

**SUBJECT: NON-DISCRIMINATION AND ANTI-HARASSMENT**

The Board is committed to providing a learning and working environment free from discrimination and harassment. Accordingly, the Board establishes this policy to prevent students, employees, and members of the public from experiencing discriminatory or harassing behavior while present at the BOCES and while participating in BOCES programs. The BOCES will strive to prevent discrimination on the basis of race, color, religion, national origin, sex, sexual orientation, age, disability, or other personal characteristic protected by state or federal law. Additionally, the BOCES will strive to ensure that all persons are able to enjoy a working and learning environment free of harassment and hostility.

This policy does not abrogate other BOCES policies, procedures, regulations, or codes of conduct that contain prohibitions against discriminatory or retaliatory behavior. Reporting, investigatory, and responsive requirements set forth in other policies dealing with specific forms of discrimination or harassment, such as the policies related to sexual harassment, Title IX, or the Dignity for All Students Act, take precedence over this policy when appropriate.

**Policy:**

- Discrimination and harassment are strictly prohibited at the BOCES.
- The BOCES' non-discrimination and anti-harassment policy applies to all students, employees, applicants for employment, interns (whether paid or unpaid), contractors, persons engaged in services on behalf of the BOCES, and members of the public taking part in BOCES programs or present at the BOCES.
- Discrimination is generally defined as the practice of conferring or denying privileges on the basis of membership in a legally protected class. Discriminatory actions may include but are not limited to: subjecting an individual to a hostile environment based on membership in a protected class, denying an individual access to facilities or educational benefits based on membership in a protected class, or impermissibly instituting policies or practices that disproportionately and adversely impact members of a protected class.
- Harassment generally consists of engaging in behaviors which affect other persons and are or have the purpose or effect of creating an intimidating, hostile, or offensive environment; substantially or unreasonably interfering with another individual's work or a student's educational performance, opportunities, benefits, or well-being; or otherwise adversely affecting an individual's employment or educational opportunities at the BOCES. Harassment may include, but is not limited to unwelcome verbal, written, or physical conduct which offends, denigrates, belittles, or harms the reputation of another individual. Although harassment may arise from discriminatory animus toward a protected class of persons, non-discriminatory harassment is also prohibited under this policy. The definitions and descriptions of sexual harassment are specific and nuanced under both Federal and State law.

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As such, any definition of sexual harassment in another policy, including those policies related to sexual harassment, Title IX, or the Dignity for All Students Act take precedence over this policy when appropriate.

- Determinations as to whether a person's conduct constitutes discrimination or harassment for the purposes of this policy will be made consistent with applicable state and federal laws, precedents, and guidelines. These determinations may depend upon a number of factors, including but not limited to: the particular conduct or occurrence at issue, the ages of the parties involved, the context in which the conduct or occurrence takes place, the relationship of the parties to one another, the category or characteristic that is alleged to have been the basis for the action or occurrence, and/or other considerations as are necessary and consistent with laws, precedents, and guidelines.
- Discriminatory or harassing behavior prohibited by this policy can occur between any individuals, regardless of their employment status or connection to the BOCES. Prohibited discriminatory or harassing behavior is not limited to BOCES facilities. It can occur while persons are traveling for work-related business or school-related events, attending BOCES-sponsored events or parties, or taking part in BOCES-sponsored programs. Additionally, telephone calls, texts, emails, and social media usage can constitute prohibited discriminatory or harassing behavior, even if those actions occur away from the BOCES premises on personal devices or during non-working/non-school hours.

**Reporting and Investigation of Prohibited Behavior**

Preventing discriminatory or harassing behavior is everyone's responsibility. The BOCES cannot prevent or remedy such behavior unless it knows the conduct is occurring. Any student, employee, or other person who has been subjected to behavior that may constitute discriminatory or harassing behavior should make a complaint to the BOCES' Civil Rights Compliance Officer ("CRCO"). Any student or employee who witnesses or becomes aware of potential instances of discriminatory or harassing conduct should report such behavior to the CRCO. It is essential that reports be made promptly. The BOCES' current Civil Rights Compliance Officer is:

Randy Ray  
Director of Personnel Relations and Civil Rights Compliance Officer  
1879 West Genesee Street Road  
Auburn, NY 13021  
(315) 255-7683  
[civilrightscomplaint@cayboces.org](mailto:civilrightscomplaint@cayboces.org)

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If the CRCO is an alleged perpetrator of the discriminatory or harassing behavior, the report or complaint should be directed to the District Superintendent's attention. The District Superintendent or designee will assume the role of the CRCO.

If the CRCO determines that a specific complaint falls within the jurisdiction of a different investigatory or compliance official (i.e., a DASA coordinator or Title VII compliance officer), the CRCO may refer the matter to a different official.

An investigation of any report or complaint of discriminatory or harassing behavior will be prompt and thorough, commenced immediately, and completed as soon as practical. The CRCO has the discretion to formulate an appropriate investigation plan based on the nature of the report or complaint received. The investigation will be kept confidential to the extent possible. All persons involved, including complainants, witnesses, and alleged perpetrators will be accorded due process, as described below, to protect their rights to a fair and impartial investigation. In the event an anonymous complaint is filed, the BOCES will investigate and respond to the extent possible. Any BOCES employee may be required to cooperate as needed in an investigation of suspected discriminatory or harassing behavior. The BOCES Investigatory and Complaint Procedure can be found at Board Policy #5121: Sexual Harassment.

If an investigation reveals that discriminatory or harassing behavior has occurred, the BOCES will take immediate corrective action as warranted. This action will be taken in accordance with applicable laws and regulations, as well as any and all relevant codes of conduct, BOCES policies and administrative regulations, collective bargaining agreements, and/or third-party contracts.

**Knowingly Makes False Accusations**

Any BOCES student or employee who knowingly makes false accusations against another individual as to allegations of discriminatory or harassing behavior may be subject to applicable disciplinary actions. If the party making a knowingly false statement is an employee, they may be disciplined up to and including termination.

**Prohibition of Retaliatory Behavior**

The Board prohibits any adverse retaliatory behavior directed against complainants, victims, witnesses, and/or any other individuals who participated in the investigation of a complaint of discriminatory or harassing behavior.

Unlawful retaliation can be any action that could discourage a reasonable individual from coming forward to report an occurrence of discriminatory or harassing behavior. Adverse action need not be job-related/school-related or occur at the BOCES to constitute unlawful retaliation

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(e.g., threats of physical violence outside of school/working hours). Students or employees are protected against retaliatory behavior if they:

- Submit a complaint or report describing discriminatory or harassing behavior;
- Provide evidence that assists an investigation into a report of discriminatory or harassing behavior;
- Testify or assist in a proceeding involving discriminatory or harassing behavior;
- Reported that another student, employee, or other person has been subjected to discriminatory or harassing behavior; or
- Encouraged a fellow student, employee, or another person to report discriminatory or harassing behavior.

Even if the BOCES determines that an individual's complaint or report is unfounded, the individual will be protected from adverse retaliatory behavior as long as he or she had a good faith belief that the reported behavior was a violation of this policy.

Complaints or reports of retaliation may be directed to the CRCO. If the CRCO is an alleged perpetrator of the retaliation, the report or complaint should be directed to the District Superintendent's attention. The District Superintendent or designee will assume the role of the CRCO.

Age Discrimination in Employment Act, 29 USC § 621  
Americans with Disabilities Act, 42 USC § 12101 *et seq.*  
§ 504 of the Rehabilitation Act of 1973, 29 USC § 794 *et seq.*  
Title VI of the Civil Rights Act of 1964, 42 USC § 2000d *et seq.*  
Title VII of the Civil Rights Act of 1964, 42 USC § 2000e *et seq.*  
Title IX of the Education Amendments of 1972, 20 USC § 1681 *et seq.*  
Education Law § 2801(1)  
Executive Law § 290 *et seq.*  
October 26, 2010 OCR Dear Colleague Letter (Harassment and Bullying)  
April 4, 2011 OCR Dear Colleague Letter (Sexual Violence)  
April 24, 2015 OCR Dear Colleague Letter (Title IX Guidance)

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