

**SUBJECT: DISCRIMINATION, HARASSMENT AND ACADEMIC COMPLAINT
PROCEDURE**

PURPOSE

The Cayuga-Onondaga BOCES is committed to creating and maintaining a working and learning environment that is free of discrimination and harassment. All complaints of discrimination and harassment will be thoroughly investigated to determine whether the totality of the alleged behavior and circumstances may constitute harassment, sexual harassment, discrimination or a form of misconduct. In addition, this procedure may be used to address academic complaints or grievances that students of the Cayuga-Onondaga BOCES may have. This procedure outlines the steps a complainant should take in order to have their complaint investigated and resolved.

SCOPE

This procedure applies to all students and employees of the Cayuga-Onondaga BOCES

POLICY

- Policy 3210
- Notice of Non-Discrimination:

<http://www.cayboces.org/tfiles/folder702/Notice%20of%20Non-Discrimination.pdf>

APPROVED FORMS

- Discrimination, Harassment and Academic Complaint Form

CONTACTS

Compliance Officer

1879 West Genesee Street Road
Auburn, NY 13021
(315) 255-7683

civilrightscomplaint@cayboces.org

District Superintendent

1879 West Genesee Street Road
Auburn, NY 13021
(315) 255-7615

bhartwell@cayboces.org

COMPLAINT PROCEDURE

1. Any student or employee at the BOCES who wishes to file a complaint regarding discrimination, harassment or an academic concern shall, if possible, make such a complaint in writing using the Discrimination, Harassment and Academic Complaint Form.

Regardless of whether a complaint has been filed, if the BOCES knows of the occurrence or the possible occurrence of any discrimination or harassment, the BOCES will require a prompt, equitable and thorough investigation by appropriate personnel. Even if an anonymous complaint has been filed, the BOCES will respond to the greatest extent possible.

The complaint form may be downloaded at:

<http://www.caybores.org/tfiles/folder616/Complaint%20Form.pdf>

The complaint form is also available in the following offices: District Superintendent, Assistant Superintendent of Curriculum, Instruction and Educational Programs, CTE Principal, Director of Special Education, and Director of Alternative Education.

If unable to make the complaint in writing, a student may contact a teacher, counselor, administrator or the Compliance Officer, and employees may contact their supervisor or the Compliance Officer to assist with putting the complaint in writing. The written complaint should be signed by the complainant, dated, and include at a minimum, the following information:

- Date(s), time(s), place(s) of alleged incident(s)
- Alleged perpetrators of the discrimination or harassment if there is one or more include names, identifiers, titles (student/teacher) etc.
- Description of the discriminatory circumstances or behavior, and if this has occurred more than once, list each incident by date
- Witnesses, if any (names and identifying information)
- Other relevant information
- Desired resolution – what you'd like to see change as a result of the investigation

2. The written complaint should be forwarded to the Compliance Officer or the administrator or department head assisting you. If forwarded to the principal or other administrator, s/he may, depending on the nature of the complaint, forward the complaint form to the Compliance Officer.

3. The principal or administrator may resolve the complaint informally with the agreement of the Complainant. If the complaint is not resolved within ten (10) business days by the principal or administrator, then it will be forwarded to the Compliance Officer.
4. The Compliance Officer or designee will:
 - Begin a fact-finding investigation within five (5) business days after receiving the complaint, which will be prompt and equitable to all parties. The investigation may include interviews of appropriate witnesses. The Compliance Officer or designee, as part of the investigation, may schedule people to appear at different times so that they are not in the same room at the same time.
 - Render a decision within fifteen (15) business days after receipt of the complaint, and notify the complainant, District Superintendent, and other material parties who need to be advised of the decision. If additional time is needed for good cause, (e.g., key witnesses cannot be interviewed in a timely manner), then the decision will be made as soon as reasonably possible. If the decision is to be delayed for good cause, the complainant Superintendent, and other material parties shall be notified in writing and an estimated date for a decision will be provided.
 - Within fifteen (15) business days of the decision, the BOCES will, where possible, enact or implement the changes/recommendations, if any, based on the decision.
 - Complainant and other material parties have five (5) business days to either:
 - Accept the decision by notifying the Compliance Officer in writing; or
 - Disagree with the decision by submitting a request to appeal the decision by notifying the Compliance Officer or District Superintendent in writing (see Appeal Procedures below); OR
 - If complainant or other material parties fail to notify the Compliance Officer or District Superintendent of their acceptance or disagreement with the decision, it will be assumed that the resolution is acceptable, and the Compliance Officer will ensure the changes / recommendations are implemented appropriately, where necessary and possible.

APPEALS

Level One Appeal: District Superintendent

1. The Compliance Officer will forward all materials, including the letter requesting appeal of the initial decision, to the District Superintendent for review.
2. The District Superintendent or designee will schedule a meeting within ten (10) business days of receipt of the request for review/appeal.
3. The participants at the scheduled meeting shall be, at a minimum, the appellant, any other material parties, the Compliance Officer, and the District Superintendent and/or designee. Those appearing at this meeting may be scheduled at different times so complainant, material parties and witnesses are not in the same room at the same time.
4. The District Superintendent, or designee(s), shall conduct a prompt, impartial, equitable and thorough review of the materials. S/he shall have the right to re-interview witnesses, e.g., if testimony is unclear or new evidence has been brought to light, or to interview additional witnesses if needed to ensure an equitable decision.
5. The District Superintendent, or designee, will present the decision within fifteen (15) business days after the meeting of the parties, unless additional time is needed for good cause. If additional time is needed, the appellant and any other material party shall so be notified in writing and provided with an estimated date of the appeal decision.
6. The decision of the District Superintendent or designee shall be in writing, and sent to the appellant, other material parties, if any, and the Compliance Officer.
7. The appellant and other material parties will have ten (10) business days to accept or appeal the District Superintendent's decision by notifying the District Superintendent's office, in writing, whether they accept or wish to appeal the decision. If the appellant or other material party fail to notify the District Superintendent of their acceptance or disagreement with the decision, it will be assumed that the resolution is acceptable, and the Compliance Officer will ensure the changes / recommendations are implemented appropriately.

Level Two Appeal: BOCES Board of Education

1. If an appeal of the District Superintendent's decision is requested, the appellant shall compose a letter stating reason for disagreement with the Superintendent's decision and request an appeal. The letter of appeal should be sent to the Board Clerk *in addition to* the District Superintendent's office. A record should be made of the date the letter is sent by the appellant and the date the Board Clerk received the letter requesting further review.

2. The Board shall hire or appoint an impartial person(s) who has not been otherwise involved in the investigation of this complaint to conduct a prompt, fair, equitable, and thorough investigation. This person(s) will be knowledgeable in the civil rights laws pertaining to the alleged violation by the complainant, and be knowledgeable in conducting investigations of alleged violations of said law(s). The investigator shall issue written findings and recommendations to the Board not later than thirty (30) business days after the appellant's appeal request was received by the Board Clerk. If a thorough and equitable investigation cannot be conducted within this time frame for good cause, the Superintendent and the Board will be notified by the investigator.
3. A decision shall be made by the Board based on the findings and recommendation of the investigator(s) appointed by the Board at the next regularly scheduled BOCES Board meeting after submission of the report to the Board Clerk. If a decision cannot be made within this time frame for good cause, the appellant and other material parties shall so be notified and provided with an estimated date for the decision to be made.
4. If the appellant is dissatisfied with the Board-level decision, he/she may appeal to the Office for Civil Rights (OCR). If the OCR is contacted, the review by the Office for Civil Rights (OCR) must be requested by the complainant within sixty (60) days of the School Board's decision.

CONCURRENT APPEALS OR APPEAL OF THE SCHOOL BOARD-LEVEL APPEAL

A complainant can, while the investigation is happening at the school level, also contact any of the following agencies and request that an independent investigation be conducted:

New York State Office for Civil Rights (the enforcement office) is empowered to investigate complaints of discrimination based on race, color, national origin, sex, and/or disability:

Office for Civil Rights	Phone: 646-428-3900 / 800-421-3481
U.S. Department of Education	Fax: 646-428-3843
32 Old Slip, 26 th floor	TDD: 877-521-2172
New York, NY 10005-2500	E-mail: OCR.NewYork@ed.gov

<http://www2.ed.gov/about/offices/list/ocr/docs/howto.html>

PROHIBITION OF RETALIATION (COMMONLY KNOWN AS "WHISTLE-BLOWER" PROTECTION)

Retaliation against any individual for filing a charge of discrimination and/or harassment, or reporting allegations of discrimination or harassment is illegal and prohibited. Regardless of the stage of the investigation, the complainant(s)/targeted individual(s) will be instructed by the

principal, administrator, and/or Compliance Officer to report immediately if prohibited discriminatory or harassing behavior occurs and/or if the accused or associates of said accused person(s) retaliates against the originally targeted individual(s) or their associates. Any witnesses who cooperated in the investigation of the complaint will be similarly instructed to report to the Compliance Officer immediately as to any retaliatory action(s).

Additionally, the designated Compliance Officer will make follow-up inquiries to ensure that discrimination or harassment has not resumed and that no reprisals or retaliatory behavior has occurred to those involved in the investigation. Any employee or student who retaliates against another individual shall be subject to disciplinary action, as warranted, in accordance with legal guidelines, applicable contractual mandates and/or the BOCES Code of Conduct.

CORRECTIVE ACTION/DISCIPLINE/PENALTIES

Based upon the result of the BOCES's investigation, immediate corrective action will be taken if warranted. Any corrective action will, at a minimum, be intended to prevent the offending behavior from occurring again. The discipline of any employee or student found to have engaged in harassment or discrimination will be in accordance with legal guidelines, applicable contractual mandates and/or the BOCES Code of Conduct.

KNOWINGLY FALSE ACCUSATIONS

Employees and/or students who *knowingly* make false accusations against another individual as to allegations of discrimination or harassment may also face appropriate disciplinary action.

First Reading: March 19, 2015

Adoption: