

## STUDENT HARASSMENT AND BULLYING PREVENTION AND INTERVENTION REGULATION

The Board prohibits all forms of discrimination, such as harassment, hazing, intimidation and bullying on school grounds, school buses and at all school-sponsored activities, programs and events.

### Definitions

#### **Bullying**

In order to facilitate implementation, provide meaningful guidance and prevent behaviors from rising to a violation of law, this policy will use the term bullying (which is usually subsumed under the term “harassment”), which is understood to be a hostile activity which harms or induces fear through the threat of further aggression and/or creates terror. Bullying may be premeditated or a sudden activity. It may be subtle or easy to identify, done by one person or a group.

#### **Discrimination**

Discrimination is the act of denying rights, benefits, justice, equitable treatment or access to facilities available to all others, to an individual or group of people because of the group, class or category to which that person belongs (as listed under *Harassment* as defined below).

#### **Harassment**

Harassment has been defined in various ways in federal and state law (including the penal law) and regulation. The Board recognizes that these definitions are important standards, but the Board’s goal is to prevent behaviors from escalating to violations of law and, instead, to promote a positive school environment and limit liability. The Dignity for All Students Act (§§10-18 of Education Law) defines harassment as the creation of a hostile environment by conduct or by verbal threats, intimidation or abuse that has or would have the effect of unreasonably and substantially interfering with a student’s educational performance, opportunities or benefits, or mental, emotional or physical well-being; or conduct, verbal threats, intimidation or abuse that reasonably causes or would reasonably be expected to cause a student to fear for his or her physical safety. The harassing behavior may be based on any characteristic, including but not limited to a person’s actual or perceived:

- race,
  - color,
  - weight,
  - national origin,
  - ethnic group,
  - religion,
  - religious practice,
  - disability,
  - sex,
  - sexual orientation, or
  - gender (including gender identity and expression).
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- Gender identity is one’s self-conception as being male or female, as distinguished from actual biological sex or sex assigned at birth.

- Gender expression is the manner in which a person represents or expresses gender to others, often through behavior, clothing, hairstyles, activities, voice or mannerisms.

### **Hazing**

Hazing is an induction, initiation or membership process involving harassment which produces public humiliation, physical or emotional discomfort, bodily injury or public ridicule or creates a situation where public humiliation, physical or emotional discomfort, bodily injury or public ridicule is likely to occur.

### **Prevention**

Prevention is the cornerstone of the BOCES effort to address bullying and harassment. The components of such an effort involve the following:

- Following the principles and practices of “*Educating the Whole Child Engaging the Whole School: Guidelines and Resources for Social and Emotional Development and Learning (SEDL) in New York State* – Adopted by the Board of Regents July 18, 2011.” BOCES curriculum will emphasize developing empathy, tolerance and respect for others.
- Learning about and identifying the early warning signs and precursor behaviors that may lead to bullying.
- Gathering information about bullying at school directly from students (through surveys and other mechanisms); analyzing and using the data gathered to assist in decision-making about programming and resource allocation.
- Establishing clear school wide and classroom rules about bullying consistent with the BOCES’ code of conduct.
- Training adults in the school community to respond sensitively and consistently to bullying.
- Raising awareness among adults, through training, of the school experiences of marginalized student populations (as enumerated in the *Definitions* section above), social stigma in the school environment, gender norms in the school environment, and strategies for disrupting bullying, intimidation, harassment or other forms of violence.
- Providing adequate supervision, particularly in less structured areas such as in the hallways, cafeteria, school bus and playground.
- Raising parental awareness and involvement in the prevention program and in addressing problems.
- Using educational opportunities or curriculum, including, if applicable, the Individual Educational Program (IEP), to address the underlying causes and impact of bullying.

### **Role of the Dignity Act Coordinator (DAC)**

The Board of Education will annually designate a staff member, who has been thoroughly trained in human relations in the areas of race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender (including gender identity and expression), and sex, as the Dignity Act Coordinator (DAC), accountable for implementation of this policy. The DAC will be responsible for coordinating and enforcing this policy and regulation in each school building, including but not limited to coordination of:

- the work of the building-level committees;
- professional development for staff members and,
- the complaint process, and
- management of the Dignity Act’s civility curriculum components.

Student Complaints:

If the complaint is filed by a student against another student, the Director of HR and/or School Attorney, shall, except in unusual circumstances, refer the complaint to the student's Principal or designee for investigation and appropriate action. If the Principal or designee believes that irreparable harm may occur before the investigation can be completed, then (s)he should implement appropriate interim relief pending completion of the investigation (e.g., minimizing or eliminating contact between complainant and accused). A Principal who investigates a student complaint shall also determine what, if any, disciplinary or corrective actions are appropriate at the conclusion of the investigation according to applicable laws and Board Policy. If the complainant or material party to the investigation is dissatisfied with the outcome of the Principal's or designee's investigation, (s)he may seek review of the investigation and determination made by the Principal or designee by filing a BOCES Complaint Form (0100F) with the Director of HR and/or School Attorney within ten (10) school days, requesting such a review. The Director of HR or designee, shall notify the building principal/supervisor, complainant and material parties in writing of the determination after review within ten school days of receipt of the 0100F BOCES Complaint Form, unless extenuating circumstances warrant an extension to the time period. Complainant and material parties shall be notified in writing of any extension, if needed.

**PROCEDURE**

1. Anyone who wishes to file a complaint regarding discrimination or harassment shall, if possible, make such a complaint in writing using the **Complaint Form 0100F**.
  - The 0100F complaint form may be obtained by accessing the "Notice of Non-discrimination" box below the Quick Links on the BOCES' website, **website address to be determined**
  - You may translate the 0100F complaint form using the "Google Translate" feature on the "Notice of Non-discrimination" page of the BOCES website.
  - The 0100F complaint form is also available in Principal's main office, and at the District Superintendent's office.

If unable to make the complaint in writing, students may contact a teacher, counselor, administrator or the Compliance Officer, and employees may contact their department head or the Compliance Officer to assist with putting the complaint in writing.

Anyone else unable to make the complaint in writing may contact the Director of HR. and/or the School Attorney.

The written complaint must be signed by the complainant, dated, and include at a minimum, the following information:

- Date(s), time(s), place(s) of alleged incident(s)
  - Nature of the claim
  - Alleged perpetrators of the discrimination or harassment (names, identifiers, etc.)
  - Description of 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 (form 0100F) should be forwarded to the Director of HR and/or the School Attorney by yourself or the administrator or department head assisting you. If forwarded to the principal

or other administrator, s/he shall forward the complaint form to the Director of HR and/or the School Attorney.

3. The Director of HR and/or the School Attorney or designee shall:
  - Begin a fact-finding investigation which shall be prompt and equitable to all parties. The investigation may include interviews of appropriate witnesses.
  - Render a decision within ten (10) school days after receipt of complaint, and notify the complainant and material parties, District Superintendent, and others 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), the decision shall be made as soon as reasonably possible. If the decision is to be delayed for good cause, the complainant, District Superintendent, and other material parties shall so be notified and an estimated date for a decision shall be noted.
  - Within five (5) school days of the decision, enact or implement the changes/recommendations, if any, based on the decision.
  - The complainant and material parties have five (5) school days to accept or appeal the decision.
    - a. Accept the decision: By notifying the District Superintendent in writing;
    - b. Disagree with the decision: Appeal the decision by notifying the District Superintendent in writing (see First Appeal Level below).
    - c. If complainant fails to notify the District Superintendent of acceptance or disagreement with the decision, it shall be assumed that the resolution is acceptable, and the District Superintendent shall ensure the changes / recommendations are implemented appropriately.

**First Appeal Level: District Superintendent-level appeal**

1. The Director of HR and/or the School Attorney shall forward all materials, including the letter requesting appeal of the initial decision, to the District Superintendent for review.
2. The District Superintendent or designee shall schedule a meeting within ten (10) school days of receipt of the request for review/appeal.
3. The participants at the scheduled meeting shall be, at a minimum, the complainant, and the District Superintendent and/or designee. The accused may be in attendance as well.
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, shall present the decision within fifteen (15) school days after the meeting of the parties unless additional time is needed for good cause. If additional time is needed, complainant and material parties shall so be notified 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 complainant and material parties, the principal of the school of the complainant, if applicable, and the Director of HR, and/or the School Attorney.

7. The complainant or material party has five (5) school days to accept or appeal the District Superintendent-level decision. The complainant or material parties shall notify the District Superintendent's office, in writing, whether s/he accepts or wishes to appeal the decision. If the complainant or material party fails to notify the District Superintendent of the acceptance or disagreement with the decision, it will be assumed that the resolution is acceptable, and the District Superintendent or designee shall ensure the changes / recommendations are implemented appropriately.

**Second Appeal Level: School Board-level appeal**

1. Should the complainant or material party not be satisfied with the District Superintendent-level decision and wish to pursue the matter further, the material party shall compose a letter stating the reason for disagreement with the District Superintendent's decision and request an appeal. The letter of appeal should be sent to the School Board *in addition* to the District Superintendent's office. A record should be made of the date the letter is sent by the complainant or material party, and the date the BOCES Board received the letter requesting further review.
2. The BOCES Board shall hire or appoint persons who are impartial and who have not been otherwise involved in the investigation of this complaint to conduct a prompt, fair, equitable, and thorough investigation. The person(s) hired or appointed to conduct this investigation shall 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).
3. A decision shall be made by the BOCES Board based on the recommendation and findings of the investigator(s) appointed by the BOCES Board within twenty (20) school days from the date the complainant's letter requesting further review is received. If a decision cannot be made within four (4) calendar weeks for good cause, complainant or material parties shall so be notified and provided with an estimated date for the decision to be made.
4. If a complainant or material party is dissatisfied with the School Board-level decision, s/he must request a review by the Office for Civil Rights (OCR) within sixty (60) days of the Board's decision. If complainant or material party fails to notify the School Board of the acceptance or disagreement with the decision, it will be assumed that the resolution is acceptable, and the Compliance Officer shall ensure the changes / recommendations are implemented appropriately.

**Concurrent Appeals or Appeal of the 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:

<b>New York State Office for Enforcement</b> (for civil rights 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 <sup>th</sup> Floor	TDD: 877-521-2172
New York, NY 10005-2500	E-mail: OCR.NewYork@ed.gov
<a href="http://www2.ed.gov/about/offices/list/ocr/docs/howto.html">http://www2.ed.gov/about/offices/list/ocr/docs/howto.html</a>	

## CAPITAL REGION BOCES

### **New York Civil Liberties Union**

125 Broad Street, 19<sup>th</sup> Floor

New York, NY 10004

**Web:** <http://www.nyclu.org>

Phone: 212-607-3300

Fax: 212-607-3318

### **Limited Privacy Rights**

As part of an investigation, BOCES has the right to search all school property and equipment including BOCES computers and email accounts. Rooms, desks, cabinets, lockers, computers, etc. are the property of BOCES, provided for the use of students and staff; however, the users have no reasonable expectation of privacy with respect to these locations or equipment or materials stored therein.

### **Retaliation Prohibited**

Retaliation against any individual for filing a charge of unlawful discrimination and/or harassment, or reporting allegations of unlawful discrimination or harassment is illegal and prohibited. Regardless of the stage of the investigation, the complainant or material parties shall be instructed by the supervisor or principal and/or Director of HR, or School Attorney to report immediately if prohibited discriminatory or harassing behavior occurs again and/or if the accused or associates of said accused person(s) retaliates against the originally targeted individual(s). Any witnesses who cooperate in the investigation of the complaint shall be similarly instructed to report to the supervisor or principal and/or Director of HR immediately as to any retaliatory action(s). The supervisor or principal and/or Director of HR should also follow up with complainants and witnesses to verify that no retaliation or intimidation has occurred. 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 Code of Conduct.

### **Remediation/Discipline/Penalties**

Any individual who violates this policy by engaging in bullying will be subject to appropriate action, which may include disciplinary action. Remedial responses to bullying include measures designed to correct the problem behavior, prevent another occurrence of the behavior, and protect the target of the act. Appropriate remedial measures may include, but are not limited to:

- Restitution and restoration;
- Peer support group;
- Corrective instruction or other relevant learning or service experience;
- Changes in class schedule
- Supportive intervention;
- Behavioral assessment or evaluation;
- Behavioral management plan, with benchmarks that are closely monitored;
- Student counseling;
- Parent conferences; or
- Student treatment or therapy.

Environmental remediation may include, but is not limited to:

- School and community surveys or other strategies for determining the conditions contributing to the relevant behavior;
- Modification of schedules;

- Adjustment in hallway traffic and other student routes of travel;
- Targeted use of monitors;
- Parent education seminars/workshops;
- Peer support groups.

Disciplinary measures available to school authorities include, but are not limited to the following:

Students: Discipline may range from a reprimand up to and including suspension from school, to be imposed consistent with the Code of Conduct and applicable law.

Employees: Discipline may range from a warning up to and including termination, to be imposed consistent with all applicable contractual and statutory rights.

Volunteers: Penalties may range from a warning up to and including loss of volunteer assignment.

Vendors: Penalties may range from a warning up to and including loss of BOCES business.

Other individuals: Penalties may range from a warning up to and including denial of future access to school property.

**Policy Dissemination**

All students and employees shall be informed of this policy in student and employee handbooks, and on the BOCES website

All employees shall receive information about this policy and regulation at least once a year.

Principals in each school shall be responsible for informing students and staff on a yearly basis of the terms of this policy, including the procedures for filing a complaint and information about the impact of bullying on the target and bystanders.

**Training**

Training needs in support of this bullying prevention and intervention program will be reflected in the BOCES's annual professional development plan, new teacher orientation, in curriculum and will be considered in the budget process. The bullying prevention coordinator, administrative employees and other staff, such as counselors or social workers who have specific responsibilities for investigating and/or resolving complaints of bullying shall receive yearly training to support implementation of this policy, regulation and on related legal developments.

Adoption date: June 18, 2012  
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