

TITLE IX GRIEVANCE PROCESS

- I. Statement of Policy
 - A. The Delaware-Chenango-Madison-Otsego Board of Cooperative Educational Services (the BOCES) provides education programs and services and makes decisions regarding employment without consideration of an individual’s race, color, creed, religion, national origin (regardless of English language skills), age, sex (including gender, gender identity, and sexual orientation), marital status, military or veteran status, disability, predisposing genetic characteristics, arrest record, or prior criminal convictions, except when sex or age are a bona fide occupational qualification, when a criminal conviction is related to job duties, and when an individual’s religion or disability warrants reasonable accommodation. This commitment to provide education programs and services without discrimination includes participation in nonacademic and extracurricular services such as transportation, counseling services, student clubs, and physical education and athletics.
 - B. This Policy addresses only sexual harassment as defined by Title IX that occurs within the educational programs and activities of the BOCES. For harassing, discriminatory, or bullying conduct that does not meet the definition of sexual harassment under Title IX, the response by the BOCES will be governed by relevant and applicable laws and policies.
 - C. This Policy applies to all students, employees, and any third party who contracts with the BOCES to provide services to students or employees, upon BOCES property, or during any school program or activity.
- II. Sexual Harassment as Defined in Title IX
 - A. Sexual Harassment under Title IX is defined as conduct on the basis of sex that satisfies one or more of the following:
 - 1. An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct (i.e. quid pro quo);
 - 2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity; or
 - 3. “Sexual assault” as defined in 20 U.S.C. 1092(f)(6)(A)(v), “dating violence” as defined in 34 U.S.C. 12291(a)(10), “domestic violence” as defined in 34 U.S.C. 12291(a)(8), or “stalking” as defined in 34 U.S.C. 12291(a)(30).
 - B. Examples of prohibited conduct under Title IX include, but are not limited to:

POLICY

GENERAL COMMITMENTS

0013

TITLE IX GRIEVANCE PROCESS

1. Treating one person differently from another in determining whether such person satisfies any requirement or condition for the provision of such aid, benefit, or service;
 2. Providing different aid, benefits, or services or provide aid, benefits, or services in a different manner;
 3. Denying any person any such aid, benefit, or service;
 4. Subjecting any person to separate or different rules of behavior, sanctions, or other treatment;
 5. Applying any rule concerning the domicile or residence of a student or applicant, including eligibility for in-state fees and tuition;
 6. Aiding or perpetuating discrimination against any person by providing significant assistance to any agency, organization, or person which discriminates on the basis of sex in providing any aid, benefit or service to students or employees;
 7. Otherwise limiting any person in the enjoyment of any right, privilege, advantage, or opportunity.
- C. Conduct that occurs away from BOCES property or outside of BOCES sponsored events, such as on social media or at after-hours events, may violate this policy, or other Board of Education (the Board) approved policies, if it has a prohibited school or workplace impact.
- D. This Policy does not prohibit a denial of admission into, or an exclusion from, a course of instruction that is permissible under the New York State Education Law and Federal Title IX of the Education Amendments of 1972; nor does it prohibit actions that are permissible under Section 504 of the Rehabilitation Act of 1973.

III. Title IX Coordinator

- A. The Title IX Coordinator (“Coordinator”) is responsible for receiving complaints of conduct that may violate this Policy and Title IX. The Coordinator must:
1. direct a thorough fact finding regarding those complaints;
 2. oversee the implementation of corrective action when necessary;
 3. make sure that this Policy has been publicized as required by law;
 4. keep records of all complaints, reports, written determinations, and appeals under this Policy for a period of seven (7) years, or longer if required by law; and
 5. make recommendations for updating of this Policy or any Regulations, to the District Superintendent.
- B. The Board appoints the following person(s) as the BOCES Title IX Coordinator who is responsible for receiving complaints of conduct that may violate Title IX:

POLICY

GENERAL COMMITMENTS

0013

TITLE IX GRIEVANCE PROCESS

Patti Gallaher, Director of Educational Services
142 Whaupanaucan Rd., Norwich, NY 13809
607-335-1374
gallahep@dcmoboces.com

- C. When conducting a Title IX Grievance Process, the Coordinator must follow this Policy and any associated Regulations that are consistent with Title IX regulations. The Coordinator is responsible for staying informed and up to date with any new or updated federal regulations and must inform the District Superintendent of any new or updated regulations, so that modifications to Policy or Regulations, if any, can be applied.
- D. The Coordinator shall ensure the Title IX Grievance Process is conducted anytime a written or oral report is received that contains enough information to reasonably investigate, consistent with this Policy and Title IX regulations.
- E. The name and contact information of the Coordinator shall be posted on the BOCES website with information on how to file a complaint in person, by mail, by email, or by phone.

IV. Reporting

- A. While the BOCES must respond to all reports it receives of sexual harassment, the Title IX Grievance Process is initiated only with the filing of a formal complaint. A “formal complaint” under Title IX is defined as a document filed by a Complainant, the Complainant’s parent or guardian, or the Coordinator, alleging sexual harassment against a Respondent, and requesting that the BOCES investigate the allegation(s) of sexual harassment.
- B. Anyone who feels that they have experienced discrimination or harassment on the basis of sex, is encouraged to bring this to the BOCES’ attention by using the form and procedures described herein and any associated Regulations approved by the District Superintendent.
- C. When staff becomes aware of an allegation of prohibited conduct on the basis of sex, the matter will be immediately referred to the Coordinator prior to any student or employee discipline being imposed, including any questioning of the Complainant, Respondent, or Witnesses. The Coordinator must evaluate the complaint and either: dismiss the complaint per Title IX regulations, when appropriate, or move forward in the Title IX Grievance Process.
- D. Administrators and other supervisors who observe conduct that might constitute harassment, including sexual harassment, are required to report that conduct to the Coordinator, Compliance Coordinator (if different than the Title IX Coordinator),

POLICY

GENERAL COMMITMENTS

0013

TITLE IX GRIEVANCE PROCESS

or a DASA Coordinator. If an Administrator or Supervisor is uncertain who to submit the report to, they shall send it to each of the above Coordinators. The Coordinators will meet promptly to determine the next steps in resolving the complaint.

- E. An employee, including supervisors and managers, who subject another employee, student, or member of the public to harassment, including sexual harassment or discrimination on BOCES property or at a BOCES sponsored event will be subject to disciplinary consequences, consistent with applicable federal and state laws and collective bargaining agreements.

V. Retaliation Prohibited

No employee or student shall take retaliatory action, or request or cause anyone else to take retaliatory action, against any person who, in good faith, reports information about a possible violation of this Policy to a BOCES employee or to the Commissioner of Education or to a law enforcement agency, or who initiates a report, or encourages another person to initiate a report, or testifies or assists or participates in the investigation of a report or complaint by the BOCES or a governmental agency.

VI. Confidentiality

It shall be explained to anyone making a report or providing information about a report that the BOCES does not reveal information about reports or the fact-finding process except to the extent necessary to fulfill its legal obligations to make as complete an inquiry as possible and to take appropriate corrective action when discrimination has occurred. Every person interviewed during the fact-finding inquiry shall be instructed not to discuss the complaint or the investigation with anyone else, except as may be required by law.

VII. Annual Training and Publication of Policy:

- A. The Coordinator, Investigator, Decision-Maker, and the person to whom appeals are submitted must each receive annual training in Title IX.
- B. All BOCES employees will be provided notice of this Policy through posting in Pole Campus Staff Mail Room, Harrold Campus Staff Mail Room, Support Services Center Staff Bulletin Board, and be provided online access via posting on the BOCES website.
- C. Training materials must be posted on the BOCES website.

POLICY

GENERAL COMMITMENTS

0013

TITLE IX GRIEVANCE PROCESS

VIII. Report to Law Enforcement Agency

When a Coordinator believes that conduct has occurred that constitutes criminal conduct, the Coordinator shall promptly consult with the School Attorney and, if advised, notify the appropriate law enforcement agency.

IX. Responsibilities of the District Superintendent

The District Superintendent is authorized to supplement this Policy with any Regulations, forms, and notices they believe are necessary to implement this Policy and Title IX, and to ensure compliance with the Title IX grievance process.

X. Other Available Remedies for Unlawful Discrimination and Harassment, including Sexual Harassment

- A. In addition to this Policy, BOCES employees and other persons visiting or doing business with the BOCES are protected from discrimination and harassment, including sexual harassment, by New York State and federal law. There also may be applicable local laws.
- B. The New York State Human Rights Law prohibits discrimination and harassment, including sexual harassment in employment and public accommodations. Your rights can be enforced by a complaint filed with the New York State Division of Human Rights or by filing a complaint in New York State Supreme Court.
 - 1. You may learn more about your rights under the Human Rights Law by calling the Division's toll-free telephone number (888-392-3644) or visiting the Division's website (www.dhr.ny.gov).
 - 2. You may file a complaint with the Division within one year of the event you feel was harassment. You do not need a lawyer to file a complaint with the Division. The Division will investigate your complaint and make a determination whether unlawful harassment occurred. If a public hearing is required, the Division will provide an attorney. The Division may seek monetary damages on your behalf.
 - 3. You may start a lawsuit in Supreme Court within three (3) years of the event you feel was harassment.
- C. Federal laws, including but not limited to Title VI and Title VII, also prohibit discrimination and harassment, including sexual harassment, in employment and public accommodation. Your rights can be enforced by filing a charge of discrimination with the United State Equal Employment Opportunity Commission (EEOC).
 - 1. You may learn more about your rights under federal law by calling the EEOC's toll-free number (800-669-4000) or visiting the EEOC's website (www.eeoc.gov).

POLICY

GENERAL COMMITMENTS

0013

TITLE IX GRIEVANCE PROCESS

2. You may file a charge with the EEOC within three-hundred (300) days of the event you feel was harassment. You do not need a lawyer to file a charge with the EEOC.
 3. The EEOC will investigate your charge. If it determines that unlawful discrimination occurred, the EEOC will attempt to obtain a remedy on your behalf through a conciliation process. If that is not successful, you will be given the right to sue in court.
- D. If you are subjected to unwanted physical touching, coerced physical confinement, or unwanted sex acts, the conduct may constitute a crime and you should consider, and are strongly encouraged, to contact law enforcement.

Delaware-Chenango-Madison-Otsego Board of Cooperative Educational Services

Cross Ref: NonDiscrimination in Public Accommodations (0015)
Prohibition of Discrimination and Harassment Including Sexual Harassment in Employment (6005)
Prohibition of Discrimination Harassment and Bullying (DASA) (7204)
NonDiscrimination in Educational Services (7203)

Legal Ref: Title IX, Education Amendments of 1972 (20 USC 1681, 45 CFR Part 86), as amended

Adopted: 06/01/22