

**Monroe 2-Orleans BOCES Regulation
Series 2000 – Community Relations
Regulation #2000R – ANTI-HARASSMENT IN THE BOCES**

The BOCES is committed to creating and maintaining a working and learning environment which is free of discrimination and intimidation. Based upon the principle that every individual is entitled to be treated with dignity and respect, and a recognition that harassment is a violation of law and BOCES policy, the BOCES strictly prohibits communication (verbal, written or graphic) and/or physical conduct which constitutes harassment based on an individual's actual or perceived race, color, creed, religion, national origin, sex, sexual orientation, gender identity, gender expression, victim of domestic violence, age, marital or veteran status, military status, genetic status, prior conviction, or disability. The BOCES also prohibits harassment based on an individual's opposition to discrimination or participation in a related investigation or complaint proceeding under the anti-discrimination statutes.

Anyone who is in violation of BOCES policy and/or regulation will be subject to sanctions and/or disciplinary action as warranted. Should the offending individual be a student, appropriate disciplinary measures will be applied, up to and including suspension, in accordance with applicable laws and/or regulations, BOCES policy and regulation, and the Code of Conduct. Should the offending individual be a BOCES employee, appropriate disciplinary measures will be applied, up to and including termination of the offender's employment, in accordance with legal guidelines, BOCES policy and regulation, and the applicable collective bargaining agreement(s). Third parties (such as school volunteers, vendors/contractors, etc.) who are found to have violated BOCES policy and/or accompanying regulations will be subject to appropriate sanctions as warranted and in compliance with law.

The BOCES strictly prohibits all forms of harassment on BOCES premises and in BOCES owned or leased buildings; and at all BOCES-sponsored programs, activities and events, including those which take place off BOCES premises.

Harassment can include any unwelcome verbal, written or physical conduct which offends, denigrates, or belittles any individual because of any of the characteristics described above. Such conduct includes, but is not limited to, derogatory remarks, jokes, demeaning comments or behavior, slurs, mimicking, name calling, graffiti, innuendo, gestures, physical contact, stalking, threatening, extorting, or the display or circulation of written materials or pictures.

Definitions/Examples of Prohibited Conduct

Harassment Based on Race, Color and/or National Origin

Harassment based on race, color and/or national origin consists of communication (verbal, written, or graphic) and/or physical conduct relating to an individual's race, color, or national origin (including an individual's ancestry, country of origin, or country of origin of the individual's parents, family members, or ancestors) that is sufficiently severe, pervasive, or persistent so that such conduct:

- 1) Has the purpose or effect of creating an intimidating, hostile or offensive working or academic environment;
- 2) Has the purpose or effect of substantially or unreasonably interfering with an individual's work or academic performance; or

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- 3) Otherwise adversely affects an individual's employment or academic opportunities.

Examples of such conduct include, but are not limited to, the following:

- 1) Intimidation and implied or overt threats of physical violence motivated by race, color, and/or national origin.
- 2) Physical acts of aggression or assault upon another, or damage to another's property that is motivated by the individual's race, color, and/or national origin.
- 3) Demeaning jokes based on an individual's race, color and/or national origin, taunting, racial slurs and derogatory racial "nicknames," innuendoes, or other negative or derogatory remarks of a racial nature or relating to national origin.
- 4) Graffiti and/or slogans or visual displays such as cartoons or posters depicting racial/ethnic slurs or racially/ethnically derogatory sentiments.
- 5) Criminal offenses directed at persons because of their race, color, and/or national origin.

Harassment Based on Disability

For purposes of this regulation, harassment because of disability consists of severe, persistent or pervasive communication (verbal, written or graphic) and/or physical conduct relating to an individual's physical or mental impairment such that it substantially or unreasonably interferes with an individual's work or academic environment; affects an individual's ability to participate in or benefit from employment/educational programs or activities; or creates an intimidating, threatening or abusive work/educational environment. Such harassing conduct includes any unwelcome verbal, written or physical conduct directed at the characteristics of a person's disabling condition, such as imitating manner of speech or movement, or intentional interference with necessary equipment.

Examples of prohibited conduct include, but are not limited to, the following:

- 1) Graffiti containing offensive language which is derogatory to others because of their physical or mental disability.
- 2) Threatening or intimidating conduct directed at another because of the other's physical or mental disability.
- 3) Jokes, rumors or name calling based upon an individual's physical or mental disability.
- 4) Slurs, negative stereotypes, and hostile acts which are based upon another's physical or mental disability.
- 5) Graphic material containing comments or stereotypes which is posted or circulated and which is aimed at degrading individuals or members of protected classes.
- 6) A physical act of aggression or assault upon another because of an individual's physical or mental disability.

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7) Other kinds of aggressive conduct such as theft or damage to property which is motivated by an individual's physical or mental disability.

Harassment Based on Religion and/or Creed

Harassment on the basis of religion and/or creed consists of unwelcome communication (verbal, written or graphic) and/or physical conduct directed at the characteristics of a person's religion or creed including, but not limited to, derogatory comments regarding surnames, religious tradition, religious clothing, or religious slurs or graffiti. It has the purpose or effect of creating an intimidating, hostile or offensive working or academic environment; or substantially or unreasonably interferes with an individual's work or academic performance; or otherwise adversely affects an individual's employment or academic opportunities.

Other Forms of Harassment

In accordance with applicable laws, as well as BOCES policy, regulation, collective bargaining agreements, and/or the Code of Conduct, the BOCES condemns and prohibits all other forms of unlawful harassment based on the characteristics named above that substantially or unreasonably interfere with an individual's work/academic environment; adversely affect an individual's work/academic performance; or otherwise adversely affect an individual's employment or academic opportunities in violation of law and regulations, BOCES policies, collective bargaining agreements and/or Code of Conduct, as applicable.

This regulation should not be read to abrogate other BOCES policies and/or regulations prohibiting other forms of unlawful discrimination, inappropriate behavior, and/or hate crimes within this BOCES. It is the intent of this BOCES that all such policies and/or regulations be read consistently to provide the highest level of protection from unlawful discrimination in the provision of employment/educational services and opportunities. However, different treatment of any member of the above named group which has a legitimate, legal and nondiscriminatory reason shall not be considered a violation of BOCES policy and/or regulation.

Authority and Responsibility

It is the responsibility of all BOCES employees and students to ensure that their behavior and environment are maintained free of harassment. Furthermore, each administrator and supervisor has the responsibility to maintain a non-threatening environment which includes discussing the BOCES policy and regulation pertaining to harassment with all employees and students, and assuring students and staff that they are not required to endure insulting, degrading or exploitative treatment.

All complaints of harassment, whether written or verbal, formal or informal, will be thoroughly investigated to determine whether the totality of the alleged behavior and circumstances may constitute harassment. It is recommended that any individual of the above named group who believes he/she/they has been subjected to harassment, or has reason to know of and/or witnesses any incident of harassment by a BOCES employee, student, or other third party subject to the control and supervision of the BOCES, submit a written complaint; however, complaints may be filed verbally and the absence of a written complaint does not negate the BOCES' responsibility to investigate such

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allegations as thoroughly as possible. BOCES officials are required to provide a written report of investigation findings and any action taken to resolve the complaint within time frames as established.

Any individual of the above named group who believes he or she has been subjected to harassment in the BOCES environment or at BOCES-sponsored activities, including those which take place off BOCES premises, as well as any other person who is aware of and/or who has knowledge of or witnesses any possible occurrence of harassment, shall promptly report such occurrence to his/her/their supervisor, unless that supervisor is the source of the complaint in which case the complaint would be taken to next higher level of supervision; the report is to be directed to or forwarded to the BOCES designated complaint officer(s) or as otherwise indicated in this regulation. There will be two complaint officers; one of each gender. If the supervisor is in doubt as to the "seriousness" of the incident and/or whether such behavior constitutes harassment, he/she/they is still directed to immediately report such conduct for resolution. If the complaint officer is the alleged offender, the report shall be directed to the next level of supervisory authority. Allegations of harassment may be reported through informal and/or formal complaint procedures; and utilization of the BOCES grievance guidelines does not preclude an individual from pursuing other avenues of legal recourse.

If there is some reason why an individual cannot make a report to the designated complaint officer, the individual may report the matter to the next level of supervisory authority or building administrator as appropriate. However, if the individual reports such occurrence to any other school employee, the individual shall be informed of the employee's obligation to report the complaint to administration. The administrator who is made aware of the occurrence of possible harassment, whether or not a complaint has been filed, is required to promptly report the incident(s) to the designated complaint officer as appropriate.

Complaints of harassment will be investigated thoroughly, promptly and impartially in accordance with law and regulations as well as any applicable collective bargaining agreement(s). As part of the investigation, the District has the right to search all BOCES property and equipment including BOCES' computers. Rooms, desks, cabinets, lockers, computers, etc., are provided by the BOCES for the use of staff and students, but the users do not have exclusive use of these locations or equipment and should not expect that materials stored therein will be private. However, when BOCES officials receive a complaint or report of alleged harassment that is criminal in nature or that could lead to violence, law authorities should be immediately notified.

The District Superintendent is to be informed as soon as possible regarding all complaints and/or reports regarding harassment, and the status of any investigations.

Reporting of Complaints: General Guidelines

Any individual of the above named group who believes that he or she has been subjected to harassment or who is made aware of and/or witnesses any possible occurrence of harassment shall report such complaint as soon as possible after the alleged incident occurs in order to help the BOCES effectively and promptly investigate and resolve the complaint. In order to assist in the investigation, victims and/or witnesses should document (alternative means of filing a written complaint are available to those who require an alternative) the harassment as soon as it occurs, providing as much detail as possible including, but not limited to, the following:

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- The name, address and telephone number of the complainant.
- The name and/or description of the alleged offender or offenders.
- The specific nature of the alleged harassment including the complainant's explanation of why he/she/they believes it to be harassment.
- A thorough and detailed account of the actions and/or dialogue which occurred between the alleged harasser and the complainant. This account should include the frequency of the conduct, the date, time, location of the incident, and the complainant's actions and responses during the incident(s).
- The names of witnesses or of persons who have knowledge of the incident, including the names of persons with whom the complainant discussed the incident, and the time and date of this discussion.
- Written material, documents, or other evidence related to the incident.
- In investigating the complaint, the designated complaint officer will meet separately with the complainant and the alleged harasser, and will follow applicable law and regulations as well as any applicable collective bargaining agreement(s).

All parties will be assured that complaints and discussions will remain as confidential as possible, and will be disclosed only on a "need to know" basis in order to effectively investigate the complaint and/or as mandated by law or court order. However, a written record of the investigation and any action taken will be established. Additionally, parents of students subjected to possible harassment and/or students filing a harassment complaint, as well as parents of accused students, may be notified by the appropriate administrator of such occurrence and/or allegations as warranted and in accordance with legal guidelines.

The complainant, the alleged harasser and any witnesses will be directed to refrain from talking about the investigation.

The designated complaint official will begin investigating the allegations of harassment no later than three (3) working days following receipt of the complaint; and will report the findings of the investigation to the District Superintendent no later than twenty (20) working days following receipt of the complaint. In the case of extenuating circumstances, the complaint officer will file a status report with the District Superintendent/designee if it becomes necessary to extend the timeline for completion of the investigation.

During the course of the investigation and thereafter, the complaint officer will instruct the alleged harasser to have no contact or communication regarding the complaint with the victim and/or any witnesses if practicable and will refrain from discussing the alleged complaint; and that retaliation, whether direct or indirect, against the victim and/or witnesses is prohibited and may be subject to disciplinary action. Similarly, the complaint officer will instruct the victim and/or witnesses to refrain from contacting or communicating with the alleged harasser regarding the complaint. The complaint officer will ask the victim what specific action the victim wants taken by the BOCES in order to satisfactorily resolve the complaint.

If the complainant attempts to withdraw a complaint, the complaint officer will determine that the withdrawal is not caused by retaliation and then document the complainant's reasons and ask the

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complainant to sign the documentation. A copy of all written material pertaining to the case/investigation will be retained in a separate confidential file.

Step 1 – Informal Complaints

An individual of the above named group who believes that he/she/they has been subjected to harassment or anyone who is aware of or who has knowledge of or witnesses an occurrence of harassment may file an informal complaint, whether verbal or written, by requesting a meeting between himself/herself and the complaint officer (or by reporting such occurrence as otherwise indicated in this regulation) in order to discuss the allegations and further appropriate actions, if any. The complaint officer will next discuss the complaint with the alleged offender; if the alleged offender is a BOCES employee, the investigation will be in accordance with any applicable collective bargaining agreement. The complaint officer will keep the building principal/supervisor and District Superintendent informed throughout all stages of the investigation of informal or formal complaints.

Please note: If the building principal/supervisor is the alleged offender, then the complaint officer shall designate another school official who will take the place of the building principal/supervisor in all applicable phases of the complaint process.

If the initial investigation results in a finding that harassment did occur, the complaint officer will notify the building principal/supervisor and District Superintendent of his/her/their recommendations. If the District Superintendent concurs with the report of the complaint officer, the District Superintendent will then take prompt disciplinary action in accordance with the terms of BOCES policy and regulations, federal and state law and regulations, and/or the applicable collective bargaining agreement. The complaint officer will notify the complainant and the accused, in person and in writing, as to the finding and/or course of action within twenty (20) working days following receipt of the complaint.

If the complainant is satisfied with the report of the complaint officer, the complainant will so indicate in writing. If not satisfied with the complaint officer's report, the complainant and/or the accused may proceed to file a formal complaint.

Informal complaint procedures will generally take place at the building level and involve resolution steps short of a comprehensive investigation and/or formal hearing. For example, in attempting to resolve a complaint informally, the complaint officer may interview the alleged harasser, inform the alleged harasser of the complaint, question the harasser about the alleged incidents, and review the BOCES' policy and regulations regarding harassment. The complaint officer will inform the alleged harasser that he or she must immediately stop any offensive conduct or face appropriate disciplinary action. The complaint officer will follow the provisions of any applicable collective bargaining agreement(s) throughout the course of such investigation(s).

Step 2 – Formal Complaint

An individual of the above named group may file a formal complaint of harassment as an initial step or as a result of an unsatisfactory resolution of an informal complaint. The formal complaint should include all applicable information as indicated in this regulation as well as any other pertinent information which may be helpful in the course of the investigation.

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As noted above, the complainant, the alleged harasser and any witnesses will be directed to refrain from talking about the investigation while it is pending. Disclosure of information will be on a "need to know" basis.

The formal complaint will be filed with the designated complaint officer who will submit a copy of the complaint to the building principal/supervisor and District Superintendent. The complaint officer will, in accordance with federal or state laws and regulations and any applicable collective bargaining agreement(s), conduct a prompt and thorough investigation no later than three (3) working days following receipt of the complaint.

If the formal investigation results in a finding that harassment did occur, the complaint officer will notify the building principal/supervisor and District Superintendent of his/her/their recommendations. If the District Superintendent concurs with the report of the complaint officer, the District Superintendent will then take prompt disciplinary action in accordance with the terms of BOCES policy and regulations, federal and state law and regulations, and/or the applicable collective bargaining agreement. The complainant officer will notify the complainant and the accused, in person and in writing, as to the finding and/or course of action within twenty (20) working days following receipt of the formal complaint.

If the complainant is satisfied with the report of the complaint officer, the complainant will so indicate in writing. If not satisfied with the complaint officer's report, the complainant and/or the accused may appeal the determination to the District Superintendent. The appeal should be in writing and submitted no later than ten (10) working days following receipt of the complaint officer's decision.

Step 3 – Appeal to the District Superintendent

All formal complaints, if not satisfactorily resolved, may be appealed by any party to the District Superintendent.

If the District Superintendent issues a finding that no harassment has occurred, the complainant, if not satisfied with this resolution, may appeal the decision to the Board of Education within ten (10) working days following receipt of the report. If the complainant is satisfied with the District Superintendent's finding, the complainant will so indicate in writing.

Should the District Superintendent determine that corrective action is necessary, the District Superintendent will follow all applicable law and regulations, BOCES policy and guidelines, and appropriate collective bargaining agreements in the resolution of the complaint. If the accused is not satisfied with this resolution; he/she/they may appeal the decision to the Board of Education within ten (10) working days following receipt of the report.

The complainant and the accused will receive a copy of any and all reports issued by the District Superintendent pertaining to the investigation/outcome of the formal complaint within thirty (30) working days following receipt of the complaint. If additional time is necessary to either complete the investigation or institute disciplinary/remedial action, the District Superintendent will provide all parties and the Board of Education with a written status report requesting additional time to complete

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the investigation.

Step 4 – Appeal to the Board of Education

In the event that a complainant and/or accused files an appeal with the Board of Education following an investigation by the District Superintendent, such appeal must be submitted within ten (10) working days of receipt of the District Superintendent's report. The Board of Education will conduct a hearing and issue a written response to the complainant and the accused following completion of the hearing within thirty (30) work days of receipt of the complaint. If additional time is needed, a written status report shall be submitted to all parties, indicating the need for additional time.

Prohibition of Retaliation

Retaliation against any individual for filing a charge of harassment or reporting allegations of harassment is illegal and prohibited. Regardless of the stage of the investigation, the victim will be instructed by the complaint officer to report immediately if the offensive behavior occurs again and/or if the alleged harasser retaliates against him/her. Any witnesses who cooperated in the investigation of the complaint will be similarly instructed to report to the complaint officer immediately as to any retaliatory action(s). Additionally, the designated complaint officer will make follow-up inquiries to ensure that harassment has not resumed and that no reprisals or retaliatory behavior has occurred to those involved in the investigation. Any act of retaliation is prohibited and subject to appropriate disciplinary action by the BOCES.

Discipline/Penalties

Based upon the result of the BOCES' investigation, immediate corrective action will be taken. Should the offending individual be a school employee, appropriate disciplinary measures will be applied, up to and including termination of the offender's employment, in accordance with contractual and legal guidelines.

Vendors/contractors and other individuals who do business with the BOCES, who have been found to violate the terms of the anti-harassment policy and/or regulation by engaging in prohibited conduct, will be subject to appropriate sanctions up to and including loss of BOCES business. School volunteers who are found to have violated BOCES policy and regulation may face loss of volunteer status.

Should the offending individual be a visitor, guest or other third party, then any corrective action deemed appropriate will be taken, including, but not limited to, expulsion from the BOCES premises and/or school activities/events under the control and supervision of the BOCES.

The application of such disciplinary measures by the BOCES does not preclude the appropriate filing of civil and/or criminal charges as may be warranted.

BOCES Responsibility/Training

Employees or students who knowingly make false accusations against another individual as to allegations of harassment may also face appropriate disciplinary action.

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Regardless of whether a complaint has been filed, if the BOCES knows of the occurrence or the possible occurrence of any harassment, the BOCES will require a prompt and thorough investigation by appropriate personnel.

Principals in each school building and/or program administrator will be responsible for informing students and staff on a yearly basis of BOCES policy and regulations regarding the prohibition of harassment, including the procedures established for the investigation and resolution of harassment complaints, the general legal issues pertaining to harassment, and the rights and responsibilities of employees and students.

Those administrators and/or supervisors who have specific responsibilities for the investigation and resolution of harassment complaints will receive specialized training on conducting such investigations and application to applicable laws and collective bargaining agreements.

Dissemination of BOCES Policy/Regulation/Evaluation and Retention

A copy of BOCES policy and regulations pertaining to prohibition of harassment will be available upon request. A copy of BOCES policy and regulations may be posted in various locations throughout each school building. Additionally, the BOCES' policy and regulations will be published in appropriate publications such as teacher/employee handbooks and/or on-line.

The District Superintendent, or his/her/their designee(s), has a responsibility to review BOCES policy and regulations to ensure continued effectiveness and compliance with applicable law. The District Superintendent will recommend revisions as may be warranted to the Board of Education.

The complete file will be retained in accordance with the State LGS-01 retention schedule.

Policy References:

#2240R.1 - Anti-Discrimination Complaint Guidelines.

#5121R - Sexual Harassment of BOCES Personnel.

#6440R - Sexual Harassment of Students.

#6461R - Student Discrimination Grievance Guidelines.

#6462R – Student Harassment and Bullying Prevention and Intervention (Dignity for all Students Act)

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