

POLICY

1998

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Orleans/Niagara BOCES

Subject: Student Complaints and Grievances

The Orleans/Niagara Board of Cooperative Educational Services (BOCES) is an equal opportunity educational system and does not discriminate against any student or candidate for enrollment on the basis of actual or perceived race, creed, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender, sex, marital status, or any other classification that is recognized by law as a protected classification.

The Orleans/Niagara Board of Cooperative Educational Services (BOCES) believes that students should be made aware of the behavior that is expected as outlined in BOCES policy on school conduct and discipline. They shall also be given an opportunity to be heard on complaints and grievances that they may have.

Notification

The BOCES shall publish notice of the established grievance procedures for resolving complaints constituting grievances as defined below. The notice shall inform parents, employees, students and the community of the BOCES' policy against discrimination and provide the name, address and telephone number of the civil rights compliance officer who is the responsible person designated to coordinate matters regarding civil rights compliance and investigation of alleged violations.

Definitions

1. *Grievant* or *Complainant* shall mean a student or candidate for enrollment who, either directly or by or through a parent, guardian, or other legal representative, presents a grievance as defined below.
2. *Grievance* shall mean: Any alleged discrimination or harassment on the basis of actual or perceived race, creed, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender, sex, marital status, or any other classification that is recognized by law as a protected classification; and/or any alleged violation of a policy of this BOCES.

Individual complaints and grievances shall be handled in accordance with the following guidelines:

1. For informal conciliation, students should confer with the appropriate teacher or school personnel to achieve prompt resolution. Students may appeal to the highest authority in the school building, i.e., the school administrator (principal).
2. For resolution of matters where appeal procedures are prescribed by statute, i.e., student suspensions, the prescribed course of action will be followed.

3. On issues affecting the student body, students may address the student government or student council in order to resolve such matters. Students may be afforded a conference with the school administrator in accordance with the rules and procedures established by the student government.
4. The resolution of student complaints alleging any action prohibited by civil rights laws shall be dealt with in accordance with the procedures set forth below.

Stages

A. Stage I: Civil Rights Compliance Officer

1. Within thirty (30) days after the events giving rise to the grievance, the grievant (or complainant) shall file a grievance in writing with the school administrator (i.e. principal) or the BOCES' civil rights compliance officer. Any grievance received by a BOCES administrator or supervisor shall promptly be forwarded to the civil rights compliance officer, who shall ensure that the complaint is promptly investigated. The civil rights compliance officer shall, in consultation with the administrator, determine how and by whom the matter shall be investigated, subject to the approval of the District Superintendent. Employees and students shall cooperate in such investigations.
2. Within thirty (30) days after the receipt of the grievance, the the civil rights compliance officer or other individual designated by the District Superintendent shall make a finding in writing that there has or has not been a violation of a civil rights law. The written finding or conclusion shall be forwarded within that time period to the grievant and any other material parties. In the event that the the civil rights compliance officer or other designated individual finds that there has been a violation, he/she shall propose a resolution of the complaint.
3. If the grievant or any other material party (as determined by the District Superintendent) is not satisfied with the finding of the the civil rights compliance officer or other individual designated by the District Superintendent, or with the proposed resolution of the grievance, then that party may, within fifteen (15) days after he/she has received the written finding(s) of the civil rights compliance officer, file a written request for review by the District Superintendent.

B. Stage II: The District Superintendent

1. The District Superintendent or his or her designee may request that any party or individual provide or submit information or records relating to the grievance and/or the facts surrounding it.
2. If the grievant or any other material party (as determined by the District Superintendent) makes a written request for an informal hearing, then the District Superintendent or his or her designee shall notify all parties concerned of the time and place when an informal hearing will be held where such parties may appear and present oral and written statements supplementing their position in the case. The District Superintendent may designate a representative to conduct any such hearing.
3. If a party seeks to present evidence that was not presented at Stage I, then the District Superintendent or his or her designee may, in his or her discretion, remand the matter for further investigation at Stage I of this procedure.

4. Within twenty-one (21) days after receiving the written request for review or, if an informal hearing is duly requested by the grievant, within twenty-one (21) days after the hearing, the District Superintendent or his or her designee shall render his/her determination in writing. Such determination shall include a finding that there has or has not been a violation of a law or policy within the scope of the definition of "grievance" hereinabove, and any proposed resolution of the complaint. The written determination shall be forwarded within the foregoing time period to the grievant and any other material parties (as determined by the District Superintendent).
5. If the grievant or any other material party (as determined by the District Superintendent) is not satisfied with the determination of the District Superintendent, then such party may, within fifteen (15) days after the decision, file with the Clerk of the Board of Education a written request for review by the Board.

C. Stage III: Board of Education

1. The Board shall notify all parties concerned of the time and place when a hearing will be held. The Board may designate a committee of its members, or a hearing officer, to conduct the hearing.
2. The Board or its designee(s) shall render a decision in writing within forty-five (45) days after the hearing has been concluded. The written decision shall be forwarded within that time period to the grievant and any other material parties (as determined by the Board).
3. If a party seeks to present evidence that was not presented at an earlier stage, then the Board or its designee may, in the discretion of the Board or its designee(s), remand the matter for further investigation at a lower stage of this procedure.

Every student and every candidate for enrollment shall have the right to present grievances, in accordance with the provisions of this policy, free from interference, coercion, restraint, discrimination, or reprisal. Additionally, the BOCES prohibits any retaliatory behavior directed against any complainants, grievants, witnesses, and/or any other individuals who participated in the investigation of the grievance or complaint.

This policy shall not diminish or limit the right of the student to make complaints (including but not limited to complaints of discrimination and/or harassment) directly to the appropriate school administrator (i.e. principal or assistant principal).

Response deadlines set forth in this policy shall be subject to reasonable extension, if a need to investigate or conduct grievance proceedings so warrants.

No term or provision of this policy shall extend (or be construed as extending) the statute of limitations for commencing a proceeding in a court of law or in any other forum.

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

New York Civil Rights Law Section 40-c

New York Education Law Article 2

Section 504 of the Federal Rehabilitation Act of 1973

Federal Americans with Disabilities Act (ADA) of 1990, Title II,
42 U.S.C.A. Sec. 12131, et seq.

Title IX of the Education Amendments of 1972

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