

[] Required

[] Local

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STUDENT HARASSMENT AND BULLYING PREVENTION AND INTERVENTION

The Board of Education is committed to providing an educational and working environment that promotes respect, dignity and equality. The Board recognizes that discrimination, such as harassment, hazing and bullying, are detrimental to student learning and achievement. These behaviors interfere with the mission of the BOCES to educate its students and disrupt the operation of the BOCES. Such behavior affects not only the students who are its targets but also those individuals who participate and witness such acts.

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

Discrimination, harassment, hazing or bullying that takes place at locations outside of school grounds which can be reasonably expected to materially and substantially interfere with the requirements of appropriate discipline in the operation of the school or impinge on the rights of other students are prohibited, and may be subject to disciplinary consequences.

Definitions:

Discrimination:

Discrimination means discrimination against any student by a student or students and/or employee or employees on school property or at a school function including, but not limited to, discrimination based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex.

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.

Harassment/Bullying:

Harassment/bullying means the creation of a hostile environment by conduct or by threats, intimidation or abuse, including cyberbullying as defined in Education Law §11(8), that:

- a) 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
- b) Reasonably causes or would reasonably be expected to cause a student to fear for his or her physical safety; or

- c) Reasonably causes or would reasonably be expected to cause physical injury or emotional harm to a student; or
- d) Occurs of school property and creates or would foreseeably create a risk of substantial disruption within the BOCES environment, where it is foreseeable that the conduct, threats, intimidation or abuse might reach school property.

For purposes of this definition, the term “threats, intimidation or abuse” shall include verbal and non-verbal actions.

“Cyberbullying” means harassment/bullying, as defined above, through any form of electronic communication. Cyberbullying may include, the use, both on and off school property, or electronic technology, including but not limited to, e-mail, instant messaging, blogs, chat rooms, pagers, cell phones, gaming systems and social media websites, to deliberately harass or threaten others.

Acts of harassment and bullying that are prohibited include those acts based on a person’s actual or perceived membership in the following groups including, but not limited to:

- Race
- Color
- Weight
- National origin
- Ethnic group
- Religion
- Religious practice
- Disability
- Sex
- Sexual orientation
- Gender (which includes a person’s actual or perceived sex, as well as gender identity and expression).

Material Incident of Discrimination and/or Harassment:

Material Incident of Discrimination and/or Harassment means a single incident of a series of related incidents where a student is subjected to discrimination and/or harassment by a student and/or employee on school property or at a school function that creates a hostile environment by conduct, with or without physical contact and/or by verbal threats, intimidation or abuse, of such severe or pervasive nature that:

- a) Has or would have the effect of unreasonably and substantially interfering with a student’s educational performance, opportunities or benefits, or mental, emotional and/or physical well-being; or
- b) Reasonably causes or would reasonably be expected to cause a student to fear for his or her physical safety.

Such conduct shall include, but is not limited to, threats, intimidation or abuse based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex.

In some instances, bullying or harassment may constitute a violation of an individual's civil rights. The BOCES is mindful of its responsibilities under the law and in accordance with BOCES policy regarding civil rights protections.

The school setting provides an opportunity to teach children, and emphasize among staff, that cooperation with and respect for others is a key BOCES value. A program geared to prevention is designed to not only decrease incidents of bullying but to help students build more supportive relationships with one another by integrating the bullying prevention program into classroom instruction. BOCES shall provide BOCES-wide professional development and instruction, to the warning signs of bullying, as well as to their responsibility to become actively involved in the prevention of bullying before overt acts occur.

Curricular material that raises awareness and sensitivity to discrimination or harassment and civility in the relationships of people of different races, weights, national origins, ethnic groups, religions, religious practices, mental or physical abilities, sexual orientations, sexes or gender expression or identities will be included in the instructional program K-12.

In order to implement this program the Board will designate at its annual organizational meeting a Dignity Act Coordinator (DAC). The role of the DAC is to coordinate and enforce this policy. The accompanying regulation provides more detail on the specific programs and strategies implemented by the BOCES.

Intervention

Intervention by adults and bystanders is an important step in preventing escalation and resolving issues at the earliest stages. Intervention will emphasize education and skill-building.

Successful intervention may involve remediation. Remedial responses to bullying and harassment include measures designed to correct the problem behavior, prevent another occurrence of the behavior and protect the target. Remediation may be targeted to the individual(s) involved in the bullying behavior or environmental approaches which are targeted to the BOCES as a whole.

In addition, intervention will focus upon the safety of the target. Staff is expected, when aware of bullying, to either refer the student to designated resources for assistance, or to intervene in accordance with this policy and regulation.

Provisions for students who do not feel safe at school

The Board acknowledges that, notwithstanding actions taken by BOCES staff, intervention may require a specific coordinated approach if the child does not feel safe at school. Students who do not feel safe at school are limited in their capacity to learn and reach their academic potential. Staff, when aware of bullying, should determine if accommodations are needed in order to help ensure the safety of the student and bring this to the attention of the building principal. The building principal, other appropriate staff, the student and the student's parent will work together to define and implement any needed accommodations.

The BOCES recognizes that there is a need to balance accommodations which enhance student safety against the potential to further stigmatize the targeted student. Therefore, each case will be handled individually. The student, parent/guardian, and school administration will collaborate to establish safety provisions that best meet the needs of the targeted student. Follow-up discussion and/or meetings will be scheduled, as needed, to ensure that safety concerns have been adequately addressed and to determine when and if accommodations need to be changed or discontinued.

Training

The Board recognizes that in order to implement an effective bullying prevention and intervention program, professional development is needed. The District Superintendent, the DAC and the BOCES Professional Development Team will incorporate training to support this program in new teacher orientation and the annual professional development plan, as needed. Training opportunities will be provided for all staff, including but not limited to bus drivers, cafeteria and hall monitors and all staff who have contact with students. The staff training will be consistent with the requirements in the Dignity Act. The DAC will be trained in accordance with state requirements and will continue their professional development so as to successfully support this policy and program.

Reporting and Investigation

Students who have been bullied, parents whose children have been bullied or other students or staff who observe bullying behavior are encouraged and expected to make a verbal and/or written complaint to any school personnel in accordance with the training and guidelines provided. At all times, complaints will be documented, tracked and handled in accordance with the regulations and procedures accompanying this policy, or, if applicable, **[0100, Equal Opportunity and Nondiscrimination, 0100-R, 5030, Student Complaints and Grievances, or 0110, Sexual Harassment]** and the BOCES's Code of Conduct.

Incidents will be included in the Violent and Disruptive Incident Reporting (VADIR) system when applicable. BOCES will submit to the commissioner an annual report of material incidents of discrimination and harassment that occurred in such school year, in accordance with Education Law §15 and §100.2 of the Commissioner's Regulations. Such report shall be submitted in a manner prescribed by the commissioner, on or before the basic educational data system (BEDS) reporting deadline or such other date as determined by the commissioner.

There shall be a duty for all school personnel to report any incidents of student-to-student and staff-to-student bullying that they observe, whether or not the student complains, to their building principal or other administrator who supervises their employment. In addition, there shall be a further duty for all school personnel to report any incidents of student-to-student and staff-to-student bullying of which they are made aware by students to their building principals or other administrator who supervises their employment. Supervisors will refer the information to appropriate BOCES staff for investigation as designated in regulation.

The results of the investigation shall be reported back to both the target and the accused in accordance with the accompanying regulation. If either of the parties disagrees with the results of the investigation, they can appeal the findings in accordance with the regulations that accompany this policy.

Disciplinary Consequences/Remediation

Offenders will be given the clear message that their actions are wrong and the behavior must improve. Student offenders will receive in-school guidance in making positive choices in their relationships with others. If appropriate, disciplinary action will be taken by the administration in accordance with the BOCES' Code of Conduct, as applicable. If the behavior rises to the level of criminal activity, law enforcement shall be contacted.

Consequences for a student who commits an act of bullying shall be unique to the individual incident and will vary in method and severity according to the nature of the behavior, the developmental age of the student, and the student's history of problem behaviors, and must be consistent with the BOCES Code of Conduct.

Non-Retaliation

All complainants and those who participate in the investigation of a complaint in conformity with state law and BOCES policies, who have acted reasonably and in good faith, have the right to be free from retaliation of any kind while on BOCES property or at a BOCES function.

Dissemination, Monitoring, Review, and Reporting

This policy, and a plain language summary, shall be published in student, and employee handbooks, and posted on the BOCES' website. A bullying complaint form will be available on the BOCES' website. The BOCES will ensure that the process of reporting bullying is clearly explained.

Each year, as part of the annual review of the Code of Conduct, this policy will be reviewed to assess its effectiveness and compliance with state and federal law. If changes are needed, revisions will be recommended to the Board for its consideration.

The Board will receive the annual VADIR report, for each building and for the BOCES as whole, with particular attention to the trends in the incidence of bullying. In addition, the Board will receive on an annual basis a more detailed report of the number of bullying incidents that occur, disaggregated by school, student demographic information and type of incident. Based on the review of the data, the Board may consider further action, including but not limited to modification of this policy and additional training.

The BOCES will ensure that reporting of information to the public will be in a manner that complies with student privacy rights under the Family Educational Rights and Privacy Act (FERPA).

Cross-ref: 0100, Equal Opportunity and Nondiscrimination
0100-R
0110, Sexual Harassment
4321, Programs for Students with Disabilities
5030, Student Complaints and Grievances
5300, Code of Conduct
5710, Violent and Disruptive Incident Reporting
9700, Staff Development

Ref: Dignity for All Students Act, Education Law, §10 – 18
Americans with Disabilities Act, 42 U.S.C. §12101 *et seq.*

CAPITAL REGION BOCES

Title VI, Civil Rights Act of 1964, 42 U.S.C. §2000d *et seq.*

Title VII, Civil Rights Act of 1964, 42 U.S.C. §2000e *et seq.*; 34 CFR §100 *et seq.*

Title IX, Education Amendments of 1972, 20 U.S.C. §1681 *et seq.*

§504, Rehabilitation Act of 1973, 29 U.S.C. §794

Individuals with Disabilities Education Law, 20 U.S.C §§1400 *et seq.*

Executive Law §290 *et seq.* (New York State Human Rights Law)

Education Law §§313(3), 3201, 3201-a

Tinker v. Des Moines Independent Community School Dist., 393 US 503, (1969) *Davis v.*

Monroe County Board of Education, 526 U.S. 629 (1999)

Gebser v. Lago Vista Independent School District, 524 U.S. 274 (1998)

Faragher v. City of Boca Raton, 524 U.S. 775 (1998)

Burlington Industries v. Ellerth, 524 U.S. 742 (1998)

Oncale v. Sundowner Offshore Services, Inc., 523 U.S. 75 (1998)

Franklin v. Gwinnett County Public Schools, 503 U.S. 60 (1992)

Meritor Savings Bank, FSB v. Vinson, 477 U.S. 57 (1986)

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