

## **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 *[schools and 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 is 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.

### **Sexual harassment defined**

Pursuant to Title IX of the Educational Amendments of 1972, "sexual harassment" means conduct on the basis of sex that satisfies one or more of the following:

1. A school employee conditioning education benefits on participation in unwelcome sexual conduct (i.e., quid pro quo);
2. Unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school's education program or activity; or
3. Sexual assault, dating violence, domestic violence, or stalking.

Pursuant to state law, "harassment" means any unwelcome physical or verbal conduct or communication directed at a person or group because of their membership in a protected class, which conduct or communication is subjectively offensive to the individual alleging harassment and objectively offensive to a reasonable individual who is a member of the same protected class. The conduct or communication must satisfy one or more of the following, under the preponderance of the evidence:

1. A school employee conditioning educational benefits or terms of employment on participation in unwelcome sexual conduct or communication (i.e., quid pro quo)

2. The conduct or communication unreasonably interferes with the individual's work performance or creates an intimidating, hostile, or offensive working environment.

### **Reporting, investigation, and sanctions**

Students are encouraged to report all incidences of sexual harassment to either a teacher, counselor, or BOCES administrator in their *[school or program]* and file a complaint, through the BOCES's complaint process addressing sex-based discrimination. All reports and indications from students, BOCES employees, and third parties must be forwarded to the BOCES's Title IX Coordinator.

The BOCES will initiate and conduct an investigation in accordance with the appropriate procedures addressing sex-based discrimination and sexual harassment.

All matters involving sexual harassment reports must remain confidential to the extent possible as long as doing so is in accordance with applicable law and policy and does not preclude the BOCES from responding effectively to the harassment or preventing future harassment. Filing a complaint or otherwise reporting sexual harassment will not reflect upon the student's status or affect grades.

The BOCES will take appropriate corrective action to: make the harassed student whole by restoring lost educational opportunities; prevent harassment from recurring; or prevent retaliation against anyone who reports sexual harassment or participates in a harassment investigation. A formal report or finding of harassment will not be required before a BOCES takes corrective action.

### **Notice and training**

To reduce unlawful discrimination and harassment and ensure a respectful school environment, the administration is responsible for providing notice of this policy and complaint procedures [to all BOCES schools or educational programs]. All communications regarding this policy must be written in simple and age-appropriate language. The policy and complaint procedures must be referenced in [student and] employee handbooks [, described in hard-copy notices posted at schools,] and otherwise be made available to all [students,] staff, and members of the public through electronic or hard-copy distribution.

All students and BOCES employees will receive periodic training related to recognizing and preventing sexual harassment. BOCES employees must receive additional periodic training related to handling reports of sexual harassment. Training materials are available to the public on the BOCES's website.

(Adoption date)

LEGAL REF.: 20 U.S.C. §1681 *et seq.* (Title IX of the Education Amendments of 1972)  
C.R.S. 22-5-107 (BOCES to have same certain duties as boards of education)

C.R.S. 22-32-109 (1)(II) (*Board duty to adopt written policies prohibiting discrimination*)

C.R.S. 22-1-143 (*definition of harassment or discrimination*)

C.R.S. 24-34-402(1.3)(a) (*definition of "harass" in employment practices*)

CROSS REFS.: AC, Nondiscrimination/Equal Opportunity  
AC-R, Nondiscrimination/Equal Opportunity (Complaint and Compliance Process)  
AC-R-2, Sex-Based Discrimination and Sexual Harassment Investigation Procedures  
AC-E-1, Nondiscrimination/Equal Opportunity (Sample Notice)  
JLF, Reporting Child Abuse/Child Protection

**[Revised July 2023]**  
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