

<h1>POLICY</h1>	1992	6050
	Orleans/Niagara BOCES	

Subject: Sexual Harassment

Introduction

The Orleans/Niagara Board of Cooperative Educational Services (BOCES) (hereinafter sometimes referred to as “the BOCES”) is committed to maintaining a work environment free from sexual harassment, which is one form of employment discrimination. This Policy is one component of the BOCES’ commitment to a discrimination-free work environment.

Policy

1. This Policy applies to all employees. It also applies to individuals who are not employees of the BOCES but are employees of contractors, subcontractors, vendors, consultants, and other persons who provide services in the BOCES’ workplace, such as interns, temporary employees, and volunteer employees.
2. Sexual harassment is not tolerated by the BOCES and is prohibited by this Policy. This Policy prohibits not only behavior that constitutes unlawful harassment, but also other inappropriate or unprofessional behavior that may reasonably be considered offensive or otherwise inappropriate. Employees and other individuals covered under this Policy will be subject to disciplinary or other corrective action for any violations of this Policy.
3. Retaliation is prohibited. No person covered by this Policy shall be subject to adverse employment action because he/she makes a good faith report of an incident of sexual harassment, or provides information, or otherwise assists in any investigation of a sexual harassment complaint. Any person covered by this Policy, who retaliates against anyone involved in a sexual harassment investigation, is in violation of this Policy and subject to remedial or disciplinary action.
4. The BOCES will conduct a prompt, thorough, fair, and confidential investigation, consistent with this Policy, in response to any complaint about sexual harassment. The BOCES may also investigate other circumstances of inappropriate conduct occurring in its workplace or affecting the terms and conditions of employment for its employees or other individuals working in its workplace. The BOCES will take effective corrective action whenever sexual harassment or other inappropriate conduct is found to have occurred. All employees, including managers and supervisors, are required to cooperate with any internal investigation of sexual harassment.

What Is “Sexual Harassment”?

Sexual harassment is a form of sex discrimination and is unlawful under federal, state, and (where applicable) local law. Sexual harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity, and the status of being transgender.

Sexual harassment includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual's sex when:

- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating a hostile work environment, even if the complaining individual is not the intended target of the sexual harassment;
- Such conduct is made either explicitly or implicitly a term or condition of employment; or
- Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual's employment.

A sexually harassing hostile work environment can consist of threats, derogatory comments, signs, jokes, pranks, intimidation, physical contact, violence, or other conduct which is of a sexual nature, or which is directed at an individual because of that individual's sex, where the conduct is so severe and pervasive as to alter the terms of employment for the individual subject to the harassment.

Sexual harassment also occurs when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment or any other terms, conditions or privileges of employment. This is also called "quid pro quo" harassment.

Examples of sexual harassment

The following is a list of some of the types of acts that may constitute sexual harassment:

- Physical acts of a sexual nature, such as:
 - Touching, pinching, patting, kissing, hugging, grabbing, brushing against another employee's body or poking another employee's body;
 - Rape, sexual battery, molestation or attempts to commit these assaults.
- Unwanted sexual advances or propositions.
- Sexually-oriented gestures, noises, remarks, jokes, or comments about a person's sexuality or sexual experience.
- Written conduct such as authoring threatening, derogatory or offensive letters, e-mails, text messages, or social media posts.
- Sexual or discriminatory displays or publications anywhere in the workplace, such as:
 - Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials or other materials that are sexually demeaning or pornographic. This includes sexual displays on workplace computers or cell phones in the workplace.
- Sex stereotyping occurs when conduct or personality traits are considered inappropriate simply because they may not conform to other people's ideas or perceptions about how individuals of a particular sex should act or look.
- Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity, or the status of being transgender.

Who can be a target of sexual harassment?

Sexual harassment can occur between any individuals, regardless of their sex or gender. A harasser can be a superior, a subordinate, a coworker or anyone else in the workplace, including an independent contractor, contract worker, vendor, client, customer, or visitor.

Where can sexual harassment occur?

Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while employees are traveling for business, at BOCES-sponsored events, or other occasions outside work. Calls, texts, emails, and social media usage by employees containing inappropriate messages, language, or graphics may also constitute or contribute to unlawful workplace harassment, even if they occur away from the workplace, on personal devices, or during non-work hours.

What is “Retaliation”?

Retaliation includes any conduct, whether or not in the workplace or employment-related, which might deter a reasonable person from making or supporting a charge of discrimination or harassment and is directed at someone who engages in protected activity. Protected activity includes opposing a discriminatory practice, making a good faith report of a suspected violation of this policy, filing a harassment complaint, participating in an investigation or proceeding of such a report or complaint, or encouraging a fellow employee to make a report.

Reporting Sexual Harassment

Preventing sexual harassment is everyone’s responsibility. The BOCES cannot prevent or remedy sexual harassment unless it knows about it. Any employee or other person covered by this Policy, who has been subjected to behavior that may constitute sexual harassment is encouraged to report such behavior to a supervisor, administrator, manager or the BOCES’ Civil Rights Compliance Officer. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior to a supervisor, administrator, manager or the Civil Rights Compliance Officer. If an employee makes a report to his/her supervisor, administrator, or manager and believes the supervisor, administrator, or manager is not taking appropriate action, then the employee should report this inaction to the Civil Rights Compliance Officer. If an employee believes that his/her supervisor, administrator, or manager violated this Policy, then the employee should report the matter to a higher-level manager, or to the Civil Rights Compliance Officer.

Reports of sexual harassment may be made verbally or in writing. A form for submission of a written complaint is attached to this Policy, and all employees are encouraged to use this complaint form, but using the form is not required. Employees who report sexual harassment on behalf of another person should state clearly that the complaint is made on another person’s behalf.

The availability of this reporting procedure does not preclude individuals who believe they are being harassed from promptly advising the offender that his or her behavior is unwelcome and requesting that it be discontinued.

Supervisory Responsibilities

Any supervisor, administrator, or manager who receives a complaint or information about suspected sexual harassment, or observes conduct that may be sexually harassing behavior **is required to take appropriate steps**

to address the conduct and to report such suspected sexual harassment to the Civil Rights Compliance Officer.

In addition to being subject to discipline if they engaged in sexually harassing conduct or retaliation themselves, supervisors and managers will be subject to discipline for failing to report suspected sexual harassment or otherwise knowingly allowing sexual harassment to continue.

Investigation of Sexual Harassment

All reports, complaints or other information about suspected sexual harassment will be investigated, whether that information was reported in verbal or written form. Investigations will be conducted in a timely and thorough manner commensurate with the nature of the complaint, and will be confidential to the extent possible.

In conducting a fair and impartial investigation, the BOCES' procedures will include "due process" protections that include the following: The BOCES will provide appropriate notice of the allegations to anyone who is the subject of a harassment complaint and an opportunity to provide a response to the allegations. Complainants and witnesses will be provided with an appropriate opportunity to present relevant information including documents relevant to the investigation. The BOCES may adapt and modify the investigatory procedure, in its discretion, based on the nature of the complaint and the conduct at issue.

All employees and other individuals covered under this Policy are required to cooperate, as needed, in an investigation of suspected sexual harassment. Employees and other individuals who participate in any investigation are protected from retaliation.

All persons involved in the reporting and investigation of harassment are obligated to keep the information pertaining to the investigation confidential to the maximum extent possible, to protect the privacy of those involved in the investigation and to allow the BOCES to conduct an objective and fair investigation.

If the BOCES determines that this Policy has been violated, then it will take effective remedial action commensurate with the circumstances. Any employee who has been found by the BOCES to have harassed another employee will be subject to corrective action, up to and including discharge where appropriate. If it is concluded that a non-employee has subjected an employee or other person protected by this Policy to conduct in violation of this Policy, prompt and effective action will be taken to stop the harassment and deter any future harassment.

The BOCES will notify the individual who was subject to the reported conduct and the person who filed the complaint, if different, of the conclusion of its investigation, and will follow up with that individual as appropriate under the circumstances.

Legal Protections and External Remedies

Sexual harassment is not only prohibited by the BOCES but is also prohibited by state, federal, and, where applicable, local law. In addition to the procedures described in this Policy, individuals may choose to pursue legal remedies with the following governmental entities:

The New York State Division of Human Rights (DHR) enforces the Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 et seq., which prohibits sexual harassment in employment in New York State, and protects employees, and other individuals working in an BOCES' workplace. A complaint alleging a violation of the Human Rights Law may be filed either with the DHR, subject to a one-year statute of limitations, or in New York State Supreme Court, subject to a three-year statute of limitations.

If unlawful discrimination is found after a hearing, the DHR or the court may award relief, which may include requiring the BOCES to take action to stop the harassment, to redress the damage caused, including reversing an unlawful employment action, and paying monetary damages, attorneys' fees, and civil fines. The DHR can be contacted at (888) 392-3644 or at www.dhr.ny.gov.

The U.S. Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the 1964 Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.). An employee must file a complaint with the EEOC within 300 days from the conduct giving rise to the complaint. The EEOC investigates complaints, and may pursue a claim in federal court on behalf of the complaining party, or issue a Right to Sue Letter that allows an individual to pursue his/her claims in federal court. Federal courts may award remedies if discrimination is found to have occurred. The EEOC can be contacted by calling 1-800-669-4000 (1-800-669-6820 (TTY)), or at their website: www.eeoc.gov or via email at info@eeoc.gov. If an individual files an administrative complaint with the DHR, the DHR will file the complaint with the EEOC to preserve the individual's right to proceed in federal court.

Local Protections

Many localities enforce laws protecting individuals from sexual harassment and discrimination. An individual should contact the county, city or town in which they live to find out if such a law exists. If the harassment involves physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime, and it may be appropriate to report such conduct to the local police department.

Other Types of Harassment

The BOCES also prohibits discrimination or harassment on the basis of race, color, creed, ethnicity, disability, religion, national origin, military status, age, gender, arrest record, veteran status, sexual orientation, marital status, familial status, domestic violence victim status, criminal history, citizenship, predisposing genetic characteristics, genetic information, or any other category protected by law. For more information, see the Orleans/Niagara BOCES non-discrimination statement (adopted at the BOCES' Annual Reorganization Meeting) and Orleans/Niagara BOCES Policy 6051.

Construction

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

Policy Revision Adopted November 2018

New York Session Laws of 2018, Chapter 57, Part KK
New York Labor Law Section 201-g
New York Executive Law Section 296-d

Orleans/Niagara Board of Cooperative Educational Services (BOCES)
Sexual Harassment Prevention Policy (Policy 6050) Report Form

This form is designed to assist individuals making a report under the Orleans/Niagara BOCES' Sexual Harassment Prevention Policy (Policy 6050). If you believe you are, or have been, subject to conduct in violation of the Sexual Harassment Prevention Policy, or witness or otherwise become aware of such conduct, you are expected to report that information either verbally or in writing. It is the policy of the BOCES to promptly and thoroughly investigate such reports.

If you wish to make a written report, you may use this form to do so. After completing this form, please submit it to the immediate supervisor, administrator, manager, and/or the BOCES' Civil Rights Compliance Officer. The Civil Rights Compliance Officer is Wayne M. Van Vleet, Director of Labor Relations, 4232 Shelby Basin Road, Medina, New York, 14103, e-mail address wvanvleet@onboces.org, telephone number (716) 731-6800, extension 2206. If you are more comfortable reporting verbally or in another manner, you are welcome to do so.

Orleans/Niagara BOCES prohibits retaliation against any individual who opposes a discrimination practice, makes a good faith report of discrimination or harassment, or who participates in an investigation of such reports. Your cooperation in truthfully completing this form and providing as much accurate information as possible will enable us to investigate and respond to these matters.

YOUR INFORMATION

Name: _____
Home Address: _____ Work Address: _____
Personal Phone: _____ Work Phone: _____
Job Title: _____ Email: _____
Preferred Communication Method: _____

SUPERVISOR'S INFORMATION

Immediate Supervisor's Name: _____ Title: _____
Work Phone: _____ Work Address: _____

INFORMATION CONCERNING SUSPECTED HARASSMENT

1. The name of the person(s) involved in your complaint
Name: _____ Title: _____
Work Address: _____ Work Phone: _____
Other identifying information: _____
Relationship to you: Supervisor Subordinate Co-Worker Other: _____

2. Please describe the conduct or incident(s) that are the basis of this report and your reasons for believing the conduct is harassment. Please use additional sheets of paper if necessary and attach any relevant documents or evidence.

3. Date(s) harassment occurred: _____

Is the harassment continuing? Yes No

4. Please list the name and contact information of any witnesses or individuals that may have information related to your complaint. Please use additional sheets of paper if necessary.

5. Have you previously complained or provided information (verbal or written) about harassment at Orleans/Niagara BOCES? If yes, when and to whom did you complain or provide information?

After receipt of this report, an Orleans/Niagara BOCES representative will contact you. Every effort will be made to assure that confidentiality will be maintained throughout the investigatory process to the extent consistent with the need to investigate your report and to take appropriate corrective action. For additional information, please see the Orleans/Niagara BOCES Sexual Harassment Prevention Policy (Policy 6050).

The information provided in this report is true and complete and I request that Orleans/Niagara BOCES investigate this complaint and advise me of the outcome of the investigation.

Signature: _____

Date: _____

Form Adopted November 2018