

POLICY

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Orleans/Niagara BOCES

Subject: Sexual Harassment

I. General Statement of Policy

The Board of Education is committed to safeguarding the rights of all students and employees of the BOCES to work and learn in an environment that is free from sexual harassment. The BOCES prohibits all forms of sexual harassment.

II. Sexual Harassment Defined

A. Sexual harassment consists of unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct or other verbal or physical conduct or communication of a sexual nature when:

1. Submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining or retaining employment, or of obtaining an education; or
2. Submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment or education; or
3. That conduct or communication has the purpose or effect of substantially or unreasonably interfering with an individual's work or educational environment.

B. Sexual harassment may include but is not limited to:

1. Verbal harassment or abuse;
2. Subtle pressure for sexual activity;
3. Demanding sexual favors accompanied by implied or overt threats concerning an individual's employment or educational status;
4. Demanding sexual favors accompanied by implied or overt promises of preferential treatment with regard to an individual's employment or educational status; or
5. Any sexually motivated unwelcome touching; or
6. Sexual violence, which includes but is not limited to rape, sexual assault, sexual battery, or sexual coercion.

III. Reporting Procedure

The BOCES will investigate all complaints, formal or informal, verbal or written, of sexual harassment, and will take appropriate action against any employee or student who is determined to have sexually harassed a student or employee of the BOCES.

Any person who believes that he or she has been the victim of sexual harassment should report the alleged acts immediately to an appropriate BOCES official designated by this Policy. The BOCES encourages the reporting party or complainant to use the report form available from the administrator or supervisor of each building or program, or from the BOCES office. A staff member who witnesses or learns of any incident or series of incidents that may constitute sexual harassment of a student has a duty to report such incident(s) in accordance with this Policy.

A. In Each School Building: The BOCES building supervisor or administrator, or BOCES program supervisor or administrator, is responsible for receiving oral or written reports of sexual harassment at the building level. Upon receipt of a report, the supervisor or administrator must notify the BOCES Civil Rights Compliance Officer immediately without screening or investigating the report. A written report will be forwarded promptly to the Civil Rights Compliance Officer. If the report was given verbally, then the administrator or supervisor shall reduce it to written form within 24 hours and forward it to the Civil Rights Compliance Officer. If the complaint involves the administrator or supervisor, then the complaint shall be filed directly with the BOCES Civil Rights Compliance Officer.

B. BOCES-wide: The Civil Rights Compliance Officer will receive reports or complaints of sexual harassment from any student or employee and also from any building or program administrator or supervisor as discussed above. If the complaint involves the Civil Rights Compliance Officer, then the complaint shall be filed directly with the BOCES Superintendent.

The BOCES shall conspicuously post the name of the Civil Rights Compliance Officer, including a mailing address, telephone number, and e-mail address.

C. Use of formal reporting forms is not mandatory.

The BOCES will respect the confidentiality of the complaint and the individual(s) by and against whom the complaint is filed, to the extent practicable, consistent with the BOCES legal obligations and the necessity to investigate allegations of sexual harassment and take appropriate remedial or disciplinary action.

IV. Investigation

The Civil Rights Compliance Officer, upon receipt of a report or complaint alleging sexual harassment, shall immediately initiate an investigation. The investigation may be conducted by the Civil Rights Compliance Officer or by a third party designated by the District Superintendent.

The investigation may include personal interviews with the complainant, the individual(s) against whom the complaint is filed, and others who may have knowledge of or information concerning the alleged incident(s) or circumstances giving rise to the complaint.

Pending completion of the investigation, the District Superintendent or his or her designee may take immediate steps, in his or her discretion, to protect the complainant, any student(s), any employee(s), or any other individuals.

The BOCES Civil Rights Compliance Officer or other designated investigator shall make a report to the BOCES Superintendent upon completion of the investigation.

V. Timelines and Procedures for Reporting and Investigating Complaints

Timelines and procedures for reporting allegations of 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).

VI. Remedial or Disciplinary Action

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

The BOCES will also take appropriate action to address and prevent any retaliation against any person who reports alleged sexual harassment or who testifies, assists or participates in an investigation, proceeding or hearing relating to a sexual harassment complaint or report. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment.

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 sexual 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