

WEST VIRGINIA
Department of
EDUCATION

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January 23, 2002

Lew Tyree, Chairperson
WV Human Rights Commission
1321 Plaza East, Room 108A
Charleston, West Virginia 25301-1400

Dear Mr. Tyree:

Thank you for your letter of inquiry dated January 16, 2002 wherein you indicate that the WV Human Rights Commission has been following the WV Board of Education's discussion on our policies dealing with bullying and harassment. In particular, you referenced the proposed bullying policy which is currently out for comment and asked "if this policy would be applicable if a student is being bullied, harassed or intimidated because the student is gay, or perceived to be gay, and subsequently reports the conduct to which he or she is being subjected."

Because of the broad definition of "bullying, harassment, or intimidation" found in the policy which duplicates the language of the legislature in *West Virginia Code §18-2C-2*, the motive behind the act is irrelevant and the policy would be applicable if a student is being bullied, harassed or intimidated because the student is gay, or perceived to be gay, and subsequently reports the conduct to which he or she is being subjected. The definition, as well as the proposed policy as a whole, focuses on the effect(s) of the action rather than the motive(s) for the action.

I trust this addresses your concern. Hoping that I have been of service, I remain

Sincerely,



David Stewart
State Superintendent of Schools

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