RECOMMENDED: IN BOSTOCK V. CLAYTON COUNTY, GEORGIA, THE US SUPREME COURT HELD THAT THE TITLE VII PROHIBITION ON DISCRIMINATION ON THE BASIS OF “SEX” COVERS DISCRIMINATION ON THE BASIS OF SEXUAL ORIENTATION OR GENDER IDENTITY. BOSTOCK DEALS WITH DISCRIMINATION (TERMINATION) IN EMPLOYMENT. ON JANUARY 20, 2021, THE PRESIDENT OF THE UNITED STATES INDICATED IN EXEC ORDER 1402, 86 FED.REG.13,803 (3/11/21) THAT THE REASONING OF BOSTOCK APPLIES TO OTHER LAWS THAT PROHIBIT SEX DISCRIMINATION, INCLUDING TITLE IX, “SO LONG AS THE LAWS DO NOT CONTAIN SUFFICIENT INDICATIONS TO THE CONTRARY.” THE PRESIDENT DIRECTED OTHER FEDERAL AGENCIES TO REVIEW SUCH ISSUE. THE UNITED STATES DEPARTMENT OF JUSTICE HAS SINCE ISSUED A MEMORANDUM ADVISING OTHER FEDERAL AGENCIES THAT THE REASONING OF BOSTOCK APPLIES TO TITLE IX AND THE UNITED STATES DEPARTMENT OF EDUCATION, OFFICE OF CIVIL RIGHTS HAS STATED THAT ONE FOCUS IN IMPLEMENTING THE REFERENCED EXECUTIVE ORDER WILL BE ENSURING THAT STUDENTS WHO HAVE EXPERIENCED DISCRIMINATION BASED ON SEXUAL ORIENTATION OR GENDER IDENTITY WILL HAVE THEIR LEGAL RIGHTS “FULLY MET.” WHILE THE INCLUSION OF THE SPECIFIC ADDITIONAL TERMINOLOGY IS NOT MANDATORY AT THIS TIME, IT IS RECOMMENDED BASED ON THE ABOVE.

FINANCIAL IMPLICATIONS: NONE ANTICIPATED

# POWERS AND DUTIES OF THE BOARD OF EDUCATION BX01.1

Legal Status/Member Districts

NKCES is a legal body created by statutory authority of the State of Kentucky (KRS 65.210 -KRS 65.300).

NKCES personnel are under the management and control of the Board of Directors, which consists of the superintendents of member districts and representatives of Northern Kentucky University.

* Beechwood Independent School District
* Bellevue Independent School District
* Boone County School District
* Bracken County School District
* Campbell County School District
* Covington Independent School District
* Dayton Independent School District
* Erlanger-Elsmere Independent School District
* Ft. Thomas Independent School District
* Kenton County School District
* Ludlow Independent School District
* Newport Independent School District
* Pendleton County School District
* Southgate Independent School District
* Walton-Verona Independent School District
* Williamstown Independent School District
* Northern Kentucky University

# POWERS AND DUTIES OF THE BOARD OF EDUCATION BX01.1

# (Continued)

Legal Status/Member Districts

As hereafter referenced in this manual, references to the “Board” shall refer to the Northern Kentucky Cooperative for Educational Services Board of Directors.

To be eligible for membership on the Board, a person must be a current superintendent or designated representative of a member district or agency.

The Board is a body politic and corporate with perpetual succession. Board members have no authority over NKCES affairs as individuals, but do retain authority, within state law, over NKCES affairs when they act at the Board of Directors.

Notice of Nondiscrimination

As required by law, NKCES does not discriminate on the basis of race, color, national origin, sex (including sexual orientation or gender identity), genetic information, disability, age, or limitations related to pregnancy, childbirth, or related medical conditions in its programs and activities and provides equal access to its facilities to the Boy Scouts and other designated youth groups.

Notice of the name, work address and telephone number of the Title IX Coordinator and the Section 504 Coordinator for NKCES shall be provided to employees, applicants for employment, students, parents/guardians, and other beneficiaries such as participants in activities offered to the public.

Website Accessibility

NKCES is committed to ensuring accessibility of its website for students, employees, visitors, and members of the community with disabilities. All pages on the NKCES website shall conform to Level AA of the Web Content Accessibility Guidelines (WCAG) 2.0 developed by the World Wide Web Consortium (W3C) Web Accessibility Initiative (WAI), or updated equivalents of these guidelines.

Under NKCES developed administrative procedures, students, parents, and members of the public may present a complaint regarding a violation of the Americans with Disabilities Act (ADA), Section 504 related to the accessibility of any official NKCES web presence which is developed by, maintained by, or offered through NKCES or third party vendors and open sources.

References:

KRS Chapter 344

Americans with Disabilities Act

Section 504 of the Rehabilitation Act of 1973

Title VI of the Civil Rights Act of 1964

42 U.S.C. 200e, Civil Rights Act of 1964, Title VII

20 U.S.C. 1681, Education Amendments of 1972, Title IX

Genetic Information Nondiscrimination Act of 2008

20 U.S.C. § 7905 (Boy Scouts of America Equal Access Act)

Web Content Accessibility Guidelines

Bostock v. Clayton County, Georgia 140 S. Ct. 1731 (2020)

# POWERS AND DUTIES OF THE BOARD OF EDUCATION BX01.1

# (Continued)

Legal Status/Member Districts

Related Policies:

03.113; 03.212; 09.13

03.162; 03.262; 09.42811

05.3; 10.5

LEGAL: HB 312 AMENDS MULTIPLE AREAS OF KRS CHAPTER 61 BY CHANGING THE PROCESS AND FORMAT FOR PARTIES REQUESTING OPEN RECORDS OF PUBLIC AGENCIES. AGENCIES CANNOT REQUIRE A PARTICULAR REQUEST FORM ALTHOUGH THEY MUST ACCEPT THE RECORDS REQUEST FORM CREATED FOR USE BY THE OFFICE OF THE ATTORNEY GENERAL. THIS POLICY AND RELATED PROCEDURE 01.6 AP.2 REPLACE ADMINISTRATIVE PROCEDURE 10.11 AP.21/PUBLIC RECORDS NOTICE.

FINANCIAL IMPLICATIONS: NONE ANTICIPATED

# POWERS AND DUTIES OF THE BOARD OF EDUCATION B01.6

Board Records

Records of the Board are subject to inspection as provided in the Kentucky Open Records Act.

The Secretary to the Board shall be custodian of all Board records.

The Secretary shall develop and submit for Board review procedures as noted in KRS 61.876 to provide public access to public records and to ensure the security and orderly maintenance of the records. The procedures shall be displayed in a prominent location accessible to the public and posted on the NKCES’ website. In addition to the procedures, the web posting shall include the phone number of the NKCES records custodian/designee and the Open Records Request Form issued by the Kentucky Attorney General.

Records Management

The Executive Director shall designate a Records Officer who shall inventory, analyze and schedule disposition of NKCES records, as well as maintain a destruction record, noting the authorization for said destruction and the amount of records to be destroyed. Each year, the Records Officer shall provide a copy of this record to the Board.

An inventory of all public records kept by the NKCES shall be taken, these records to include those made or received by the NKCES in connection with the transaction of business.

Executive Director's Responsibilities

Pursuant to statutory requirements, the Executive Director shall establish procedures to safeguard against the unlawful destruction, removal or loss of records. The Executive Director shall notify the Board of any actual, impending or threatened unlawful disposition of records and shall initiate action through the Attorney General for recovery of such records.

Retention and Disposal of Records

NKCES shall follow the Records Retention Schedule, Public School District in its management of school records.

When there is a question whether a particular record or group of records should be destroyed, the Board shall have exclusive authority to make this decision.

References:

KRS 61.870; KRS 61.872; KRS 61.874

KRS 61.876; KRS 61.878; KRS 61.884

15-ORD-90; 19-ORD-174

Records Retention Schedule, Public School District

LEGAL: IN BOSTOCK V. CLAYTON COUNTY, GEORGIA, THE US SUPREME COURT HELD THAT THE TITLE VII PROHIBITION ON DISCRIMINATION ON THE BASIS OF “SEX” COVERS SEXUAL ORIENTATION OR GENDER IDENTITY.

FINANCIAL IMPLICATIONS: NONE ANTICIPATED

# PERSONNEL AB03.113

‑ Certified Personnel ‑

Equal Employment Opportunity

As required by Title IX, NKCES does not discriminate on the basis of sex regarding admission to NKCES or in the educational programs or activities operated by NKCES. Inquiries regarding Title IX Sexual Harassment may be referred to the NKCES Title IX Coordinator (TIXC), the Assistant Secretary for Civil Rights, or both.1

The Executive Director shall adhere to a policy of equal employment opportunity in all personnel matters. No person shall be subjected to discrimination in regard to employment, retention, promotion, demotion, transfer or dismissal because of race, color, religion, sex (including sexual orientation or gender identity), genetic information, national or ethnic origin, political affiliation (per KRS 161.164), age, disabling condition, or limitations related to pregnancy, childbirth, or related medical conditions.2

Individuals With Disabilities

No qualified person with a disability, as defined by law, shall, on the basis of the disability, be subject to discrimination in employment.3

Employment practices shall be in accordance with the Board‑approved procedures addressing requirements of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973.

No human immunodeficiency virus (HIV) related test shall be required as a condition of hiring, promotion, or continued employment, unless the absence of HIV infection is a bona fide occupational qualification for the job in question as defined in KRS 207.135.

Reasonable Accommodation

Employees who have a long-term or permanent disability may request their supervisor to provide reasonable accommodations necessary for them to perform the essential duties of the position. Medical information obtained as part of an employee request shall be confidential.4

NKCES shall engage in a timely, good faith and interactive process to determine reasonable accommodations for an employee’s limitations related to pregnancy, childbirth, or related medical conditions. Reasonable accommodation shall be provided as required by law.

Advising Employees

The Executive Director shall inform all school employees of the provisions of this policy.1

# PERSONNEL AB03.113

# (Continued)

Equal Employment Opportunity

References:

134 C.F.R. § 106.8

2KRS 161.164; KRS Chapter 344; 42 U.S.C. 2000e, Civil Rights Act of 1964, Title VII

329 U.S.C.A. 794

429 U.S.C. section 1630.14

KRS 207.135

34 C.F.R. 104.3 ‑ 104.14

42 C.F.R. 2000e‑2; 42 C.F.R. 2000(k)

Americans with Disabilities Act

Kentucky Education Technology System (KETS)

Section 504 of the Rehabilitation Act of 1973

Title IX of the Education Amendments of 1972

Genetic Information Nondiscrimination Act of 2008

Bostock v. Clayton County, Georgia 140 S.Ct. 1731 (2020)

Related Policy:

03.133; 03.1621; 03.212; 03.2621

LEGAL: OSHA REGULATIONS REQUIREs REPORTing CERTAIN INJURIES AND DEATHS.

FINANCIAL IMPLICATIONS: POTENTIAL FINES FOR NOT REPORTING

# PERSONNEL AD03.14

‑ Certified Personnel ‑

Health and Safety

It is the intent of the Board to provide a safe and healthful working environment for all employees. Employees shall report any conditions they believe to be unsafe to their immediate supervisor, who shall examine the situation and take appropriate action.

NKCES shall develop, maintain and implement health and safety plans in compliance with state and federal law.

Hazard Communication Plan

The Executive Director shall develop a NKCES Hazard Communication Plan. The plan shall include:

1. The assignment of a NKCES employee to be responsible for the implementation and coordination of the Hazard Communication Plan;
2. The inventory of all chemicals used at each NKCES-owned worksite;
3. The identification of each chemical in the inventory that is covered by the OSHA Hazard Communication Standard;
4. Maintenance of a Safety Data Sheet (SDS) for each substance on the chemical inventory list for as long as NKCES uses the substance, plus thirty (30) years;
5. Labeling of all containers of each chemical identified as required by the Hazard Communication Standard;
6. The development of an employee Hazard Communication Information and Training Program; and
7. The development, implementation and maintenance of a written Hazard Communication Program.

Bloodborne Pathogen Control

The Executive Director shall develop an Exposure Control Plan to eliminate or minimize NKCES occupational exposure to bloodborne pathogens. The plan shall address:

1. Identification of employees at‑risk of occupational exposure and their assigned tasks and procedures which could lead to such exposure;
2. Communication of hazards to employees;
3. Vaccinations of at‑risk employees for Hepatitis B at no cost to these employees;
4. Determination of universal precautions to be observed, including adequate engineering controls and housekeeping procedures;
5. Appropriate training of employees;
6. Provision of personal protective equipment including an opportunity provided annually for employees who use medical sharps in performance of their duties to identify, evaluate and select engineering and work practice controls to be implemented by the NKCES, as appropriate;
7. Maintenance of a sharps injury log;
8. Medical follow‑up and counseling for employees after a work‑site exposure;

# PERSONNEL AD03.14

# (Continued)

Health and Safety

Bloodborne Pathogen Control (continued)

1. Maintenance of confidential records of each exposure incident; and
2. A schedule for implementing all provisions required by the OSHA standard.

The Executive Director designee shall review and update the Exposure Control Plan at least once each year and when needed to reflect new or modified tasks and procedures that affect occupational exposure or new or revised employee positions with occupational exposure. The review and update shall also address:

* Changes in technology that eliminate or reduce exposure to bloodborne pathogens; and
* Annual documentation that appropriate, commercially available and effective safer medical devices that are designed to eliminate or minimize occupational exposure have been obtained and are now in use.

Lockout/Tagout

The Executive Director/designee shall develop a lockout/tagout program to eliminate or minimize the unexpected startup or release of stored energy in mechanical or electrically powered equipment. The plan shall address:

1. Assignment of an NKCES employee to be responsible for implementation and coordination of the lockout/tagout program;
2. A written program consisting of energy control procedures;
3. Development, documentation and utilization of energy control procedures for the control of potentially hazardous energy when employees are engaged in servicing and maintaining equipment;
4. Periodic review of the lockout/tagout program to assure authorized employees are properly controlling unexpected startup or release of stored energy; and
5. Annual training of employees authorized to use lockout/tagout to emphasize program procedures and retraining whenever a periodic review reveals deficiencies in employee performance.

Personal Protective Equipment (PPE)

Each year, the Executive Director /designee shall conduct a hazard assessment to determine when and where the use of personal protective equipment (PPE) is necessary. The hazard assessment shall address:

1. Assignment of an NKCES employee responsible for assessing the workplace for hazards;
2. Selection of appropriate PPE to safeguard employees from hazards that cannot be eliminated;
3. A training program to be conducted to educate employees about the need for PPE and when it must be worn;

# PERSONNEL AD03.14

# (Continued)

Health and Safety

**Personal Protective Equipment (PPE) (continued)**

1. Training of employees on the use and care of PPE, how to recognize deterioration and failure and the need for replacement; and
2. Requiring employees to wear designated PPE as deemed necessary by the hazard assessment.

Reporting Fatalities, Amputations, Hospitalizations, or Loss of Eye

NKCES shall, within eight (8) hours, make an oral report to the Kentucky Labor Cabinet of the death of any employee, including any death resulting from a heart attack; or the hospitalization of three (3) or more employees, including any hospitalization resulting from a heart attack, which occurs in the work environment or is caused or contributed to by an event in the work environment.

NKCES shall, within seventy-two (72) hours, make an oral report to the Kentucky Labor Cabinet of an amputation suffered by an employee, an employee’s loss of an eye or the hospitalization of fewer than three (3) employees, which occurs in the work environment or is caused or contributed to by an event in the work environment.2

Asbestos Management

The Executive Director /designee shall conduct facility inspection and re-inspection activities as required by state and federal law1 to identify the status of asbestos. The Executive Director/designee shall maintain an updated asbestos management plan that shall include, but not be limited to, applicable current and/or future inspection activities, response actions and surveillance activities and a description of steps taken to inform staff and parents about any such activities. The school shall maintain in its administrative office an updated copy of the management plan for the school. Annual written notice of the availability of the plan shall be provided to parent, teacher, and employee organizations. In the absence of any such organizations, the Executive Director/designee shall provide written notice of plan availability to parents, employees, and others as applicable.

Any custodial or maintenance personnel who may work in a building with asbestos-containing building materials (ACBM) shall have a minimum of two (2) hours of asbestos awareness training. New custodial or maintenance staff who may work in the areas above shall be trained within sixty (60) days of hire. Maintenance and custodians who will be involved in activities that will involve a disturbance of ACBM shall receive an additional fourteen (14) hours of asbestos training.

# PERSONNEL AD03.14

# (Continued)

Health and Safety

References:

1401 KAR 58:010: 40 C.F.R. Part 763

2803 KAR 2:180

Kentucky Department for Public Health

Centers for Disease Control and Prevention

Kentucky Labor Cabinet; 803 KAR 2:308; 803 KAR 2:404

OSHA 29 C.F.R. 1910

132 PPE Hazard Assessment

147 Lockout/Tagout

1001 Asbestos-ACBM

1200 Hazard Communication

1030 Bloodborne Pathogens

LEGAL: IN BOSTOCK V. CLAYTON COUNTY, GEORGIA, THE US SUPREME COURT HELD THAT THE TITLE VII PROHIBITION ON DISCRIMINATION ON THE BASIS OF “SEX” COVERS SEXUAL ORIENTATION OR GENDER IDENTITY.

FINANCIAL IMPLICATIONS: NONE ANTICIPATED

# PERSONNEL CC03.162

‑ Certified Personnel ‑

Harassment/Discrimination

Definition

Harassment/Discrimination of employees is unlawful behavior based on the race, color, national origin, age, religion, sex (including sexual orientation or gender identity), genetic information, disability, or limitations related to pregnancy, childbirth, or related medical conditions of an employee involving intimidation by threats of or actual physical violence; the creation, by whatever means, of a climate of hostility or intimidation, or the use of language, conduct, or symbols in such manner as to be commonly understood to convey hatred or prejudice.

Prohibition

Harassment/Discrimination is prohibited at all times on NKCES property and off NKCES grounds during sponsored activities. This prohibition also applies to visitors to NKCES. (Acts of harassment/discrimination based on sex may be committed by persons of the same or the opposite sex.)

NKCES staff shall provide for a prompt and equitable resolution of complaints concerning harassment/discrimination.

Disciplinary Action

Employees who engage in harassment/discrimination of another person on the basis of any of the areas mentioned above shall be subject to disciplinary action including, but not limited to, termination of employment.

Guidelines

Employees who believe they or any other employee, student, or visitor is being or has been subjected to harassment/discrimination shall, as soon as reasonably practicable, report it. The Executive Director is the person responsible for receiving reports of harassment/discrimination at the building level. Complaints of harassment/discrimination, whether verbal or written, shall lead to a documented investigation and a written report.

In applicable cases, employees must report harassment/discrimination to appropriate law enforcement authorities in accordance with law.

The Executive Director shall provide for the following:

1. Investigation of allegations of harassment/discrimination to commence as soon as circumstances allow, but not later than three (3) working days of submission of the original written complaint, regardless of the manner in which the complaint is communicated to an Executive Director. A written report of all findings of the investigation shall be completed within thirty (30) calendar days, unless additional time is necessary due to the matter being investigated by a law enforcement or governmental agency.

The Executive Director/designee may take interim measures to protect complainants during the investigation.

# PERSONNEL CC03.162

# (Continued)

Harassment/Discrimination

Guidelines (continued)

1. A process to identify and implement, within five (5) working days of the submission of the written investigative report, methods to correct and prevent reoccurrence of the harassment/discrimination. If corrective action is not required, an explanation shall be included in the report.
2. A process to be developed and implemented to communicate requirements of this policy to all staff, which may include, but not be limited to, the following:
   1. written notice provided in publications such as handbooks, staff memoranda, and/or pamphlets;
   2. postings in the same location as are documents that must be posted according to state/federal law; and/or
   3. such other measures as determined by the Executive Director/designee.

Method(s) used shall provide a summary of this policy, along with information concerning how individuals can access the complete policy.

1. Annual training explaining prohibited behaviors and the necessity for prompt reporting of alleged harassment/discrimination; and
2. Development of alternate methods of filing complaints for individuals with disabilities and others who may need accommodation.

Prohibited Conduct

Depending on the circumstances and facts of the situation, and within the definition of harassment/discrimination contained in this policy, examples of conduct and/or actions that could be considered a violation of this policy include, but are not limited to:

* Any nicknames, slurs, stories, jokes, written materials or pictures that are lewd, vulgar, or profane and relate to any of the protected categories listed in the definition of harassment/discrimination contained in this policy;
* Unwanted touching, sexual advances, requests for sexual favors, and spreading sexual rumors;
* Instances involving sexual violence;
* Causing an employee to believe that he or she must submit to unwelcome sexual conduct in order to maintain employment or that a personnel decision will be based on whether or not the employee submits to unwelcome sexual conduct;
* Implied or overt threats of physical violence or acts of aggression or assault based on any of the protected categories;
* Seeking to involve individuals with disabilities in antisocial, dangerous or criminal activity where they, because of disability, are unable to comprehend fully or consent to the activity; and
* Destroying or damaging an individual's property based on any of the protected categories.

# PERSONNEL CC03.162

# (Continued)

Harassment/Discrimination

Confidentiality

NKCES employees involved in the investigation of complaints shall respect, as much as possible, the privacy and anonymity of all parties involved.

Appeal

Upon the completion of the investigation and correction of the conditions leading to the harassment/discrimination, any party may appeal in writing any part of the findings and corrective actions to the Executive Director.

If a supervisory staff member is an alleged party in the harassment/discrimination complaint, provision shall be made for addressing the complaint to a higher level of authority.

Failure by an employee to report, notify, and/or initiate an investigation of alleged harassment/discrimination as required by this policy or to take corrective action shall be cause for disciplinary action.

Retaliation Prohibited

No one shall retaliate against an employee because s/he submits a grievance, assists or participates in an investigation, proceeding, or hearing regarding the charge of harassment/discrimination of an individual or because s/he has opposed language or conduct that violates this policy.

Upon the resolution of allegations, the Executive Director shall take steps to protect employees and students against retaliation.

Other Claims

When a complaint is received that does not appear to be covered by this policy, administrators shall review other policies that may govern the allegations, including but not limited to, 03.113 and 03.1325.

References:

1KRS 158.156; KRS Chapter 344; 42 USC 2000e, Civil Rights Act of 1964, Title VII

29 C.F.R. 1604.11, Equal Employment Opportunity Commission (EEOC) Regulations Implementing Title VII

20 U.S.C. 1681, Education Amendments of 1972, Title IX

34 C.F.R. 106.1-106.71, U.S. Department of Education Office for Civil Rights  
 Regulations Implementing Title IX

Genetic Information Nondiscrimination Act of 2008

Age Discrimination Act, 42 U.S.C. 6101-6107; 34 C.F.R. 110.25

Bostock v. Clayton County, Georgia 140 S.Ct. 1731 (2020)

Related Policies:

03.113; 03.1325; 03.16; 09.2211; 09.422; 09.42811

LEGAL: HB 258 CREATES A FOUNDATION BENEFIT COMPONENT FOR INDIVIDUALS WHO BECOME MEMBERS OF THE TEACHERS’ RETIREMENT SYSTEM ON OR AFTER JANUARY 1, 2022. UNUSED SICK DAYS FOR THOSE MEMBERS MAY BE DEPOSITED INTO THE MEMBER’S SUPPLEMENTAL BENEFIT COMPONENT UPON RETIREMENT.

FINANCIAL IMPLICATIONS: NONE ANTICIPATED

# PERSONNEL CO03.175

-Certified Personnel-

Retirement

Definition

Retirement means retirement from the Teachers’ Retirement System (TRS).

Notice

Employees planning to retire should give the Executive Director notice as far in advance as possible, but not less than twenty (20) working days prior to retirement for certified and non-certified staff.

Responsibility

Retirement benefits shall be solely a matter of contract between the employee and the Teachers' Retirement System and shall not be the responsibility of NKCES, except that NKCES shall deduct and send to the Teachers' Retirement System those amounts required under Kentucky law.

Unused Sick Days

Provided an individual has been employed by NKCES for at least four (4) consecutive years prior to retirement., NKCES shall compensate eligible certified employees only upon initial retirement for 30% of unused sick leave days accumulated as an employee of NKCES at the rate of their current daily salary. For personnel who begin employment in a position covered by TRS on or after July 1, 2008, unused sick leave days to be recognized in calculating reimbursement under KRS 161.155 shall not exceed 300 days. For personnel who become members of the Teachers’ Retirement System on or after January 1, 2022, payment for unused sick leave days shall not be incorporated into the annual compensation used to calculate the retirement allowance in the foundational benefit but may be deposited into the member’s supplemental benefit component.1

NKCES shall provide compensation for unused sick leave days when the employee provides proof s/he qualifies as an annuitant who will receive a retirement or disability allowance from the Teachers’ Retirement System. Upon death of an employee in active contributing status who was eligible to retire by reason of service, NKCES shall compensate the estate of the employee.

Escrow Account

NKCES has created an escrow account to maintain the funds necessary to reimburse employees who qualify for the benefit. At least 50% of each year’s maximum liability shall be included as a line item in the General Fund Budget.

References:

1KRS 161.155

KRS 157.420; KRS 161.220

KRS 161.540; KRS 161.545

KRS 161.560; KRS 161.600

KRS 161.633; KRS 161.635

OAG 81‑1; OAG 83‑191; OAG 97-28

29 U.S.C. 631

LEGAL: IN BOSTOCK V. CLAYTON COUNTY, GEORGIA, THE US SUPREME COURT HELD THAT THE TITLE VII PROHIBITION ON DISCRIMINATION ON THE BASIS OF “SEX” COVERS SEXUAL ORIENTATION OR GENDER IDENTITY.

FINANCIAL IMPLICATIONS: NONE ANTICIPATED

# PERSONNEL Z03.212

‑ Classified Personnel ‑

Equal Employment Opportunity

As required by Title IX, NKCES does not discriminate on the basis of sex regarding admission or in the educational programs or activities operated by NKCES. Inquiries regarding Title IX Sexual Harassment may be referred to the NKCES Title IX Coordinator (TIXC), the Assistant Secretary for Civil Rights, or both.1

The Executive Director shall adhere to a policy of equal employment opportunity in all personnel matters. No person shall be subjected to discrimination in regard to employment, retention, promotion, demotion, transfer or dismissal because of race, color, religion, sex (including sexual orientation or gender identity), genetic information, national or ethnic origin, political affiliation (per KRS 161.164), age, disabling condition, or limitations related to pregnancy, childbirth, or related medical conditions.2

Individuals With Disabilities

No qualified person with a disability, as defined by law, shall, on the basis of the disability, be subject to discrimination in employment.3

Employment practices shall be in accordance with the Board‑approved procedures addressing requirements of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973.

No human immunodeficiency virus (HIV) related test shall be required as a condition of hiring, promotion, or continued employment, unless the absence of HIV infection is a bona fide occupational qualification for the job in question as defined in KRS 207.135.

Reasonable Accommodation

Employees who have a long-term or permanent disability may request their supervisor to provide reasonable accommodations necessary for them to perform the essential duties of the position. Reasonable accommodation shall be provided as required by law. Medical information obtained as part of an employee request shall be confidential.4

NKCES shall engage in a timely, good faith and interactive process to determine reasonable accommodations for an employee’s limitations related to pregnancy, childbirth, or related medical conditions. Reasonable accommodation shall be provided as required by law.

Advising Employees

The Executive Director shall inform all school employees of the provisions of this policy.1

# PERSONNEL Z03.212

# (Continued)

Equal Employment Opportunity

References:

134 C.F.R. § 106.8

2KRS 161.164; KRS Chapter 344; 42 U.S.C. 2000e, Civil Rights Act of 1964, Title VII

229 U.S.C.A. 794

429 U.S.C. section 1630.14

KRS 207.135

34 C.F.R. 104.3 ‑ 104.14

42 C.F.R. 2000e‑2; 42 C.F.R. 2000(k)

Americans with Disabilities Act

Kentucky Education Technology System (KETS)

Section 504 of the Rehabilitation Act of 1973

Title IX of the Education Amendments of 1972

Genetic Information Nondiscrimination Act of 2008

Bostock v. Clayton County, Georgia 140 S.Ct. 1731 (2020)

Related Policies:

03.113; 03.1621; 03.233; 03.2621

LEGAL: OSHA REGULATIONS REQUIREs REPORTing CERTAIN INJURIES AND DEATHS.

FINANCIAL IMPLICATIONS: POTENTIAL FINES FOR NOT REPORTING

# PERSONNEL Y03.24

‑ Classified Personnel ‑

Health and Safety

It is the intent of the Board to provide a safe and healthful working environment for all employees. Employees shall report any conditions they believe to be unsafe to their immediate supervisor, who shall examine the situation and take appropriate action.

NKCES shall develop, maintain and implement health and safety plans in compliance with state and federal law.

Hazard Communication Plan

The Executive Director shall develop a NKCES Hazard Communication Plan. The plan shall include:

1. The assignment of a NKCES employee to be responsible for the implementation and coordination of the Hazard Communication Plan;
2. The inventory of all chemicals used at each NKCES-owned worksite;
3. The identification of each chemical in the inventory that is covered by the OSHA Hazard Communication Standard;
4. Maintenance of a Safety Data Sheet (SDS) for each substance on the chemical inventory list for as long as NKCES uses the substance, plus thirty (30) years;
5. Labeling of all containers of each chemical identified as required by the Hazard Communication Standard;
6. The development of an employee Hazard Communication Information and Training Program; and
7. The development, implementation and maintenance of a written Hazard Communication Program.

Bloodborne Pathogen Control

The Executive Director shall develop an Exposure Control Plan to eliminate or minimize NKCES occupational exposure to bloodborne pathogens. The plan shall address:

1. Identification of employees at‑risk of occupational exposure and their assigned tasks and procedures which could lead to such exposure;
2. Communication of hazards to employees;
3. Vaccinations of at‑risk employees for Hepatitis B at no cost to these employees;
4. Determination of universal precautions to be observed, including adequate engineering controls and housekeeping procedures;
5. Appropriate training of employees;
6. Provision of personal protective equipment including an opportunity provided annually for employees who use medical sharps in performance of their duties to identify, evaluate and select engineering and work practice controls to be implemented by the NKCES, as appropriate;
7. Maintenance of a sharps injury log;
8. Medical follow‑up and counseling for employees after a work‑site exposure;

# PERSONNEL Y03.24

# (Continued)

Health and Safety

Bloodborne Pathogen Control (continued)

1. Maintenance of confidential records of each exposure incident; and
2. A schedule for implementing all provisions required by the OSHA standard.

The Executive Director designee shall review and update the Exposure Control Plan at least once each year and when needed to reflect new or modified tasks and procedures that affect occupational exposure or new or revised employee positions with occupational exposure. The review and update shall also address:

* Changes in technology that eliminate or reduce exposure to bloodborne pathogens; and
* Annual documentation that appropriate, commercially available and effective safer medical devices that are designed to eliminate or minimize occupational exposure have been obtained and are now in use.

Lockout/Tagout

The Executive Director/designee shall develop a lockout/tagout program to eliminate or minimize the unexpected startup or release of stored energy in mechanical or electrically powered equipment. The plan shall address:

1. Assignment of an NKCES employee to be responsible for implementation and coordination of the lockout/tagout program;
2. A written program consisting of energy control procedures;
3. Development, documentation and utilization of energy control procedures for the control of potentially hazardous energy when employees are engaged in servicing and maintaining equipment;
4. Periodic review of the lockout/tagout program to assure authorized employees are properly controlling unexpected startup or release of stored energy; and
5. Annual training of employees authorized to use lockout/tagout to emphasize program procedures and retraining whenever a periodic review reveals deficiencies in employee performance.

Personal Protective Equipment (PPE)

Each year, the Executive Director /designee shall conduct a hazard assessment to determine when and where the use of personal protective equipment (PPE) is necessary. The hazard assessment shall address:

1. Assignment of an NKCES employee responsible for assessing the workplace for hazards;
2. Selection of appropriate PPE to safeguard employees from hazards that cannot be eliminated;
3. A training program to be conducted to educate employees about the need for PPE and when it must be worn;

# PERSONNEL Y03.24

# (Continued)

Health and Safety

Personal Protective Equipment (PPE) (continued)

1. Training of employees on the use and care of PPE, how to recognize deterioration and failure and the need for replacement; and
2. Requiring employees to wear designated PPE as deemed necessary by the hazard assessment.

Reporting Fatalities, Amputations, Hospitalizations, or Loss of Eye

The NKCES shall, within eight (8) hours, make an oral report to the Kentucky Labor Cabinet of the death of any employee, including any death resulting from a heart attack; or the hospitalization of three (3) or more employees, including any hospitalization resulting from a heart attack, which occurs in the work environment or is caused or contributed to by an event in the work environment.

The NKCES shall, within seventy-two (72) hours, make an oral report to the Kentucky Labor Cabinet of an amputation suffered by an employee, an employee’s loss of an eye or the hospitalization of fewer than three (3) employees, which occurs in the work environment or is caused or contributed to by an event in the work environment.2

Asbestos Management

The Executive Director /designee shall conduct facility inspection and re-inspection activities as required by state and federal law1 to identify the status of asbestos. The Executive Director/designee shall maintain an updated asbestos management plan that shall include, but not be limited to, applicable current and/or future inspection activities, response actions and surveillance activities and a description of steps taken to inform staff and parents about any such activities. The school shall maintain in its administrative office an updated copy of the management plan for the school. Annual written notice of the availability of the plan shall be provided to parent, teacher, and employee organizations. In the absence of any such organizations, the Executive Director/designee shall provide written notice of plan availability to parents, employees, and others as applicable.

Any custodial or maintenance personnel who may work in a building with asbestos-containing building materials (ACBM) shall have a minimum of two (2) hours of asbestos awareness training. New custodial or maintenance staff who may work in the areas above shall be trained within sixty (60) days of hire. Maintenance and custodians who will be involved in activities that will involve a disturbance of ACBM shall receive an additional fourteen (14) hours of asbestos training.

# PERSONNEL Y03.24

# (Continued)

Health and Safety

References:

1401 KAR 58:010; 40 C.F.R. Part 763

2803 KAR 2:180

Kentucky Department for Public Health

Centers for Disease Control and Prevention

Kentucky Labor Cabinet; 803 KAR 2:308; 803 KAR 2:404

OSHA 29 C.F.R. 1910

132 PPE Hazard Assessment

147 Lockout/Tagout

1001 Asbestos - ACBM

1200 Hazard Communication

1030 Bloodborne Pathogens

LEGAL: IN BOSTOCK V. CLAYTON COUNTY, GEORGIA, THE US SUPREME COURT HELD THAT THE TITLE VII PROHIBITION ON DISCRIMINATION ON THE BASIS OF “SEX” COVERS SEXUAL ORIENTATION OR GENDER IDENTITY.

FINANCIAL IMPLICATIONS: NONE ANTICIPATED

# PERSONNEL CF03.262

‑ Classified Personnel ‑

Harassment/Discrimination

Definition

Harassment/Discrimination of employees is unlawful behavior based on the race, color, national origin, age, religion, sex (including sexual orientation or gender identity), genetic information, disability, or limitations related to pregnancy, childbirth, or related medical conditions of an employee involving intimidation by threats of or actual physical violence; the creation, by whatever means, of a climate of hostility or intimidation, or the use of language, conduct, or symbols in such manner as to be commonly understood to convey hatred or prejudice.

Prohibition

Harassment/Discrimination is prohibited at all times on NKCES property and off NKCES grounds during sponsored activities. This prohibition also applies to visitors to NKCES. (Acts of harassment/discrimination based on sex may be committed by persons of the same or the opposite sex.)

NKCES staff shall provide for a prompt and equitable resolution of complaints concerning harassment/discrimination.

Disciplinary Action

Employees who engage in harassment/discrimination of another person on the basis of any of the areas mentioned above shall be subject to disciplinary action including, but not limited to, termination of employment.

Guidelines

Employees who believe they or any other employee, student, or visitor is being or has been subjected to harassment/discrimination shall, as soon as reasonably practicable, report it. The Executive Director is the person responsible for receiving reports of harassment/discrimination at the building level. Complaints of harassment/discrimination, whether verbal or written, shall lead to a documented investigation and a written report.

In applicable cases, employees must report harassment/discrimination to appropriate law enforcement authorities in accordance with law.

The Executive Director shall provide for the following:

1. Investigation of allegations of harassment/discrimination to commence as soon as circumstances allow, but not later than three (3) working days of submission of the original written complaint, regardless of the manner in which the complaint is communicated to an Executive Director. A written report of all findings of the investigation shall be completed within thirty (30) calendar days, unless additional time is necessary due to the matter being investigated by a law enforcement or governmental agency.

The Executive Director/designee may take interim measures to protect complainants during the investigation.

# PERSONNEL CF03.262

# (Continued)

Harassment/Discrimination

Guidelines (continued)

1. A process to identify and implement, within five (5) working days of the submission of the written investigative report, methods to correct and prevent reoccurrence of the harassment/discrimination. If corrective action is not required, an explanation shall be included in the report.
2. A process to be developed and implemented to communicate requirements of this policy to all staff, which may include, but not be limited to, the following:
   1. written notice provided in publications such as handbooks, staff memoranda, and/or pamphlets;
   2. postings in the same location as are documents that must be posted according to state/federal law; and/or
   3. such other measures as determined by the Executive Director/designee.

Method(s) used shall provide a summary of this policy, along with information concerning how individuals can access the complete policy.

1. Annual training explaining prohibited behaviors and the necessity for prompt reporting of alleged harassment/discrimination; and
2. Development of alternate methods of filing complaints for individuals with disabilities and others who may need accommodation.

Prohibited Conduct

Depending on the circumstances and facts of the situation, and within the definition of harassment/discrimination contained in this policy, examples of conduct and/or actions that could be considered a violation of this policy include, but are not limited to:

* Any nicknames, slurs, stories, jokes, written materials or pictures that are lewd, vulgar, or profane and relate to any of the protected categories listed in the definition of harassment/discrimination contained in this policy;
* Unwanted touching, sexual advances, requests for sexual favors, and spreading sexual rumors;
* Instances involving sexual violence;
* Causing an employee to believe that he or she must submit to unwelcome sexual conduct in order to maintain employment or that a personnel decision will be based on whether or not the employee submits to unwelcome sexual conduct;
* Implied or overt threats of physical violence or acts of aggression or assault based on any of the protected categories;
* Seeking to involve individuals with disabilities in antisocial, dangerous or criminal activity where they, because of disability, are unable to comprehend fully or consent to the activity; and
* Destroying or damaging an individual's property based on any of the protected categories.

# PERSONNEL CF03.262

# (Continued)

Harassment/Discrimination

Confidentiality

NKCES employees involved in the investigation of complaints shall respect, as much as possible, the privacy and anonymity of all parties involved.

Appeal

Upon the completion of the investigation and correction of the conditions leading to the harassment/discrimination, any party may appeal in writing any part of the findings and corrective actions to the Executive Director.

If a supervisory staff member is an alleged party in the harassment/discrimination complaint, provision shall be made for addressing the complaint to a higher level of authority.

Failure by an employee to report, notify, and/or initiate an investigation of alleged harassment/discrimination as required by this policy or to take corrective action shall be cause for disciplinary action.

Retaliation Prohibited

No one shall retaliate against an employee because s/he submits a grievance, assists or participates in an investigation, proceeding, or hearing regarding the charge of harassment/discrimination of an individual or because s/he has opposed language or conduct that violates this policy.

Upon the resolution of allegations, the Executive Director shall take steps to protect employees and students against retaliation.

Other Claims

When a complaint is received that does not appear to be covered by this policy, administrators shall review other policies that may govern the allegations, including but not limited to, 03.212 and 03.2325.

References:

1KRS 158.156; KRS Chapter 344; 42 USC 2000e, Civil Rights Act of 1964, Title VII

29 C.F.R. 1604.11, Equal Employment Opportunity Commission (EEOC) Regulations Implementing Title VII

20 U.S.C. 1681, Education Amendments of 1972, Title IX

34 C.F.R. 106.1-106.71, U. S. Department of Education Office for Civil Rights  
 Regulations Implementing Title IX

Genetic Information Nondiscrimination Act of 2008

Age Discrimination Act, 42 U.S.C. 6101-6107; 34 C.F.R. 110.25

Bostock v. Clayton County, Georgia 140 S.Ct. 1731 (2020)

Related Policies:

03.212; 03.2325; 03.26; 09.2211; 09.422; 09.42811

RECOMMENDED: ELECTRONIC RECEIPTS AND PAYMENTS SHOULD BE AUTHORIZED BY THE BOARD.

FINANCIAL IMPLICATIONS: LESS COST BY TRANSMITTING ELECTRONICALLY RATHER THAN BY MAIL

# FISCAL MANAGEMENT AA04.311

Fiscal Accounting and Reporting

Working under the direction of the Executive Director, the bookkeeper shall be responsible for the manner in which accounts are kept and preserved, for the business affairs of NKCES, and for the maintenance of all financial records required by law. Financial records shall not be deleted or otherwise destroyed without prior written authorization of the CFO.

As advised by the Board’s auditor/Certified Public Accountant, determination of liabilities and assets, prioritization of expenditures of governmental funds, and provisions for accounting disclosures shall be made in accordance with governmental accounting standards. This process shall include leave accumulated by employees and all Board properties and funds, including those that have been escrowed.

Electronic Funds Transfer (EFT)

NKCES may participate in EFTs. Properly approved electronic payments on behalf of the NKCES may be made in accordance with applicable laws and regulations. The Board authorizes schools to accept electronic receipts and make payments in accordance with Accounting Procedures for Kentucky School Activity Funds, applicable laws and regulations.

Liabilities and Assets

NKCES accounting practices shall follow state and federal laws and regulations and generally accepted accounting principles As advised by the NKCES auditor, determination of liabilities and assets prioritization of expenditures of governmental funds, and provisions for accounting disclosures shall be made in accordance with generally accepted accounting principles. This process shall include leave accumulated by employees and all NKCES properties and funds, including those that have been escrowed.

References:

Governmental Accounting Standards Board (GASB)

Accounting Procedures for Kentucky School Activity Funds

LEGAL: SB 127 AMENDS KRS 158.836 TO CHANGE THE DEFINITION OF EPIPENS OR OTHER EPINEPHRINE AUTO-INJECTORS TO INJECTABLE EPINEPHRINE DEVICES.

FINANCIAL IMPLICATIONS: NONE ANTICIPATED

# STUDENTS BC09.2241

Student Medication

School personnel authorized to give medications must be trained in accordance with KRS 158.838, KRS 156.502 and 702 KAR 1:160.

Internal medicine, including aspirin, shall not be provided by the school for the purpose of administering to pupils. Antiseptic and appropriate other emergency medications shall be maintained in the first‑aid kit.

Pupils may take medicine which is brought from home once a completed authorization form from the parent/guardian is on file.1

Self-Administration

A student may be permitted to carry medication that has been prescribed or ordered by a health care practitioner to stay on or with the pupil due to a pressing medical need.

Provided the parent/guardian and health care practitioner files a completed authorization form each year as required by law, a student under treatment for asthma, diabetes, or at risk of having anaphylaxis shall be permitted to self-administer medication.2

In accordance with KRS 158.836, students with a documented life-threatening allergy or designated staff shall be permitted to carry an injectable epinephrine device in all school environments. The injectable epinephrine device shall be provided by the student’s parent/guardian, and a written individual health care plan shall be in place for the student.3

Students with serious allergies or other serious health conditions may be permitted to self-administer medication as provided in an individualized education program, Section 504 Plan or Health Plan.

Students shall not share any prescription or over-the counter medication with another student. Each year, the school shall notify students in writing of this prohibition and that violations shall result in appropriate disciplinary action, including but not limited to suspension or expulsion.

References:

1OAG 73‑768

2KRS 158.834; KRS 158.838

3KRS 158.836

KRS 156.502; KRS 158.832

702 KAR 1:160

Americans with Disabilities Act

Section 504 of the Rehabilitation Act of 1973

OAG 77‑530

OAG 83‑115

Related Policies:

09.22; 09.224

RECOMMENDED: IN BOSTOCK V. CLAYTON COUNTY, GEORGIA, THE US SUPREME COURT HELD THAT THE TITLE VII PROHIBITION ON DISCRIMINATION ON THE BASIS OF “SEX” COVERS DISCRIMINATION ON THE BASIS OF SEXUAL ORIENTATION OR GENDER IDENTITY. BOSTOCK DEALS WITH DISCRIMINATION (TERMINATION) IN EMPLOYMENT. ON JANUARY 20, 2021, THE PRESIDENT OF THE UNITED STATES INDICATED IN EXEC ORDER 1402, 86 FED.REG.13,803 (3/11/21) THAT THE REASONING OF BOSTOCK APPLIES TO OTHER LAWS THAT PROHIBIT SEX DISCRIMINATION, INCLUDING TITLE IX, “SO LONG AS THE LAWS DO NOT CONTAIN SUFFICIENT INDICATIONS TO THE CONTRARY.” THE PRESIDENT DIRECTED OTHER FEDERAL AGENCIES TO REVIEW SUCH ISSUE. THE UNITED STATES DEPARTMENT OF JUSTICE HAS SINCE ISSUED A MEMORANDUM ADVISING OTHER FEDERAL AGENCIES THAT THE REASONING OF BOSTOCK APPLIES TO TITLE IX AND THE UNITED STATES DEPARTMENT OF EDUCATION, OFFICE OF CIVIL RIGHTS HAS STATED THAT ONE FOCUS IN IMPLEMENTING THE REFERENCED EXECUTIVE ORDER WILL BE ENSURING THAT STUDENTS WHO HAVE EXPERIENCED DISCRIMINATION BASED ON SEXUAL ORIENTATION OR GENDER IDENTITY WILL HAVE THEIR LEGAL RIGHTS “FULLY MET.” WHILE THE INCLUSION OF THE SPECIFIC ADDITIONAL TERMINOLOGY IS NOT MANDATORY AT THIS TIME, IT IS RECOMMENDED BASED ON THE ABOVE.

FINANCIAL IMPLICATIONS: NONE ANTICIPATED

# STUDENTS H09.42811

Harassment/Discrimination

Definition

Harassment/Discrimination is unlawful behavior based on race, color, national origin, age, religion, sex (including sexual orientation or gender identity), or disability that is sufficiently severe, pervasive, or objectively offensive that it adversely affects a student's education or creates a hostile or abusive educational environment.

The provisions of this policy shall not be interpreted as applying to speech otherwise protected under the state or federal constitutions where the speech does not otherwise materially or substantially disrupt the educational process, as defined by policy 09.426, or where it does not violate provisions of policy 09.422.

Prohibition

Harassment/Discrimination is prohibited at all times on school property and off school grounds during school-sponsored activities. This prohibition also applies to visitors to the school who may come into contact with employees and students. (Acts of harassment/discrimination based on sex may be committed by persons of the same or the opposite sex.)

NKCES staff shall provide for a prompt and equitable resolution of complaints concerning harassment/discrimination.

Disciplinary Action

Students who engage in harassment/discrimination of an employee or another student on the basis of any of the areas mentioned above shall be subject to disciplinary action, including but not limited to suspension and expulsion.

Guidelines

Students who believe they or any other student, employee, or visitor is being or has been subjected to harassment/discrimination shall, as soon as reasonably practicable, report it. In The Principal is the person responsible for receiving reports of harassment/discrimination at the building level. Otherwise, reports of harassment/discrimination may be made directly to the Executive Director. Complaints of harassment/discrimination, whether verbal or written, shall lead to a documented investigation and a written report.

# STUDENTS H09.42811

# (Continued)

Harassment/Discrimination

Guidelines (continued)

Employees who believe prohibited behavior is occurring or has occurred shall notify the victim’s Principal, who shall immediately forward the information to the Executive Director.

The Executive Director shall provide for the following:

1. Investigation of allegations of harassment/discrimination to commence as soon as circumstances allow, but not later than three (3) school days of receipt of the original complaint, regardless of the manner in which the complaint is communicated to a NKCES administrator. A written report of all findings of the investigation shall be completed within thirty (30) calendar days, unless additional time is necessary due to the matter being investigated by a law enforcement or governmental agency.

The Executive Director/designee may take interim measures to protect complainants during the investigation.

1. A process to identify and implement, within five (5) school days of the submission of the written investigative report, methods to correct and prevent reoccurrence of the harassment/discrimination. If corrective action is not required, an explanation shall be included in the report.
2. A process to be developed and implemented to communicate requirements of this policy to all students, which may include, but not be limited to, the following:

* written notice provided in publications such as handbooks, codes, and/or pamphlets; and/or
* such other measures as determined by the Executive Director/designee.

Method(s) used shall provide a summary of this policy, along with information concerning how individuals can access the applicable policy/procedures for NKCES and obtain assistance in reporting and responding to alleged incidents. Students, parents or guardians, as appropriate, will be directed to sign an acknowledgement form verifying receipt of information concerning this policy as part of the approved code of acceptable behavior and discipline.

1. Age appropriate training during the first month of school to include an explanation of prohibited behavior and the necessity for prompt reporting of alleged harassment/discrimination; and
2. Development of alternate methods of filing complaints for individuals with disabilities and others who may need accommodation.

When sexual harassment is alleged, the Executive Director/designee as designated in the code shall be notified.

Notifications

Within twenty-four (24) hours of receiving a serious allegation of harassment/discrimination, NKCES personnel shall attempt to notify parents of both student victims and students who have been accused of harassment/discrimination.

In circumstances also involving suspected child abuse, additional notification shall be required by law. (See Policy 09.227.)

# STUDENTS H09.42811

# (Continued)

Harassment/Discrimination

Notifications (continued)

In applicable cases, employees must report harassment/discrimination to appropriate law enforcement authorities in accordance with law.1

Prohibited Conduct

Depending on the circumstances and facts of the situation, and within the definition of harassment/discrimination contained in this policy, examples of conduct and/or actions that could be considered a violation of this policy include, but are not limited to:

1. Any nicknames, slurs, stories, jokes, written materials or pictures that are lewd, vulgar, or profane and relate to any of the protected categories listed in the definition of harassment/discrimination contained in this policy;
2. Unwanted touching, sexual advances, requests for sexual favors, and spreading sexual rumors;
3. Instances involving sexual violence;
4. Causing a student to believe that he or she must submit to unwelcome sexual conduct in order to participate in a school program or activity or that an educational decision will be based on whether or not the student submits to unwelcome sexual conduct;
5. Implied or overt threats of physical violence or acts of aggression or assault based on any of the protected categories;
6. Seeking to involve students with disabilities in antisocial, dangerous or criminal activity where the students, because of disability, are unable to comprehend fully or consent to the activity; and
7. Destroying or damaging an individual's property based on any of the protected categories.

Confidentiality

NKCES employees involved in the investigation of complaints shall respect, as much as possible, the privacy and anonymity of both victims and persons accused of violations.

Appeal

Upon the completion of the investigation and correction of the conditions leading to the harassment/discrimination, any party may appeal in writing any part of the findings and corrective actions to the Executive Director.

If a supervisor is an alleged party in the harassment/discrimination complaint, procedures shall also provide for addressing the complaint to a higher level of authority.

Failure by employees to report, notify, and/or initiate an investigation of alleged harassment/discrimination as required by this policy, or to take corrective action shall be cause for disciplinary action.

# STUDENTS H09.42811

# (Continued)

Harassment/Discrimination

Retaliation Prohibited

No one shall retaliate against an employee or student because s/he submits a grievance, assists or participates in an investigation, proceeding, or hearing regarding the charge of harassment/discrimination of an individual or because s/he has opposed language or conduct that violates this policy.

Upon the resolution of allegations, the Executive Director shall take steps to protect employees and students against retaliation.

False Complaints

Deliberately false or malicious complaints of harassment/discrimination may result in disciplinary action taken against the complainant.

Other Claims

When a complaint is received that does not appear to be covered by this policy, administrators shall review other policies that may govern the allegations, including but not limited to, 09.422 and/or 09.426.

References:

1KRS 158.156

42 USC 2000e, Civil Rights Act of 1964, Title VII

Racial Incidents and Harassment Against Students at Educational Institutions;

Investigative Guidance (U.S. Department of Education)

U. S. Supreme Court - Franklin vs. Gwinnett County

29 C.F.R. 1604.11, Equal Employment Opportunity Commission (EEOC)

Regulations Implementing Title VII

20 U.S.C. 1681, Education Amendments of 1972, Title IX

34 C.F.R. 106.1-106.71, U.S. Department of Education Office for Civil Rights

Regulations Implementing Title IX

Gebser v. Lago Vista Independent School Dist., 118 S. Ct. 1989 (1998)

Davis v. Monroe County Bd. of Educ., 119 S. Ct. 1661 (1999)

Bostock v. Clayton County, Georgia 140 S.Ct. 1731 (2020)

Related Policies:

03.162; 03.262

09.2211; 09.227; 09.422; 09.426; 09.438

LEGAL: SB 1 (2019) CREATED KRS 158.4416 TO REQUIRE ON OR BEFORE JULY 1, 2021, DISTRICTS TO ADOPT A PLAN FOR IMPLEMENTING A TRAUMA-INFORMED APPROACH IN ITS SCHOOLS INCLUDING DEVELOPING TRAUMA-INFORMED DISCIPLINE POLICIES.

FINANCIAL IMPLICATIONS: COST OF IMPLEMENTING TRAUMA-INFORMED AND SCHOOL SAFETY AND THREAT ASSESSMENT TEAMS

# STUDENTS AT09.43

Student Disciplinary Processes

School‑Related Activities

The authority of the NKCES in matters of student behavior is not limited to school buildings and grounds or to times when the pupil is on his/her way to or from school, but extends to any activity which is school‑related or school‑sponsored.

**Trauma-informed Approach**

“Trauma-informed approach" means incorporating principles of trauma awareness and trauma-informed practices, as recommended by the federal Substance Abuse and Mental Health Services Administration, in a school in order to foster a safe, stable, and understanding learning environment for all students and staff and ensuring that all students are known well by at least one (1) adult in the school setting.

The Board shall develop a plan for implementing a trauma-informed approach in the NKCES. The plan shall be based on the Trauma-Informed Toolkit from KDE and include but not be limited to:

1. strategies for enhancing trauma awareness throughout the school community;
2. conducting an assessment of the school climate including but not limited to inclusiveness and respect for diversity;
3. developing trauma-informed discipline policies;
4. collaborating with the Department of Kentucky State Police, the local sheriff, and the local chief of police to create procedures for notification of trauma-exposed students; and
5. providing services and programs designed to reduce the negative impact of trauma, support critical learning, and foster a positive and safe school environment for every student.2

Treatment of Pupils

Student disciplinary measures should not be administered in a manner that is humiliating, degrading, or unduly severe or in a manner that would cause the pupil to lose status before his/her peer group.Teachers should guard against making remarks to other pupils concerning a student's shortcomings.

Unless an administrator or the Board acts under authority of KRS 158.150, no school, school administrator, teacher, or other school employee shall expel or punish a student based on juvenile court information received by the employee from any source. Administrators may act to protect staff and students when the student’s conduct, as reflected by the information, indicates a substantial likelihood of an immediate and continuing threat of harm to students or staff. In cases where such actions are necessary, the following provisions shall apply:

1. Restrictions imposed on the student shall represent the least restrictive alternative available and appropriate to remedy the threat.

# STUDENTS AT09.43

# (Continued)

Student Disciplinary Processes

Treatment of Pupils (continued)

1. Supporting material shall be documented in and kept with the student’s juvenile court record.
2. The student and/or parent/guardian may appeal actions taken to the Executive Director or to the Circuit Court with appropriate jurisdiction.1

Serious Problems

Serious disciplinary problems shall be promptly reported to the Principal and to the parent(s) of the student.

Reporting

Each school shall annually provide to the Department of Education, using the student information system, an assessment of school incidents relating to disruptive behaviors resulting in a criminal or juvenile status offense or public complaint, including whether:

1. The incident involved a public offense or noncriminal misconduct;
2. The incident was reported to law enforcement or the court-designated worker and the charge or type of noncriminal misconduct that was the basis of the referral or report; and
3. The report was initiated by a school resource officer.

Children and Youth With Disabilities

Discipline for children and youth with disabilities shall observe, and be in conformity with, federal and state procedures and guidelines.

References:

1KRS 158.153

2KRS 158.4416

KRS 158.150; KRS 158.449

KRS 160.290; KRS 160.340; KRS 160.345

KRS 161.180; KRS 610.345

P. L. 105-17

Related Policies:

08.14; 09.14; 09.429; 09.438