

POLICY

1998

6071

Orleans/Niagara BOCES

Subject: Conformance with Title IX of the Educational Amendments of 1972

I. GENERAL

Title IX of the Education Amendments of 1972 declares, in part, that: No person in the United States shall on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance. The Board of Education is of the general view that discrimination on the basis of sex in any education program or activity of this district is not to be permitted except where necessary to accomplish a specific purpose that does not impinge upon essential equality or fundamental fairness in the treatment of students or employees of this district. Accordingly, employees of this district are required by this policy to comply with the provisions of:

- A. This policy as in the case of any rule or regulation adopted by the Board of Education of this district; and,
- B. Title IX of the Education Amendments of 1972 and the regulations promulgated thereunder by the U.S. Department of Health, Education, and Welfare.

II. APPLICATION TO SPECIFIC EDUCATION PROGRAMS AND ACTIVITIES

This policy's prohibition against action by employees or other persons acting in the name and on behalf of this BOCES that bases any exclusion from participation in, denial of benefits from, or discrimination in, any educational program or activity because of the sex of a student or employee, applies to all education programs and activities conducted by this BOCES, including, but not limited to, the following:

- 1. Educational Programs
 - a) Course offerings. Applies to all course offerings, except that this policy does not prohibit:
 - (1) grouping of students in physical education classes and activities by ability as assessed by objective standards of individual performance developed and applied without regard to sex;
 - (2) separation of students by sex in classes dealing exclusively with human sexuality.
 - b) Counseling. Applies to all counseling and guidance activities at the elementary and secondary school levels.
 - c) Textbooks. Nothing in this policy shall be interpreted as requiring or prohibiting or abridging in any way the use of particular textbooks or curricular materials.
- 2. Other Activities or Facilities.
 - a) Financial Assistance. Applies to offering scholarship or other aid or assisting non-school organizations in the offering of scholarships or the aid to students of this district.
 - b) Employment Assistance. Applies to all efforts to place students in employment. This district shall, as part of any employment assistance program for students, ensure that all employment opportunities are made available without

- discrimination on the basis of sex and refuse participation in its student employment program to employers who would practice such discrimination.
- c) Health and Insurance. Applies to all health or insurance policies offered to students but does not prohibit providing benefits or services which may be used by a different proportion of students of one sex than of the other.
 - d) Housing. Nothing in this policy shall be interpreted as prohibiting the separation of students by sex in housing for field trips or other reasons. Such separate housing must be comparable in quality and availability.
 - e) Toilet, Locker, and Shower Facilities. Separate toilet, locker, and shower facilities may be provided on the basis of sex. Such facilities shall be comparable to similar facilities provided for students of the other sex.
 - f) No rule on marital, family, or parental status that relates one sex different from the other sex shall be applied or enforced.
3. BOCES Employment Activities. Applies to all aspects of the BOCES' employment programs, including but not limited to, recruitment, advertising, process of application for employment, promotion, granting of tenure, termination, layoffs, wages, job assignments, leaves of absence of all types, fringe benefits, training programs, employer-sponsored programs, including social or recreational programs and any other term, condition or privilege of employment. Specifically, the following personnel employment practices are prohibited:
- a) Tests. Administration of any test or other criterion that has a disproportionately adverse effect on persons on the basis of sex unless it is a valid predictor of job success or alternative tests or criterion are unavailable;
 - b) Recruitment. Recruitment of employees from entities that furnish as applicants only or predominately members of one sex, if such action has the effect of discriminating on the basis of sex;
 - c) Compensation. Establishment of rates of pay on the basis of sex;
 - d) Job Classification. Classification of jobs as being for males or females;
 - e) Fringe Benefits. Provision of fringe benefits on basis of sex; all fringe benefit plans must treat males and females equally;
 - f) Marital and Parental Status. Any action based on marital or parental status; pregnancies are considered temporary disabilities for all job-related purposes and shall be accorded the same treatment by the district as are all other temporary disabilities. No inquiry shall be made by the district in job applications as to the marriage status of the applicant, including whether such applicant is "Miss or Mrs." But, inquiry may be made as to the sex of a job applicant for employment if made of all applicants and is not a basis for discrimination
 - g) Employment Advertising. Any expression of preference, limitation, or specification based on sex, unless sex is a bona fide occupational qualification for the particular job in question.

III. POLICY ENFORCEMENT

To ensure compliance with this policy, the District Superintendent shall:

- 1. designate members of the administrative staff:
 - a) to coordinate efforts of the district to comply with this policy;
 - b) to develop, and ensure the maintenance of a filing system to keep all records required under this policy;
 - c) to investigate any complaints of violations of this policy;
 - d) to administer the grievance procedure established in this policy; and
 - e) to develop affirmative action programs, as appropriate; and

2. provide for the publication of this policy on an ongoing basis to students, parents, employees, prospective employees, and district employee unions or organizations, such publication to include the name, office address and telephone number of the compliance administrators designated pursuant to this policy.

IV. GRIEVANCE PROCEDURE

Timelines and procedures for reporting allegations of discrimination or harassment, investigating such allegations, and informing complainants and other material parties of findings and/or determinations, shall be as set forth in BOCES Policy 6070 (regarding Staff Complaints and Grievances) and/or (BOCES Policy 7370 regarding Student Complaints and Grievances).

V. REMEDIAL OR DISCIPLINARY ACTION

The BOCES will take appropriate action based on the results of the investigation.

Any BOCES action taken pursuant to this Policy will be consistent with the requirements of applicable collective bargaining agreements, state and federal law, and BOCES policies. The BOCES will take such remedial or disciplinary action that it deems necessary and appropriate to end sexual harassment and prevent its recurrence, which may include counseling, warning, reprimand, suspension, or discharge.

The BOCES will, even in the absence of a victim's complaint, ensure that an investigation is commenced by the appropriate individuals upon learning of, or having reason to suspect, the occurrence of any prohibited discrimination or harassment.

VI. RETALIATION

The BOCES will also take appropriate action to address and prevent any retaliation against any person who reports an alleged violation of Title IX or this policy. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment.

VII. CONSTRUCTION

The District Superintendent shall be authorized to administer this policy, and to promulgate any regulations, procedures, and/or forms consistent with this policy.

Revised August 2015