

Sexual Harassment

The Board recognizes that sexual harassment can interfere with a student's academic performance and emotional and physical well-being and that preventing and remedying sexual harassment in the BOCES's programs is essential to ensure a nondiscriminatory, safe environment in which students can learn. In addition, sexual harassment is recognized as a form of sex discrimination and thus is a violation of the laws that prohibit sex discrimination, as addressed in the Board's policy concerning unlawful discrimination and harassment.

BOCES's commitment

The BOCES is committed to maintaining a learning environment that is free from sexual harassment. It shall be a violation of policy for any staff member to harass students or for students to harass other students through conduct or communications of a sexual nature or to retaliate against anyone that reports sexual harassment or participates in a harassment investigation.

The BOCES shall take appropriate action with respect to all indications, informal reports and formal grievances of sexual harassment by students, staff or third-parties. The BOCES shall refer any reports against students to their school district of attendance, and cooperate in the investigation as appropriate. The BOCES shall investigate any reports against BOCES employees and appropriate corrective action shall be taken. Corrective action includes taking all reasonable steps to end the harassment, to make the harassed student whole by restoring lost educational opportunities, to prevent harassment from recurring and to prevent retaliation against anyone who reports sexual harassment or participates in a harassment investigation.

Sexual harassment prohibited

Unwelcome sexual advances, requests for sexual favors, or other verbal, non-verbal or physical conduct of a sexual nature may constitute sexual harassment, even if the harasser and the student being harassed are the same sex and whether or not the student resists or submits to the harasser, when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of a student's participation in an education program or activity.
2. Submission to or rejection of such conduct by a student is used as the basis for education decisions affecting the student.
3. Such conduct is sufficiently severe, persistent or pervasive such that it limits a student's ability to participate in or benefit from an education program or activity or it creates a hostile or abusive educational environment. For a one-time incident to rise to the level of harassment, it must be severe.

Any conduct of a sexual nature directed by a student toward a staff member or by a staff member to a student is presumed to be unwelcome and shall constitute sexual harassment.

Acts of verbal or physical aggression, intimidation or hostility based on sex, but not involving conduct of a sexual nature may also constitute sexual harassment.

Sexual harassment as defined above may include, but is not limited to:

1. sex-oriented verbal "kidding," abuse or harassment,
2. pressure for sexual activity,
3. repeated remarks to a person with sexual implications,
4. unwelcome touching, such as patting, pinching or constant brushing against the body of another,
5. suggesting or demanding sexual involvement, accompanied by implied or explicit threats concerning one's grades or similar personal concerns,
6. sexual violence.

Reporting, investigation and sanctions

Students are encouraged to report all incidences of sexual harassment to either a teacher, counselor or administrator in their program and file a complaint, through the BOCES's complaint and compliance process, if it is directed at a BOCES employee. All reports and indications from students, BOCES employees and third parties shall be forwarded to the BOCES's compliance officer. The BOCES compliance officer will refer the complaint to the school district of attendance if it is directed against another student or a school district employee.

All matters involving sexual harassment reports shall remain confidential to the extent possible as long as doing so does not preclude the BOCES from responding effectively to the harassment or preventing future harassment. Filing of a complaint or otherwise reporting sexual harassment shall not reflect upon the student's status or affect grades.

In determining whether alleged conduct constitutes sexual harassment, the totality of the circumstances, the nature of the conduct, and the context in which the alleged conduct occurred shall be investigated.

Conduct of a sexual nature directed toward students shall, in appropriate circumstances, be reported as child abuse for investigation by appropriate authorities in conformity with applicable law and BOCES policy.

Notice and training

Notice of this policy shall be provided to all BOCES employees.

The BOCES has no schools or programs apart from or separate from the schools and educational programs of its member school districts. Each of the member districts will notify students of their sexual harassment policy.

Adopted: January 12, 2017

LEGAL REF.: 20 U.S.C. §1681 *et seq.* (*Title IX of the Education Amendments of 1972*)

CROSS REFS.: AC, Nondiscrimination/Equal Opportunity
AC-R, Nondiscrimination/Equal Opportunity (Complaint and Compliance
Process)
AC-E-1, Nondiscrimination/Equal Opportunity (Sample Notice)
JLF, Reporting Child Abuse/Child Protection