

Nondiscrimination/Equal Opportunity

The Board is committed to a policy of nondiscrimination in accordance with applicable federal and state laws and constitutional provisions. Accordingly, no otherwise qualified student, employee, applicant for employment or member of the public shall be excluded from participation in, be denied the benefits of, or be subjected to unlawful discrimination under any BOCES program or activity on the basis of race, color, national origin, ancestry, creed, religion, sex (which includes marital status), sexual orientation (which includes transgender), disability or need for special education services. Discrimination against employees and applicants for employment based on age, genetic information and conditions related to pregnancy or childbirth is also prohibited in accordance with state and/or federal law.

This policy and regulation shall be used to address all concerns regarding unlawful discrimination and harassment, except those regarding sexual harassment which are addressed in other policies listed in this policy's cross references.

In keeping with these statements, the following shall be objectives of this BOCES:

1. To promote the rights and responsibilities of all individuals as set forth in the state and federal constitutions, pertinent legislation and applicable judicial interpretations.
2. To encourage positive experiences in terms of human values for children and adults who have differing personal and family characteristics or who come from various socio-economic, racial and ethnic groups.
3. To initiate a process of reviewing all policies and practices of this BOCES in order to achieve the objectives of this policy to the greatest extent possible.
4. To investigate and resolve promptly any complaints of unlawful discrimination and harassment allegedly committed by a BOCES employee.
5. To refer promptly any complaints of unlawful discrimination and harassment allegedly committed by a student or district employee to the district of attendance.
6. To investigate and appropriately discipline staff found to be responsible for incidents of harassment or unlawful discrimination in violation of BOCES policy.

Annual notice

The BOCES shall issue a written notice prior to the beginning of each school year that advises students, parents, employees and the general public that the programs, activities and employment opportunities offered by the BOCES are offered without regard to race, color, sex (which includes marital status), sexual orientation (which includes transgender), religion, national origin, ancestry, creed, disability or need for special education services. With respect to employment practices, the BOCES shall also issue written notice that it does not discriminate on the basis of age, genetic information or conditions related to pregnancy or childbirth. The notice shall also include the name, address, email address and telephone number of the person designated to coordinate Title IX and Section 504 and ADA compliance activities.

The notice shall be disseminated to persons with limited English language skills in the person's own language. It shall also be made available to persons who are visually or hearing impaired.

The notice shall appear on a continuing basis in all BOCES media containing general information, including: teachers' guides, school publications, the BOCES's website, recruitment materials, application forms, vacancy announcements, student handbooks, school program notices, summer program newsletters and annual letters to parents.

Harassment is prohibited

Harassment based on a person's race, color, national origin, ancestry, creed, religion, sex (which includes marital status), sexual orientation (which includes transgender), disability or need for special education services is a form of discrimination prohibited by state and federal law. Preventing and remedying such harassment is essential to ensure a nondiscriminatory, safe environment in which students can learn, employees can work and members of the public can access and receive the benefit of BOCES facilities and programs. All such harassment, by BOCES employees, students and third parties is strictly prohibited.

All BOCES employees and students share the responsibility to ensure that harassment does not occur in any BOCES program, and BOCES employees carry that responsibility with them in any educational setting in which the employee is working, on any BOCES property, at any BOCES or school-sanctioned activity or event, or off BOCES or member school district property when such conduct has a nexus to the BOCES.

For purposes of this policy, harassment is any unwelcome, hostile and offensive verbal, written or physical conduct based on or directed at a person's race, color, national origin, ancestry, creed, religion, sex, sexual orientation (which includes transgender), disability or need for special education services that: (1) results in physical, emotional or mental harm, or damage to property; (2) is sufficiently severe, persistent, or pervasive that it interferes with an individual's ability to participate in or benefit from a BOCES's program or activity or creates an intimidating, hostile or threatening environment; or (3) substantially disrupts the orderly operation of the BOCES. Board policy on sexual harassment will apply to complaints alleging sexual harassment.

Harassing conduct may take many forms, including but not limited to:

1. verbal acts and name-calling;
2. graphic depictions and written statements, which may include use of cell phones or the Internet;
3. other conduct that may be physically threatening, harmful or humiliating.

Reporting unlawful discrimination and harassment

Any student who believes he or she has been a victim of unlawful discrimination or harassment as defined in Board policy, or who has witnessed such unlawful discrimination or harassment, shall immediately report it to an administrator, counselor, teacher or the BOCES's compliance officer and file a complaint as set forth in the regulation which accompanies this policy.

Any employee, applicant for employment or member of the public who believes he or she has been a victim of unlawful discrimination or harassment as defined in Board policy, or who has witnessed such unlawful discrimination or harassment, shall file a complaint with either an immediate supervisor or the BOCES's compliance officer.

If the individual alleged to have engaged in prohibited conduct is the person designated as the compliance officer, an alternate compliance officer shall be designated to investigate the matter, in accordance with this policy's accompanying regulation.

BOCES action

All BOCES employees who witness unlawful discrimination or harassment shall take prompt and effective action to stop it, as prescribed by the BOCES.

The BOCES shall take appropriate action to promptly and impartially investigate allegations of unlawful discrimination and harassment, to end unlawful behavior, to prevent the recurrence of such behavior and to prevent retaliation against the individual(s) who files the complaint and/or any person who participates in the investigation. The BOCES shall refer any reports against students to their school district of attendance, and cooperate in the investigation as appropriate. When appropriate, the BOCES shall take interim measures during the investigation to protect against further unlawful discrimination, harassment or retaliation.

To the extent possible, all reports of unlawful discrimination or harassment will be kept confidential. Students or employees who knowingly file false complaints or give false statements in an investigation shall be subject to discipline, up to and including suspension/expulsion for students by their district of attendance and termination of employment. No student, employee or member of the public shall be subject to adverse treatment in retaliation for any good faith report of harassment under this policy.

Upon determining that incidents of unlawful discrimination or harassment are occurring in particular BOCES settings or activities, the BOCES shall implement measures designed to remedy the problem in those areas or activities.

In cases involving potential criminal conduct, the compliance officer shall determine whether appropriate law enforcement officials should be notified.

Notice and training

To reduce unlawful discrimination and harassment and ensure a respectful environment, the administration is responsible for providing notice of this policy to all BOCES employees. The policy and complaint process shall be referenced in student and employee handbooks and otherwise available to all students, staff and members of the public through posting on the BOCES website.

BOCES employees shall receive periodic training related to recognizing and preventing unlawful discrimination and harassment, and also related to handling reports of unlawful discrimination and harassment.

Member District Responsibility

While the BOCES provides staff and administrative support for educational services such as extended school year services, the BOCES has no schools or programs apart from or separate from the schools and educational programs of its member school districts. Accordingly, member districts are responsible for investigating complaints against their students and/or employees, and the BOCES would not become involved in such an investigation unless requested to do so by the member district.

Adopted: January 12, 2017

LEGAL REFS.: 20 U.S.C. §1681 (*Title IX, Education Amendments of 1972*)
20 U.S.C. §1701-1758 (*Equal Employment Opportunity Act of 1972*)
29 U.S.C. §621 *et seq.* (*Age Discrimination in Employment Act of 1967*)
29 U.S.C. §701 *et seq.* (*Section 504 of the Rehabilitation Act of 1973*)
42 U.S.C. §12101 *et seq.* (*Title II of the Americans with Disabilities Act*)
42 U.S.C. §2000d (*Title VI of the Civil Rights Act of 1964, as amended in 1972*)
42 U.S.C. §2000e (*Title VII of the Civil Rights Act of 1964*)
42 U.S.C. §2000ff *et seq.* (*Genetic Information Nondiscrimination Act of 2008*)
34 C.F.R. Part 100 through Part 110 (*civil rights regulations*)
C.R.S. 2-4-401(13.5) (*definition of sexual orientation, which includes transgender*)
C.R.S. 18-9-121 (*bias-motivated crimes*)
C.R.S. 24-34-301(7) (*definition of sexual orientation, which includes transgender*)
C.R.S. 24-34-301 *et seq.* (*Colorado Civil Rights Division*)
C.R.S. 24-34-401 *et seq.* (*discriminatory or unfair employment practices*)
C.R.S. 24-34-402.3 (*discrimination based on pregnancy, childbirth or related conditions; notice of right to be free from such discrimination must be posted "in a conspicuous place" accessible to employees*)

C.R.S. 24-34-601 (*unlawful discrimination in places of public accommodation*)
C.R.S. 24-34-602 (*penalty and civil liability for unlawful discrimination*)

CROSS REFS.: GBA, Open Hiring/Equal Employment Opportunity
GBAA, Sexual Harassment
JB, Equal Educational Opportunities
JBB*, Sexual Harassment

NOTE: State law defines "sexual orientation" as "a person's orientation toward heterosexuality, homosexuality, bisexuality, or transgender status or another person's perception thereof." C.R.S. 2-4-401(13.5), 24-34-301(7).