

SUBJECT: ANTI-HARASSMENT IN THE BOCES

The Board affirms its commitment to nondiscrimination and recognizes its responsibility to provide an environment that is free of harassment and intimidation. Harassment is a violation of law and stands in direct opposition to BOCES policy. Therefore, the Board prohibits and condemns all forms of harassment on the basis of actual or perceived race, color, creed, religion, national origin, political affiliation, sex, sexual orientation, age, marital status, military status, veteran status, or disability by employees, BOCES volunteers, students, and non-employees such as contractors and vendors as well as any third parties who are participating in, observing, or otherwise engaging in activities subject to the supervision and control of the BOCES.

Sexual orientation is defined as heterosexuality, homosexuality, bisexuality, or asexuality, whether actual or perceived.

The Board also prohibits harassment based on an individual's opposition to discrimination or participation in a related investigation or complaint proceeding under the anti-discrimination statutes. This policy of nondiscrimination and anti-harassment will be enforced on BOCES premises and in BOCES buildings; and at all BOCES-sponsored events, programs and activities, including those that take place at locations off BOCES premises.

It is intended that this policy apply to the dealings between or among employees with employees; employees with students; students with students; employees/students with vendors/contractors and others who do business with the BOCES, as well as BOCES volunteers, visitors, guests and other third parties. All of these persons are hereinafter referred to collectively as "the named group."

For purposes of this policy, harassment shall mean communication (verbal, written or graphic) and/or physical conduct based on an individual's actual or perceived race, color, creed, religion, national origin, political affiliation, sex, sexual orientation, age, marital status, military status, veteran status, or disability that:

- a) Has the purpose or effect of substantially or unreasonably interfering with an individual's work performance or is used as a basis for employment decisions (including terms and conditions of employment) affecting such individual; and/or creates an intimidating, hostile or offensive work environment;
- b) Has the purpose or effect of substantially or unreasonably interfering with a student's academic performance or participation in an educational or extracurricular activity, or creates an intimidating, hostile or offensive learning environment; and/or effectively bars the student's access to an educational opportunity or benefit;

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- c) Otherwise adversely affects the employment and/or educational opportunities and benefits provided by the BOCES.

The BOCES will act to promptly investigate all complaints, either verbal or written, formal or informal, of allegations of harassment based on any of the characteristics described above, and will promptly take appropriate action to protect individuals from further harassment.

In order for the Board to enforce this policy, and to take corrective measures as may be necessary, it is essential that any employee, student, or other member of the above named group who believes he/she has been a victim of harassment in the BOCES environment and/or at programs, activities and events under the control and supervision of the BOCES, as well as any individual who is aware of and/or who has knowledge of, or witnesses any possible occurrence of harassment, immediately report such alleged harassment; such report shall be directed to or forwarded to the BOCES designated complaint officer(s) through informal and/or formal complaint procedures as developed by the BOCES. Such complaints are recommended to be in writing, although verbal complaints of alleged harassment will also be promptly investigated in accordance with the terms of this policy. In the event that the complaint officer is the alleged offender, the report will be directed to the next level of supervisory authority.

Upon receipt of an informal/formal complaint, the BOCES will conduct a thorough investigation of the charges. However, even in the absence of an informal/formal complaint, if the BOCES has knowledge of any occurrence of harassment, the BOCES will investigate such conduct promptly and thoroughly. To the extent possible, within legal constraints, all complaints will be treated as confidentially and privately as possible. However, disclosure may be necessary to complete a thorough investigation of the charges and/or to notify law enforcement officials as warranted, and any disclosure will be provided on a "need to know" basis.

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Based upon the results of this investigation, if the BOCES determines that an employee and/or student has violated the terms of this policy and/or accompanying regulations, immediate corrective action will be taken as warranted. Should the offending individual be a student, appropriate disciplinary measures will be applied, up to and including suspension, in accordance with applicable laws and/or regulations, BOCES policy and regulation, and the Code of Conduct. Should the offending individual be a BOCES employee, appropriate disciplinary measures will be applied, up to and including termination of the offender's employment, in accordance with legal guidelines, BOCES policy and regulation, and the applicable collective bargaining agreement(s). Third parties (such as BOCES volunteers, vendors, etc.) who are found to have violated this policy and/or accompanying regulations and/or Code of Conduct, will be subject to appropriate sanctions as warranted and in compliance with law. The application of such disciplinary measures by the BOCES does not preclude the filing of civil and/or criminal charges as may be warranted.

The Board prohibits any retaliatory behavior directed against complainants, victims, witnesses, and/or any other individuals who participated in the investigation of a complaint of harassment. Follow-up inquiries shall be made to ensure that harassment has not resumed and that all those involved in the investigation of the harassment complaint have not suffered retaliation.

Finding That Harassment Did Not Occur

At any level/stage of investigation of alleged harassment, if a determination is made that harassment did not occur, the Complaint Officer will so notify the complainant, the alleged offender and the District Superintendent of this determination. Such a finding does not preclude the complainant from filing an appeal pursuant to BOCES policy or regulations and/or pursuing other legal avenues of recourse.

However, even if a determination is made that harassment did not occur, the District Superintendent/designee reserves the right to initiate staff awareness and training, as applicable, to help ensure that the BOCES community is not conducive to fostering harassment in the workplace.

In all cases, the District Superintendent will inform the Board of the results of each investigation involving a finding that harassment did not occur.

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False Accusations Knowingly Made

Employees and/or students who *knowingly* made false accusations against another individual as to allegations of harassment may also face appropriate disciplinary action. Because of the damage that can be done to someone falsely accused, any individual who in bad faith knowingly makes a false complaint or report of sexual harassment or sex discrimination will be subject to disciplinary action up to and including termination in accordance with legal guidelines, BOCES policy, and any applicable collective bargaining agreement(s)

Development and Dissemination of Administrative Regulations

Regulations will be developed for reporting, investigating, and remedying allegations of harassment based on the characteristics described above. An appeal procedure will also be provided to address any unresolved complaints and/or unsatisfactory prior determinations by the applicable complaint officer(s). Such regulations will be developed in accordance with federal and state law as well as any applicable collective bargaining agreement(s).

The District Superintendent/designee(s) will affirmatively discuss the topic of harassment with all employees and students, express the BOCES condemnation of such conduct, and explain the sanctions for such harassment. Appropriate training and/or "awareness" programs will be established for staff and students to help ensure knowledge of and familiarity with the issues pertaining to harassment in the BOCES, and to disseminate preventative measures to help reduce such incidents of prohibited conduct. Furthermore, special training will be provided for designated supervisors and managerial employees, as may be necessary, for the investigation of harassment complaints.

A copy of this policy and its accompanying procedures will be available upon request and may be posted at various locations in each BOCES building. The BOCES' policy and regulations on anti-harassment will be published in appropriate BOCES publications such as teacher/employee handbooks, student handbooks, and/or BOCES calendars.

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This policy should not be read to abrogate other BOCES policies and/or regulations or the BOCES Code of Conduct prohibiting other forms of unlawful discrimination, inappropriate behavior, and/or hate crimes within this BOCES. It is the intent of the BOCES that all such policies and/or regulations be read consistently to provide the highest level of protection from unlawful discrimination in the provision of employment and educational services and opportunities. However, different treatment of any member of the above named group which has a legitimate, legal and nondiscriminatory reason shall not be considered a violation of BOCES policy.

Age Discrimination in Employment Act,
29 United States Code (USC) Section 621
Prohibits discrimination on the basis of age.

Americans with Disabilities Act,
42 United States Code (USC) Section 12101 et seq.
Section 504 of the Rehabilitation Act of 1973,
29 United States Code (USC) Section 794 et seq.
Prohibit discrimination on the basis of disability.

Title VII of the Civil Rights Act of 1964,
42 United States Code (USC) Section 2002e, et seq.
Prohibits discrimination on the basis of race, color,
religion, sex or national origin.

Title VI of the Civil Rights Act of 1964,
42 United States Code (USC) Section 2002d, et seq.
Prohibits discrimination on the basis of race, color or
national origin.

Title IX of the Educational Amendments of 1972,
20 United States Code (USC) Section 1681 et seq.
Prohibits discrimination on the basis of sex.

Civil Rights Law Section 40-c
Prohibits discrimination on the basis of race, creed,
color, national origin, sex, sexual orientation, marital
status or disability.

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Executive Law Section 290 et seq.
Prohibits discrimination on the basis of age, race, creed, color, national origin, sex, sexual orientation, disability, military status, or marital status.

New York State Military Law Sections 242 and 243,
Uniformed Services Employment and Reemployment Rights Act of 1994, 38 United States Code Sections 4301-4333
Prohibit discrimination on the basis of military or veteran status.

New York State Civil Service Law Section 107
Prohibits discrimination on the basis of political affiliation.

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