

SUBJECT: SEXUAL HARASSMENT OF STUDENTS

The Board affirms its commitment to non-discrimination and recognizes its responsibility to provide for all BOCES students an environment that is free of sexual harassment and intimidation. Sexual harassment is a violation of law and stands in direct opposition to BOCES policy. Therefore, the Board prohibits and condemns all forms of sexual harassment by employees, BOCES volunteers, students, and non-employees such as contractors and vendors which occur on BOCES grounds and at all BOCES-sponsored events, programs and activities including those that take place at locations off BOCES premises. Generally, sexual harassment is defined as unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct or communication of a sexual nature when:

- a) Submission to or rejection of such sexually harassing conduct and/or communication by a student affects decisions regarding any aspect of the student's education, including participation in BOCES-sponsored activities;
- b) Conditions exist within the BOCES environment that allow or foster obscene pictures, lewd jokes, sexual advances, requests for sexual favors or other harassing activities of a sexual nature; and
- c) Such conduct and/or communication 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 creating an intimidating, hostile or offensive learning environment; and/or effectively bars the student's access to an educational opportunity or benefit.

The Board acknowledges that in determining whether sexual harassment has occurred the totality of the circumstances, expectations, and relationships should be evaluated including, but not limited to, the ages of the harasser and the victim; the number of individuals involved; and the type, frequency and duration of the conduct. The Board recognizes that sexual harassment can originate from a person of either sex against a person of the opposite or same sex, and from a third party such as a BOCES visitor, volunteer, or vendor, or any other individual associated with the BOCES. Sexual harassment may occur from student-to-student, from staff-to-student, from student-to-staff, as well as staff-to-staff.

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In order for the Board to enforce this policy, and to take corrective measures as may be necessary, it is essential that any student who believes he/she has been a victim of sexual harassment in the BOCES environment, as well as any other person who is aware of and/or who has knowledge of or witnesses any possible occurrence of sexual 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 sexual 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. 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 any disclosure will be provided on a "need to know" basis.

Based upon the results of the 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 BOCES policy and regulation, the Code of Conduct, and applicable laws and/or regulations. 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, The Code of Conduct 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 will be subject to appropriate sanctions as warranted and in compliance with law. Any steps taken by the Board of Education to address incidents of harassment will not preclude legal action.

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 sexual harassment. Follow-up inquiries shall be made to ensure that harassment has not resumed and that all those involved in the investigation of the sexual harassment complaint have not suffered retaliation. Any act of retaliation is subject to appropriate disciplinary action by the BOCES.

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 Compliant 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 regulation and/or pursuing other legal avenues of recourse.

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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.

Knowingly Makes False Accusations

Employees and/or students who *knowingly* make 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 sexual harassment. 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 sexual 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 sexual 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 training in the investigation of sexual harassment complaints.

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

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SUBJECT: SEXUAL HARASSMENT OF STUDENTS (Cont'd.)

Civil Rights Act of 1991
42 United States Code (USC) Section 1981(a)
Title VII of the Civil Rights Act of 1964,
42 United States Code (USC) Section 2000e et seq.
Title IX of the Education Amendments of 1972,
20 United States Code (USC) Section 1681 et seq.
34 Code of Federal Regulations (CFR) Section 100 et seq
29 Code of Federal Regulations (CFR) Section 1604.11(a)
Executive Law Sections 296 and 297

Adopted: 7/10/02

Revised and Re-adopted: 12/14/06