

VIRGINIA SCHOOL FOR THE DEAF AND THE BLIND

Title IX – Prohibition Against Discrimination, Harassment and Retaliation **Policy Number: G036**

I. POLICY

The Virginia School for the Deaf and the Blind (VSDB) Board of Visitors (Board) is committed to maintaining an educational and residential environment and workplace that is free from harassment and discrimination on the basis of gender, race, color, national origin, disability, religion, ancestry, age, marital status, sexual orientation, gender identity, genetic information or any other characteristic protected by law or based on a belief that such characteristic exists at school or any school sponsored activity. The VSDB Board is an equal opportunity employer and provides equal educational opportunities for all students, without regard to gender, race, color, national origin, disability, religion, ancestry, age, marital status, sexual orientation, gender identity, genetic information or any other characteristic protected by law or based on a belief that such characteristic exists at school or any school sponsored activity. Educational programs and services, including but not limited to health, physical education, music, and career and technical education, will be designed to meet the varying needs of all students and will not discriminate against any individual on the basis of gender, race, color, national origin, disability, religion, ancestry, age, marital status, sexual orientation, gender identity, genetic information or any other characteristic protected by law or based on a belief that such characteristic exists at school or any school sponsored activity.

In accordance with federal and state laws, regulations, policy, the Board prohibits discrimination, harassment, and retaliation by individuals subject to its control or supervision against students, employees, interns, volunteers, contractors or others on the basis of gender, race, color, national origin, disability, religion, ancestry, age, marital status, sexual orientation, gender identity, genetic information or any other characteristic protected by law or based on a belief that such characteristic exists at school or any school sponsored activity.

It is a violation of this policy for any student or school personnel to engage in discrimination and/or harassment against a student or school personnel based on gender, race, color, national origin, disability, religion, ancestry, age, marital status, sexual orientation, gender identity, genetic information or any other characteristic protected by law or based on a belief that such characteristic exists at school or any school sponsored activity or any other status protected by law. Further, it is a violation of this policy for any school personnel to tolerate discrimination or harassment based on a student's or employee's gender, race, color, national origin, disability, religion, ancestry, age, marital status, sexual orientation, gender identity, or genetic information or any other characteristic protected by law or based on a belief that such characteristic exists at school or any school sponsored activity, by students, school personnel or third parties participating in, observing or otherwise engaged in school sponsored activities. It is also a violation of this policy to retaliate against students or school personnel who report

discrimination and/or harassment, or participate in any related proceedings. For the purpose of this policy, school personnel includes the VSDB Board, school employees, interns, volunteers, contractors or other persons subject to the supervision and control of the School.

Questions of impermissible discrimination, harassment, and/or retaliation on these bases will be addressed in accordance with this **Policy** and the **Complaint Procedures** (below). VSDB shall: (1) promptly investigate all complaints, written or verbal, of discrimination and/or harassment based on gender, race, color, national origin, disability, religion, ancestry, age, marital status, sexual orientation, gender identity, genetic information or any other characteristic protected by law or based on a belief that such characteristic exists at school or any school sponsored activity; (2) promptly take appropriate action to stop any discrimination and/or harassment; and (3) take appropriate action against any student or school personnel who violates this policy, including students or school personnel who retaliate against any student or school personnel who reports alleged discrimination and/or harassment, and take any other action reasonably calculated to end and prevent further harassment of school personnel or students.

Questions regarding discrimination prohibited by the Title IX of the Education Amendments of 1972, or other federal law, may be referred to the Compliance Officer/Title IX Coordinator **Nathan McLamb**, PO Box 2069, Staunton VA 24401, 540-332-9065, Nathan.McLamb@vsdb.virginia.gov or Compliance Officer/Title IX Coordinator **Pattye Leslie**, PO Box 2069, Staunton VA 24401, 540-332-9219, Pattye.Leslie@vsdb.k12.va.us.

Questions and complaints may also be made to the United States Department of Education's Office for Civil Rights at ocr.dc@ed.gov or call 1(800) 421-3481.

II. DEFINITIONS

A. Discrimination

- Inequitable and unlawful treatment based on an individual's protected characteristics or statuses – basis of gender, race, color, national origin, disability, religion, ancestry, age, marital status, sexual orientation, gender identity, genetic information or any other characteristic protected by law or based on a belief that such characteristic exists at school or any school sponsored activity or any other status protected by law – that excludes an individual from participation in, denies the individual the benefits of, treats the individual differently or otherwise adversely affects a term or condition of an individual's employment, education, living environment or participation in a VSDB program or activity. This includes failing to provide reasonable accommodation, consistent with state and federal law, to persons with disabilities.
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B. Harassment

- A form of discrimination in which unwelcome verbal, written, or physical conduct is directed towards an individual on the basis of his or her protected characteristics or statuses, by any member of the VSDB community. Harassment does not have to include intent to harm, be directed at a specific target, or involve repeated incidents. Harassment violates this policy when it creates a hostile environment.

Harassment Based on Gender, Sexual Orientation, and Gender Identity

Harassment based on gender consists of unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct or other verbal or physical conduct or communication, which may include use of cell phones or the internet, of a sexual nature when:

- submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining or retaining employment or education;
- 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
- submission to 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).

Examples of conduct which may constitute harassment based on gender, sexual orientation, and/or gender identity if it meets the immediately preceding definition include:

- sexual assault
- unwelcome sexual physical contact
- unwelcome ongoing or repeated sexual flirtation or propositions, or remarks
- unwelcome 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
- unwelcome touching an individual's body or clothes in a sexual way
- displaying sexual objects, pictures, cartoons or posters
- impeding or blocking movement in a sexually intimidating manner
- sexual violence
- display of written materials, pictures, or electronic images
- unwelcome acts of verbal, nonverbal, written, graphic, or physical conduct based on gender or gender stereotyping

- sex/gender-based harassment involving persons of the same or different sexes,
- sex/gender-based harassment directed towards stereotypical notions of what is female/feminine v. male/masculine or a failure to confirm to those gender stereotypes

Harassment Based on Race, National Origin, Disability or Religion

Harassment based on race, national origin, disability or religion consists of physical or verbal conduct, which may include use of cell phones or the internet, relating to an individual's race, national origin, disability or religion when the conduct:

- creates an intimidating, hostile or offensive working or educational environment;
- 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

C. Hostile Environment

- Created by oral, written, graphic or physical conduct that is sufficiently severe, persistent or pervasive and objectively offensive that it interferes with limits or denies the ability of an individual to participate in or benefit from the VSDB's educational programs, services, opportunities, or activities or the individual's employment access, benefits, or opportunities. Mere subjective offensiveness is not enough to create a hostile environment. IN determining whether conduct is severe, persistent, or pervasive, and thus creates a hostile environment, the following factors will be considered: (a) the degree to which the conduct affected one or more individuals' education or employment; (b) the nature, scope, frequency, duration, and location of the incident(s); (c) the identity, number, and relationships of persons involved; (4) the perspective of a "reasonable person" in the same situation as the person subjected to the conduct, and (3) the nature of the VSDB's educational and residential program.

D. Retaliation

- Includes intimidation, threats, harassment, and other adverse action taken or threatened against any complainant or person reporting or filing a complaint alleging discrimination, harassment or any person cooperating in the investigation of allegations of discrimination, harassment to include testifying, assisting or participating in any manner in an investigation pursuant to this policy and the Complaint Procedures is strictly prohibited by this policy. Action is generally deemed adverse if it would deter a reasonable person in the same circumstances from opposing practices prohibited by this policy. Retaliation may result in disciplinary or other action independent of the sanctions or interim measures imposed in response to the underlying allegations of discrimination, intimidation, threat, or coercion against a Compliance Officer/Title IX Coordinator for the purpose of interfering with his or her job responsibilities.

E. Additional Prohibited Behavior

Behavior that is not unlawful or does not rise to the level of illegal discrimination, harassment, or retaliation may nevertheless be unacceptable for the educational environment or the workplace. Demeaning or otherwise harmful actions are prohibited, particularly if directed at personal characteristics including, but not limited to, socioeconomic level, sexual orientation, gender identity, or perceived sexual orientation or gender identity.

III. COMPLAINT PROCEDURE

A. Formal Procedure

1. File Report

Any student or school personnel who believes he or she has been the victim of discrimination or harassment based on gender, race, color, national origin, disability, religion, ancestry, age, marital status, gender, gender identity or genetic information or any other characteristic protected by law or based on a belief that such characteristic exists by a student, school personnel or a third party should report the alleged harassment to one of the Compliance Officers/Title IX Coordinators designated in this Policy and Complaint Procedure, or to any school personnel. The alleged discrimination and/or harassment should be reported as soon as possible.. Further, any student or school personnel who has knowledge of conduct which may constitute prohibited discrimination and/or harassment should report such conduct to one of the Compliance Officers/Title IX Coordinators designated in this policy or to any school personnel. Any school personnel who notices that a student or other school personnel may have been a victim of prohibited discrimination and/or harassment shall immediately report the alleged discrimination or harassment to one of the Compliance Officers/Title IX Coordinators designated in this Policy and Complaint Procedures.

The reporting party should use the form, **Report of Discrimination/Harassment (see Appendix I)**, to make complaints of Discrimination and/or harassment. However, oral reports (by telephone or in person) and other written reports (not using the form) shall also be accepted. The complaint should be filed with one of the Compliance Officers/Title IX Coordinators designated in this Policy and Complaint Procedures or any school personnel. The personnel shall immediately forward any report of alleged prohibited discrimination and/or harassment to the Compliance Officer/Title IX Coordinator. Any complaint that involves the Compliance Officers/Title IX Coordinators or principal shall be reported to the Superintendent.

The complaint, and identity of the complainant and alleged perpetrator, 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 VSDB's ability to fully respond to the complaint.

2. Investigation

Upon receipt of a report of alleged prohibited discrimination and/or harassment, the Compliance Officer/Title IX Coordinator shall immediately authorize or undertake an investigation. The investigation may be conducted by school personnel or a third party designated by the Superintendent. The investigation shall be completed as soon as practicable, which generally should be not later than fourteen (14) school days after receipt of the report by the Compliance Officer/Title IX Coordinator. Upon receiving the complaint, the Compliance Officer/Title IX Coordinator shall acknowledge receipt of the complaint by giving written notice in a format accessible to the student or school personnel that the complaint has been received to both the person complaining of discrimination and/or harassment and the person accused of discrimination and/or harassment, via email, if known, and/or hard copy document. Also upon receiving the complaint, the Compliance Officer/Title IX Coordinator 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 perpetrator and the complainant and, in cases involving potential criminal conduct, determining whether Law Enforcement officials should be notified. If the Compliance Officer/Title IX Coordinator determines that more than fourteen (14) school 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 discrimination and/or harassment may also constitute child abuse, then it must be reported to Law Enforcement and the Department of Social Services in accordance State Child Abuse and Neglect Reporting laws.

The investigation may consist of personal interviews with the complainant, the alleged perpetrator, and any others who may have knowledge of the alleged discrimination and/or harassment or the circumstances giving rise to the complaint. The investigation will consider witnesses and evidence from both the alleged perpetrator and the person alleging the complaint. The investigation may also consist of the inspection of any other documents or information deemed relevant by the investigator. VSDB shall take necessary steps to protect the complainant and others pending the completion of the investigation. All employees shall cooperate with any investigation of alleged discrimination and/or harassment conducted under this Policy and Complaint Procedures or by an appropriate state or federal agency.

The Compliance Officer/Title IX Coordinator 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 VSDB 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.

3. Action by Superintendent

Within 5 school days of receiving the Compliance Officer's/Title IX Coordinator's report, the Superintendent or designee shall issue a decision regarding whether this policy was violated.

In determining whether alleged conduct constitutes a violation of this policy, the Superintendent 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 discrimination and/or 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.

This decision must be provided in writing to the complainant and the alleged perpetrator¹. If the Superintendent or designee determines that it is more likely than not that prohibited discrimination and/or harassment occurred, the VSDB 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 training be conducted or that the complainant receives counseling.

4. Appeal

If the Superintendent or designee determines that no prohibited discrimination and/or harassment occurred, the complainant may appeal this finding to the VSDB Board of Visitors within 5 school days of receiving the decision. Notice of appeal must be filed with the Superintendent who shall forward the record to the Chair of the VSDB Board of Visitors. The Executive Committee of the VSDB Board of Visitors shall make a decision within thirty (30) calendar days of receiving the record. The Executive Committee of the VSDB Board of Visitors may ask for oral or written argument from the aggrieved party, the Superintendent and any other individual the Executive Committee VSDB Board of Visitors deems relevant. Written notice of the Board of Visitors decision will be given to both the alleged perpetrator and the complainant.

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.

B. Informal Procedure

If the complainant and the alleged perpetrator 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. 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 Complaint Procedures set forth herein. The principal or designee shall notify the complainant and the alleged perpetrator in writing when the complaint has been resolved. The written notice shall state whether prohibited harassment occurred.

C. The VSDB Board of Visitors has designated the following two Compliance Officers/Title IX Officers:

Nathan McLamb (Employees)	Pattye Leslie (Students)
PO Box 2069 Staunton, VA 24401 540-332-9065 Nathan.McLamb@vsdbs.virginia.gov	PO Box 2069 Staunton, VA 24401 540-332-9219 Pattye.Leslie@vsdb.k12.va.us

The Compliance Officers/Title IX Coordinators are responsible for identifying, investigating, preventing and remedying prohibited discrimination and harassment. Complaints of discrimination and/or harassment may also be made to any school personnel.

The Compliance Officers/Title IX Coordinators shall

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

IV. 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 discrimination and/or harassment including initiating civil action, filing a complaint with outside agencies or seeking redress under state or federal law.

V. NOTICE OF POLICY, COMPLAINT PROCEDURES, AND COMPLIANCE OFFICERS/TITLE IX COORDINATORS

This policy shall be (1) displayed in prominent areas of each 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 thirty (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/Title IX Officers.

VI. TRAINING ON POLICY AND COMPLAINT PROCEDURES

Training to prevent discrimination and/or harassment based on gender, race, color, national origin, disability, religion, ancestry, age, marital status, sexual orientation, gender identity, and

genetic information should be included in employee and student orientations as well as employee in-service training.

VII. FALSE CHARGES

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

Rescission:	Revised: September 2015 Provisionally Approved by BOV 9/22/15
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APPENDIX I

REPORT OF DISCRIMINATION/HARASSMENT

Name of Complainant: _____

For Students, _____

For Employees, Position and Location: _____

Address, Phone Number _____
and Email Address: _____

Date(s) of Alleged Incident(s): _____

Name of person(s) you believe discriminated and/or harassed you or others:

If the alleged discrimination and/or harassment was toward another, please identify that person: _____

Please describe in detail the incident(s) of alleged discrimination and/or harassment, including where and when the incident(s) occurred. Please note any witnesses that may have observed the incident(s). Please include a description of any past incidents that may be related to this complaint. Attach additional pages if necessary.

I certify that the information provided in this report is true, correct and complete to the best of my knowledge:

Signature of Complainant

Date

Complaint Received By: _____ Date _____