services, or opportunities in the school's program. Sexual harassment of students is, therefore, a form of sex discrimination prohibited by Title IX under the circumstances described in this guidance.

Examples of conduct which may constitute sexual harassment if it meets the immediately preceding definition include:

- Unwelcome sexual physical contact;
- Unwelcome ongoing or repeated sexual flirtation or propositions, or remarks;
- Sexual slurs, leering, epithets, threats, verbal abuse, derogatory comments or sexually degrading descriptions;
- Graphic comments about an individual's body;
- Sexual jokes, notes, stories, drawings, gestures or pictures;
- Spreading sexual rumors;
- Touching an individual's body or clothes in a sexual way;
- Displaying sexual objects, pictures, cartoons or posters; or

- Impeding or blocking movement in a sexually intimidating manner.

Harassment Based on Race, National Origin, Disability or Religion consists of physical or verbal conduct relating to an individual's race, national origin, disability or religion when the conduct:

- Creates in intimidating, hostile or offensive working or educational environment; or
- Substantially or unreasonably interferes with an individual's work or education; or
- Otherwise is sufficiently serious to limit an individual's employment opportunities or to limit a student's ability to participate in or benefit from the education program.

Examples of conduct which may constitute harassment based on race, national origin, disability or religion if it meets the immediately preceding definition include:

- Graffiti containing racially offensive language;
- Name calling, jokes or rumors;
- Physical acts of aggression against a person or his property because of that person's race, national origin, disability or religion;
- Hostile acts which are based on another's race, national origin, religion or disability;
- Written or graphic material which is posted or circulated and which intimidates; or
- Threatens individuals based on their race, national origin, disability or religion.

Electronic Communications: Digital technology and social networking provide multiple means for educators and other school personnel to communicate with students and personalize learning. However, Scott County Public Schools ensures that electronic and online communications between employees, volunteers and individual students are transparent, accessible to supervisors and parents, and professional in content and tone.

As with in-person communications, educators and volunteers should avoid appearances of impropriety and refrain from inappropriate electronic communications with students. Factors that are considered in determining whether an electronic communication is inappropriate include, but are not limited to:

- The subject, content, purpose, authorization, timing and frequency of the communication;
- Whether there was an attempt to conceal the communication from supervisors and/or parents;
- Whether the communication could be reasonably interpreted as soliciting sexual contact or a romantic relationship; and
- Whether the communication was sexually explicit.

School personnel should maintain transparency and accessibility in all electronic communications by only addressing school issues that are not of a personal nature. Communications should only include homework assignments, events for students/parents, any change of schedule, open-house, extra-curricular activities, guest speakers, etc. Electronic communications should not:

- Be of a sexual nature;
- Show school board employees in compromising situations (parties, drinking, etc.);
- Use language that is inappropriate, intimidating, flirtatious, romantic or of a sexual/offensive nature.

Social networking among students in the privacy of their homes or off of school grounds cannot be monitored by school officials unless carried over into the school. If a student threatens another student, slanders another student or makes comments of a sexual nature as a result of social networking and an altercation at school results, then the school may take appropriate action against the students involved.

Safe Environment: By following school board policies addressing sexual misconduct and abuse: teachers, administrators, and other educators and employees provide a safe and healthy environment for teaching and learning. Scott County Public Schools' policies addressing sexual misconduct and abuse include these elements:

- Statement of Purpose;
- Rules governing communication and interaction between students and school board employees;
- Procedures for reporting suspected misconduct and abuse;
- Training of school personnel and volunteers and the dissemination of sexual misconduct and abuse prevention policies to school board employees, volunteers, students, and parents; and
- Applicability to teachers and other employees of virtual school programs and other vendors providing instructional services to students

Statement of Purpose: The responsibility for protecting students from sexual misconduct and abuse is the responsibility of the school board, superintendent, administrators, teachers and other school board employees, school volunteers, parents, state agencies, and law enforcement.

Rules Governing Communication and Interaction Between Students and School Board Employees: Scott County Public Schools recognizes the importance of communication and interaction in learning and instruction while establishing reasonable boundaries for educator-student relationships. Educators and other employees can protect themselves from misunderstanding and false accusations by adhering to division policies.

School board employees and volunteers should avoid appearances of impropriety when interacting with students. Educators, other employees and volunteers should be aware of behaviors often associated with inappropriate conduct that can create an appearance of impropriety, including:

- Conducting ongoing, private, conversations with individual students that are unrelated to school activities or the well-being of the student and that take place in locations inaccessible to others;
- Inviting a student or students for home visits without informing parents;
- Visiting the homes of students without the knowledge of parents;
- Inviting students for social contact off school grounds without the permission or knowledge of parents; and
- Transporting students in personal vehicles without the knowledge of parents or supervisors.

Personal contact between adults and students must always be nonsexual, appropriate to the circumstances and unambiguous in meaning. Employees and volunteers should respect boundaries consistent with their roles as educators, mentors and caregivers. Violations of these boundaries include:

- Physical contact with a student that could be reasonably interpreted as constituting sexual harassment;
- Showing pornography to a student;
- Unnecessarily invading a student's personal privacy;
- Singling out a particular student or group of students for personal attention and friendship beyond the bounds of an appropriate educator/mentor-student relationship
- Conversation of a sexual nature with students not related to the employee's professional responsibilities; and
- A flirtatious, romantic or sexual relationship with a student.

Procedures for Reporting Suspected Misconduct and Abuse: For clarification when referring to sexual misconduct and abuse include, the term may include any of the following: sexual violence; sexual harassment; or harassment based on race, national origin, disability or religion all of which fall under TITLE IX.

School Board employees and volunteers have an obligation to report violations of the division's policies for preventing sexual misconduct to the principal or his/her designee or to the division's superintendent. This obligation is in addition to the statutory responsibility to report suspected abuse and neglect.

Inadvertent and innocuous violations of Scott County Public Schools' policies may warrant additional counseling and training. Appropriate formal disciplinary action will follow violations of local policies when the substance of the conduct or communication in question is found to be inappropriate, flirtatious, romantic or sexual.

III. Complaint Procedure

A. Formal Procedure

1. File Report

Any student or school personnel who believes he or she has been the victim of sexual harassment (including discrimination against pregnant and parenting students) or harassment based on race, color, national origin, gender/sex, religion, political affiliation, age, marital status or disability by a student, school personnel or a third party should report the alleged harassment to one of the compliance officers designated in this policy or to any school personnel. The alleged harassment should be reported as soon as possible, and the report generally should be made within fifteen (15) school days of the occurrence. Further, any student who has knowledge of conduct which may constitute prohibited harassment should report such conduct to one of the compliance officers designated in this policy or to any school personnel. Any school personnel who has notice that a student or other school personnel may have been a victim of prohibited harassment shall immediately report the alleged harassment to one of the compliance officers designated in this policy.

The reporting party should use the form, Report of Harassment, JFHA-F, to make complaints of harassment. However, oral reports and other written reports shall also be accepted. The complaint should be filed with either the building principal or one of the compliance officers designated in this policy. The principal shall immediately forward any report of alleged prohibited harassment to the compliance officer. Any complaint that involves the compliance officer or principal shall be reported to the superintendent.

The complaint, and identity of the complainant and alleged harasser, will be disclosed only to the extent necessary to fully investigate the complaint and only when such disclosure is required or permitted by law. Additionally, a complainant who wishes to remain anonymous shall be advised that such confidentiality may limit the School Division's ability to fully respond to the complaint.

2. Investigation

Upon receipt of a report of alleged prohibited harassment, the compliance officer shall immediately authorize or undertake an investigation. The investigation may be conducted by school personnel or a third party designated by the school division. The investigation shall be completed as soon as practicable, which generally should be not later than 14 school days after receipt of the report by the compliance officer. Upon receiving the complaint, the compliance officer shall acknowledge receipt of the complaint by giving written notice that the complaint has been received to both the person complaining of harassment and the person accused of harassment. Also upon receiving the complaint, the compliance officer shall determine whether interim measures should be taken pending the outcome of the investigation. Such interim measures may include, but are not limited to, separating the alleged harasser and the complainant and, in cases involving potential criminal conduct, determining whether law enforcement officials should be notified. If the compliance officer determines that more than 14 days will be required to investigate the complaint, the complainant and the accused shall be notified of the reason for the extended investigation and of the date by which the investigation will be concluded. If the alleged harassment may also constitute child abuse, then it must be reported to the Department of Social Service in accordance with Policy JHG.

The investigation may consist of personal interviews with the complainant, the alleged harasser, and any others who may have knowledge of the alleged harassment or the circumstances giving rise to the complaint. The investigation may also consist of the inspection of any other documents or information deemed relevant by the investigator. The school division shall take necessary steps to protect the complainant and others pending the completion of the investigation.

In determining whether alleged conduct constitutes a violation of this policy, the division shall consider, at a minimum: (1) the surrounding circumstances; (2) the nature of the behavior; (3) past incidents or past or continuing patterns of behavior; (4) the relationship between the parties; (5) how often the conduct occurred; (6) the identity of the alleged perpetrator in relation to the alleged victim (i.e. whether the alleged perpetrator was in a position of power over the alleged victim); (7) the location of the alleged harassment; (8) the ages of the parties and (9) the context in which the alleged incidents occurred. Whether a particular action or incident constitutes a violation of this policy requires a case by case determination based on all of the facts and circumstances revealed after a complete and thorough investigation.

The compliance officer shall issue a written report to the superintendent upon completion of the investigation. If the complaint involves the superintendent, then the report shall be sent to the School Board. The report shall include a determination of whether the allegations are substantiated, whether this policy was violated and recommendations for corrective action, if any.

All employees shall cooperate with any investigation of alleged harassment conducted under this policy or by an appropriate state or federal agency.

3. Action by Superintendent

Within 5 calendar days of receiving the compliance officer's report, the Superintendent or designee shall issue a decision regarding whether this policy was violated. This decision must be provided in writing to the complainant and the alleged perpetrator. If the Superintendent or designee determines that prohibited harassment occurred, the Scott County School Division shall take prompt, appropriate action to address and remedy the violation as well as prevent any recurrence. Such action may include discipline up to and including expulsion or discharge. Whether or not the Superintendent or designee determines that prohibited harassment occurred, the Superintendent or designee may determine that school-wide or division-wide training be conducted or that the complainant receives counseling.

4. Appeal

If the Superintendent or designee determines that no prohibited harassment occurred, the employee or student who was allegedly subjected to harassment may appeal this finding to the School Board within 5 calendar days of receiving the decision. Notice of appeal must be filed with the superintendent who shall forward the record to the School Board. The School Board shall make a decision within 30 calendar days of receiving the record. The School Board may ask for oral or written argument from the aggrieved party and the superintendent and any other individual the School Board deems relevant.

If the Superintendent or designee determines that prohibited harassment occurred and discipline is imposed, the disciplined person may appeal the disciplinary sanction in the same manner as any other such sanction would be appealed.

Employees may choose to pursue their complaints under this policy through the relevant employee grievance procedure instead of the complaint procedure in this policy.

5. Compliance Officer and Alternate Compliance Officer

The Scott County School Board has designated **Brenda Robinette**, 340 East Jackson Street, Gate City, VA 24251, 276-386-6118 as the Compliance Officer responsible for identifying, preventing and remedying prohibited harassment. Complaints of harassment may also be made to the Alternate Compliance Officer, **Jason Smith** or **Jennifer Frazier**, 340 East Jackson Street, Gate City, VA 24251, 276-386-6118. The Compliance Officer shall:

- receive reports or complaints of harassment;
- oversee the investigation of any alleged harassment;
- assess the training needs of the school division in connection with this policy;
- arrange necessary training to achieve compliance with this policy;
- insure that any harassment investigation is conducted by an impartial investigator who is trained in the requirements of equal employment/education opportunity, including the authority to protect the alleged victim and others during the investigation.

B. Informal Procedure

If the complainant and the person accused of harassment agree, the student's principal or designee may arrange for them to resolve the complaint informally with the help of a counselor, teacher, or administrator.

If the complainant and the person accused of harassment agree to resolve the complaint informally, they shall each be informed that they have the right to abandon the informal procedure at any time in favor of the initiation of the Formal Procedures set forth herein. The principal or designee shall notify the complainant and the person accused of harassment in writing when the complaint has been resolved. The written notice shall state whether prohibited harassment occurred.

IV. Retaliation

Retaliation against students or school personnel who report harassment or participate in any related proceedings is prohibited. The School Division shall take appropriate action against students or school personnel who retaliate against any student or school personnel who reports alleged harassment or participates in related proceedings. The Compliance Officer will inform persons who make complaints, who are the subject of complaints, and who participate in investigations, of how to report any subsequent problems.

V. Right to Alternative Complaint Procedure

Nothing in this policy shall deny the right of any individual to pursue other avenues of recourse to address concerns relating to prohibited harassment including initiating civil action, filing a complaint with outside agencies or seeking redress under state or federal law.

VI. Prevention and Notice of Policy

Training to prevent sexual harassment and harassment based on race, national origin, disability and religion should be included in employee and student orientations as well as employee in-service training.

This policy shall be (1) displayed in prominent areas of each division building in a location accessible to students, parents and school personnel, (2) included in the student and employee handbooks; and (3) sent to parents of all students within 30 calendar days of the start of school. Further, all students, and their parents/guardians, and employees shall be notified annually of the names and contact information of the compliance officers.

VII. False Charges

Students or school personnel who knowingly make false charges of harassment shall be subject to disciplinary action as well as any civil or criminal legal proceedings.

VIII. Training of School Personnel and Volunteers

Training to prevent sexual misconduct and abuse should be included in employee and student orientations as well as employee in-service training. Further information may be obtained from the Scott County Public School website. All principals, assistant principals and guidance personnel are good resources for further information.

Training packets will be distributed to substitute personnel, volunteers, agents, all outside contractors, and other persons subject to the supervision and control of Scott County Public Schools.