SUBJECT: CODE OF ETHICS FOR ALL BOCES PERSONNEL

Definitions

a) "BOCES" shall mean the Board of Cooperative Educational Services for Nassau County.

b) "Municipal Officer or Employee" means a Board member or employee of the BOCES, paid or unpaid, including members of any administrative board, commission, agency, or committee thereof.

c) "Interest" means a direct or indirect pecuniary or material benefit accruing to a BOCES member or employee as the result of a contract with the BOCES.

Purpose

a) Pursuant to the authority of Section 806 of the General Municipal Law, the BOCES adopts this code of ethics setting forth for the guidance of its officers and employees, the standards of conduct reasonably expected of them.

b) This code of ethics is in addition to the rules regarding prohibited conflicts of interest contained in Article 18 of the General Municipal Law; and the provisions of any other general or special law governing conflicts of interest and/or ethical conduct of municipal officers and employees.

Standards of Conduct

Every officer and employee of the BOCES shall be subject to the following standards of conduct:

a) Gifts - No officer or employee shall directly or indirectly solicit any gift or accept or receive any gift having a value of $75.00 (seventy-five dollars) or more, whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise, or any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence the officer or employee, or could reasonably be expected to influence the officer or employee in the performance of his/her official duties or was intended as a reward for any official action on his/her part.

Recognizing that parents and students may wish to express their gratitude and appreciation for outstanding services rendered by a staff member, the Board of Education recommends that such expressions be in the form of a personal letter to the staff member.

(Continued)
SUBJECT: FAMILY AND MEDICAL LEAVE ACT (Cont'd.)

II. Leave Taken by Instructional Employees Near the End of the Instructional Year

There are also special requirements for instructional employees taking leave and the leave's relation to the end of the term.

A. If the instructional employee begins taking leave more than five (5) weeks prior to the end of the term, the agency may require the employee to continue taking leave until the end of the term if the leave lasts more than three (3) weeks and the employee would return to work during the three (3)-week period before the end of the term.

B. If the instructional employee begins taking leave less than five (5) weeks prior to the end of the term for any reason except qualifying exigency, the agency may require that the employee take the leave until the end of the term if the leave lasts more than two (2) weeks and the employee would return to work during the two (2)-week period before the end of the term.

C. If the instructional employee begins taking leave during the three (3) weeks prior to the end of the term for any reason except qualifying exigency, the agency may require that the employee take the leave until the end of the term if the leave is scheduled to last more than five (5) working days.

Any additional time that is required by the employer due to the timing of the end of the school year, will not be charged against the employee as FMLA leave because it was the employer who requested that the leave extend until the end of the term.

FMLA Notice

A notice which explains the FMLA's provisions and provides information concerning the procedures for filing complaints of violations of the FMLA shall be posted in each school building and location and a notice of an employee's FMLA rights and responsibilities shall be either placed in the Nassau BOCES Employee Handbook or furnished to each new employee upon hire. The Nassau BOCES will supply such notice within five (5) days of the date of hire.

Family and Medical Leave Act of 1993 (as amended), Public Law 103-3
10 United States Code (USC) 101(a) (13)

NOTE: Refer also to Policy #6552 - Uniformed Services Employment and Reemployment Rights Act (USERRA)/Military Leaves of Absence

Revised: 9/22/09
SUBJECT: FAMILY AND MEDICAL LEAVE ACT (Cont’d.)

An employee has a right to return to the same position or an equivalent position with equivalent pay, benefits and working conditions at the conclusion of the leave with the exception of employees designated as “Key” by the agency.

The Nassau BOCES Board has a right to thirty (30) days advance notice from the employee where practicable. In addition, the Nassau BOCES Board requires an employee to submit certification from a health care provider to substantiate that the leave is due to the "serious health condition" of the employee or the employee’s immediate family member. Under no circumstance should the employee's direct supervisor contact any health care provider regarding the employee's condition; all contact in this manner must be made by a health care provider (employed at the employer), a human resource professional, a leave administrator or a management official. If the medical certification requested by the employer is found to be deficient, the employer must indicate where the errors are, in writing, and give the employee seven (7) days to provide corrected materials to cure any deficiency prior to any action being taken.

Special Provisions for *School District Instructional Employees

An instructional employee is an employee whose principal function is to teach and instruct students in a class, a small group, or an individual setting (e.g., teachers, coaches, driving instructors, special education assistants, etc.).

1. Intermittent Leave Taken By Instructional Employees

A. FMLA leave that is taken at the end of the school year and resumes at the beginning of the next school year is not regarded as intermittent leave but rather continuous leave. The period in the interim (i.e., summer vacation) is not counted against an employee and the employee must continue to receive any benefits that are customarily given over the summer break.

B. Intermittent leave may be taken but must meet certain criteria. If the instructional employee requesting intermittent leave will be on that leave for more than twenty percent (20%) of the number of working days during the period for which the leave would extend, the following criteria may be required by the employer:

1) Take leave for a period or periods of a particular duration, not greater than the duration of the planned treatment; or

2) Transfer temporarily to an available alternative position for which the employee is qualified, which has equivalent pay and benefits and which better accommodates recurring periods of leave than does the employee's regular position.

Appropriate notice for foreseeable FMLA leave still applies and all employees must be returned to an equivalent position within the school district. Additional work-related certifications, requirements and/or training may not be required of the employee as a contingent of their return to work.

*For purposes of FMLA, the Nassau BOCES is considered a school district.

(Continued)
"Qualifying Exigency" Leave/Call to Active Duty

An "eligible" employee is entitled to FMLA leave because of "a qualifying exigency" arising out of circumstances where the spouse, son, daughter, or parent of the employee is serving in either the National Guard or the Reserves and is on active duty during a war or national emergency called for by the President of the United States or Congress, or has been notified of an impending call to active duty status, in support of a contingency operation.

A "qualifying exigency" related to families of the Army National Guard of the United States, Army Reserve, Navy Reserve, Marine Corps Reserve, Air National Guard of the United States, Air Force Reserve and Coast Guard Reserve personnel on (or called to) active duty to take FMLA protected leave to manage their affairs is defined as any one of the following reasons:

a) Short-notice deployment;

b) Military events and related activities;

c) Childcare and school activities;

d) Financial and legal arrangements;

e) Counseling;

f) Rest and recuperation;

g) Post-deployment activities; and

h) Any additional activities where the employer and employee agree to the leave.

In any case in which the necessity for leave due to a qualifying exigency is foreseeable, the employee shall provide such notice to the employer as is reasonable and practicable. This military-related leave is for up to twelve (12) weeks during a single 12-month period.

Implementation/Benefits/Medical Certification

At the agency's option, certain types of paid leave may be substituted for unpaid leave.

An employee on FMLA leave is entitled to have health benefits maintained while on leave. If an employee was paying all or part of the premium payments prior to leave, the employee will continue to pay his/her share during the leave period.

(Continued)
SUBJECT: FAMILY AND MEDICAL LEAVE ACT (Cont'd.)

Medical Treatment for Serious Health Conditions

For an employee claiming a "serious health condition" under FMLA, the first visit to a health care provider must occur within seven (7) days of the aforementioned incapacity and the second required visit must occur within thirty (30) days of the incapacitating event.

If the employee claiming FMLA under the "serious chronic health condition" rationale is sustaining continuous treatment, his/her first visit to a health care provider must take place within seven (7) days of the claimed incapacitating event. In addition, if the chronic "serious health condition" requires periodic visits, the employee must see a health care provider a minimum of two (2) times per year.

Military Family Leave Entitlements

Military Caregiver Leave

An eligible employee who is the spouse, son, daughter, parent, or next of kin (defined as the nearest blood relative of that individual) of a "covered service member" who is recovering from a serious illness or injury sustained in the line of duty while on active duty is entitled to up to 26 weeks of leave in a single 12-month period to care for the service member. This military caregiver leave is available during a single 12-month period during which an eligible employee is entitled to a combined total of 26 weeks of all types of FMLA leave. Military Caregiver Leave may be combined with other forms of FMLA-related leave providing a combined total of twenty-six (26) weeks of possible leave for any single twelve (12)- month period; however, the other form of FMLA leave when combined cannot exceed twelve (12) of the twenty-six (26) weeks of combined leave.

Military Caregiver Leave has a set "clock" for calculating the twelve (12)-month period for when FMLA leave begins and tolling starts at the first day of leave taken.

The term "covered service member" means a member of the Armed Forces, including a member of the National Guard or Reserves.

(Continued)
SUBJECT: FAMILY AND MEDICAL LEAVE ACT

The Nassau BOCES Board, in accordance with the Family and Medical Leave Act of 1993 (as amended) (FMLA), gives "eligible" employees of the agency the right to take unpaid leave for a period of up to twelve (12) workweeks in a twelve-month period using a "rolling" twelve (12)-month period measured backward from the date of any FMLA leave usage as its method for calculating the 12-month leave year period. In certain cases, FMLA leave may be taken on an intermittent basis rather than all at once, or the employee may work a part-time schedule.

Employees are "eligible" if they have been employed by the agency for at least twelve (12) months and for at least 1,250 hours of service during the previous twelve-month period. Full-time teachers are deemed to meet the 1,250 hour test. However, a break in employment for military service (i.e., call to active duty) will not interrupt the twelve (12) month/1,250 hours of employment requirement and will be counted toward fulfilling this prerequisite. The law covers both full-time and part-time employees.

Qualified employees may be granted leave for one (1) or more of the following reasons:

a) The birth of a child and care for the infant;

b) Adoption of a child and care for the infant;

c) The placement with the employee of a child in foster care;

d) To care for a spouse, child or parent who has a "serious health condition" as defined by the FMLA; and/or

e) A "serious health condition" of the employee, as defined by the FMLA, that prevents the employee from performing his/her job. A "serious health condition" is defined as an illness, injury, impairment or physical or mental condition that involves inpatient care or continuing treatment by a health care provider that renders the employee incapacitated for more than three (3) consecutive calendar days and where the employee is required to see the health care provider at least twice. A "serious health condition" is also defined as any period of incapacity related to pregnancy or for prenatal care.

(Continued)
SUBJECT: STAFF USE OF COMPUTERIZED INFORMATION RESOURCES (Cont’d.)

In general, employee-users should exercise the same restraint and caution in drafting and transmitting messages over the electronic mail as they would when writing a memorandum and should assume that their message will be saved and reviewed by someone other than the intended recipients. Refer to the Nassau BOCES Electronic Mail Guidelines for further information on the proper and acceptable use of the e-mail system.

Transmitting E-mail to "Everyone" Group

Employee-users are prohibited from sending electronic mail to all other employee-users through the use of the "Everyone" address group unless expressly authorized by management to do so.

Electronic Mail Through the Internet

Employee-users may be authorized to transmit or receive electronic mail to and from individuals through the Internet (outside of the Nassau BOCES network). Employee-users should take extreme caution when using the e-mail in this manner. All files or software should be passed through virus protection programs prior to use. Failure to detect viruses could result in corruption or damage to files and/or unauthorized entry into the Nassau BOCES network. It is mandatory that you comply with copyright and trademark laws when downloading materials from the Internet. If the employee-user finds that any damage occurred as a result of downloading software or files, the incident should be reported immediately to CIT Help Desk at (516) 334-1770.

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**Staff Use of Computerized Information Resources Policy/Regulation**

In consideration for the use of the Nassau BOCES Computer and E-Mail Systems, I agree to adhere to the Staff Use of Computerized Information Resources Policy and Regulation and any changes or additions later adopted by Nassau BOCES. I understand that failure to comply with this policy and regulation may result in the loss of my access to the above systems.

I also understand that such violation of Nassau BOCES policies and regulations may also result in the imposition of discipline under the law and/or the applicable collective bargaining agreement.

______________________________
(Signature)

______________________________
(Print Name Here)

_________________________
(Date)

Revised: 7/00
1/06
SUBJECT: STAFF USE OF COMPUTERIZED INFORMATION RESOURCES (Cont’d.)

E-Mail Accounts

The employee-user must first be authenticated through a Nassau BOCES-assigned network username and a user-defined password. The username and password is the responsibility of the individual to whom it is assigned. Any authorized use of the username and password by other individuals (i.e., family members) to gain access to the Nassau BOCES network and Internet makes that user responsible for any and all actions of the individuals.

An electronic mail "account" is assigned to each employee-user. Any communication sent from that account is the responsibility of the employee-user assigned to the account. Employee-users are prohibited from allowing other individuals to send electronic mail from their account and may not use another Nassau BOCES account to send e-mail communications for their own purposes. You should not expect that electronic mail communications made through the Nassau BOCES system are confidential. Although you will be given a username and a user-defined password this does not insulate transmission from employer review.

Proper and Ethical Use of Electronic Mail

At any time and without prior notice, Nassau BOCES management reserves the right to examine e-mail, personal file directories, and other information stored on Nassau BOCES computers. This examination helps to ensure compliance with internal policies, supports the performance of internal investigations, and assists with the management of Nassau BOCES information systems. As such, the Executive Director of Human Resources or any of his/her representatives may monitor the content of electronic mail. Use of the Electronic Mail system constitutes acceptance of such monitoring.

This regulation should be read and interpreted in conjunction with all other Nassau BOCES policies and regulations including but not limited to policies and regulations prohibiting harassment, discrimination, offensive conduct or inappropriate behavior. Employee-users are prohibited from using electronic mail for any unethical purposes, including but not limited to pornography, violence, gambling, racism, harassment, or any illegal activity. Employee-users are forbidden from using profanity or vulgarity when posting electronic mail.

Employee-users are also prohibited from using electronic mail through Nassau BOCES systems for any other business or profit-making activities. Disclosure of any confidential information through electronic mail to any party not entitled to that information is prohibited. Employee-users are prohibited from entering into any contracts or agreements on behalf of Nassau BOCES through electronic mail. Any such contracts or agreements must be executed through normal channels and must be expressly authorized by management.
SUBJECT: STAFF USE OF COMPUTERIZED INFORMATION RESOURCES

The Nassau BOCES' computer system (BCS hereafter) is provided for staff to enhance the educational programs of the agency, to further Nassau BOCES goals and objectives, and to conduct research and communicate with others.

Generally, the same standards of acceptable staff conduct which apply to any aspect of job performance shall apply to the use of the BCS. The standards of acceptable use as well as prohibited conduct by staff accessing the BCS, as outlined in Nassau BOCES policy and regulation, are not intended to be all-inclusive. The staff member who commits an act of misconduct which is not specifically addressed in Nassau BOCES policy and/or regulation may also be subject to disciplinary action, including loss of access to the BCS, as well as imposition of discipline under the law and/or the applicable collective bargaining agreement. Legal action may also be initiated against a staff member who willfully, maliciously or unlawfully damages or destroys property of Nassau BOCES.

Staff members are encouraged to utilize electronic communications in their roles as employees of Nassau BOCES. Staff members are also encouraged to utilize electronic means to exchange communications with parents/guardians or homebound students, subject to appropriate consideration for student privacy. Such usage shall be limited to school related issues or activities.

Nassau BOCES policies and accompanying regulations on staff and student use of computerized information resources establish guidelines for staff to follow in instruction and working with students on acceptable student use of the BCS, including access to external computer networks.

Use of Electronic Mail (E-Mail)

Nassau BOCES provides its employees with electronic mail communications. The primary purpose of the electronic mail system is to expedite necessary business communications between two or more individuals. As such, the use of electronic mail is for Nassau BOCES business purposes. Use of e-mail is a privilege and may be revoked at any time. Use of e-mail constitutes acceptance of the Acceptable Usage Policy.

Employee-users are expected to be knowledgeable of this and all policies of Nassau BOCES. Any questions should be directed to the Executive Director of Human Resources. Violations of this or any other policy subjects the employee-user to immediate revocation of system privileges and may result in disciplinary action, up to and including termination. Any information included in e-mail communications becomes the property of Nassau BOCES and is subject to monitoring for compliance with all Nassau BOCES policies by the Executive Director of Human Resources and the Internal Auditor.
SUBJECT: STAFF USE OF COMPUTERIZED INFORMATION RESOURCES

Privacy Rights

Staff data files and electronic storage areas shall remain BOCES property, subject to BOCES control and inspection. The computer coordinator may access all such files and communications to insure system integrity and that users are complying with requirements of this policy and accompanying regulations. Staff should NOT expect that information stored on the BCS will be private.

Implementation

Administrative regulations will be developed to implement the terms of this policy, addressing general parameters of acceptable staff conduct as well as prohibited activities so as to provide appropriate guidelines for employee use of the BCS.

Revised: 3/22/07
SUBJECT: STAFF USE OF COMPUTERIZED INFORMATION RESOURCES

The Board of Cooperative Educational Services will provide staff with access to various computerized information resources through BOCES' computer system (BCS hereafter) consisting of software, hardware, computer networks and electronic communication systems. This may include access to electronic mail, so-called "on-line services" and the "Internet." It may also include the opportunity for some staff to have independent access to the BCS from their home or other remote locations. All use of the BCS, including independent use off school premises, shall be subject to this policy and accompanying regulations.

The Board encourages staff to make use of the BCS to explore educational topics, conduct research and contact others in the educational world. The Board anticipates that staff access to various computerized information resources will both expedite and enhance the performance of tasks associated with their positions and assignments. Toward that end, the Board directs the District Superintendent or his/her designee(s) to provide staff with training in the proper and effective use of the BCS.

Staff use of the BCS is conditioned upon written agreement by the staff member that use of the BCS will conform to the requirements of this policy and any regulations adopted to insure acceptable use of the BCS. All such agreements shall be kept on file in the District Office.

Generally, the same standards of acceptable staff conduct which apply to any aspect of job performance shall apply to use of the BCS. Employees are expected to communicate in a professional manner consistent with applicable BOCES policies and regulations governing the behavior of school staff. Electronic mail and telecommunications are not to be utilized to share confidential information about students or other employees.

This policy does not attempt to articulate all required and/or acceptable uses of the BCS; nor is it the intention of this policy to define all inappropriate usage. Administrative regulations will further define general guidelines of appropriate staff conduct and use as well as proscribed behavior.

BOCES staff shall also adhere to the laws, policies and rules governing computers including, but not limited to, copyright laws, rights of software publishers, license agreements, and rights of privacy created by federal and state law.

Staff members who engage in unacceptable use may lose access to the BCS and may be subject to further discipline under the law and in accordance with applicable collective bargaining agreements. Legal action may be initiated against a staff member who willfully, maliciously or unlawfully damages or destroys property of BOCES.

(Continued)
SUBJECT: DRUG-FREE WORKPLACE

The Board of Education maintains that it will provide a drug-free workplace by:

1) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violation of such prohibition.

2) Establishing a drug-free awareness program to inform employees about:
   a. The dangers of drug abuse in the workplace;
   b. The BOCES’ policy of maintaining a drug-free workplace;
   c. Any available drug counseling, rehabilitation, and employee assistance programs; and
   d. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

3) Making it a requirement that each employee engaged in the performance of a federal grant program be given a copy of the statement required by paragraph (1).

4) Notifying the employee in the statement required by paragraph (1) that, as a condition of employment under the grant, the employee will:
   a. Abide by the terms of the statement, and
   b. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction.

5) Notifying the federal granting agency within ten days after receiving notice under subparagraph (4)(b) from an employee or otherwise receiving actual notice of such conviction.

6) Taking one of the following actions, within 30 days of receiving notice under subparagraph (4)(b), with respect to any employee who is so convicted:
   a. Taking appropriate personnel action against such an employee, up to and including termination; or
   b. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.

7) Making a good faith effort to continue to maintain a drug-free workplace through implementation of the above paragraphs.
NOTICE TO EMPLOYEES AND VOLUNTEERS ENGAGED IN WORK ON FEDERAL GRANTS

YOU ARE HEREBY NOTIFIED that it is a violation of Board of Education policy and administrative regulations of the Nassau BOCES for any employee or volunteer engaged in work under a federal grant to unlawfully manufacture, distribute, dispense, possess or use on or in the workplace any narcotic drug, hallucinogenic drug, amphetamine, barbiturate, marijuana or any other controlled substance, as defined in Schedules I through V of Section 202 of the Controlled Substance Act (21 USC 812) and as further defined by regulation at 21 CFR 1300.11 through 1300.15.

YOU ARE FURTHER NOTIFIED that the Board of Education policy with respect to the use of drugs in the workplace by employees or volunteers engaged in work under federal grants is set forth in Policy #5161 and administrative regulation #5161R.

YOU ARE FURTHER NOTIFIED that it is a condition of continued employment or volunteer status that each employee or volunteer engaged in work on any federal grant comply with the above policy and regulation and that any employee or volunteer engaged in such work who is convicted of violating a criminal drug statute for a violation occurring in the workplace shall notify his or her supervisor of the conviction, no later than five (5) calendar days after such conviction.

YOU ARE FURTHER NOTIFIED that any employee or volunteer who violates the terms of the BOCES’ Drug-Free Workplace Policy or administrative regulation may have his or her employment suspended or terminated, or his or her volunteer status terminated, as the case may be.

NASSAU BOCES

By:
Superintendent of Schools
SUBJECT: DRUG-FREE WORKPLACE

It shall be the general policy of the Board of Cooperative Educational Services to affirm that all programs in the Nassau BOCES that receive Federal funds shall guarantee that their workplaces are free of controlled substances. "Controlled substance" means a controlled substance in schedules I through V of Section 202 of the Controlled Substances Act (21 U.S.C. 812) and as further defined in regulation at 21 Code of Federal Regulations (CFR) 1308.11-1308.15. An acknowledgment form shall be signed by the District Superintendent indicating that the Nassau BOCES is in full compliance with the Drug-Free Workplace Act. This policy shall guarantee that not only Federally funded programs, but the entire BOCES is free of controlled substances.

The Board directs the administration to develop regulations to comply with this policy, and further supports such actions and activities of the administration as shall be required to maintain a drug-free workplace.

In addition to complying with Federal legislation regarding the use of drugs, the Board prohibits any employee acting within the scope of his/her employment from being under the influence, using or having in his or her possession or distributing in any way alcohol on BOCES property or at BOCES-sponsored activities, regardless of the location of the activity.

Drug-Free Workplace Act of 1988
(DFWA P.L. 100-690)

SUBJECT: ALCOHOL, DRUGS AND OTHER SUBSTANCES (SCHOOL PERSONNEL)

The Board of Cooperative Educational Services encourages cooperation with other community agencies and groups in preventing drug and alcohol abuse. Provision shall be made for instructing employees and students in alcohol, drug and tobacco abuse and prevention. All laws pertaining to drug and alcohol use and possession shall be honored by students, adults, and adult students while on BOCES premises or at BOCES-sponsored activities, regardless of the location of the activity.

The Board prohibits the manufacture, distribution, consumption, sharing and/or selling, use and/or possession of illegal drugs, counterfeit and designer drugs, or drug paraphernalia, or alcoholic beverages in the workplace, or when the effects of such drugs may impair an employee's job performance. The inappropriate use of prescription and over-the-counter drugs shall also be prohibited.

Information about any drug and alcohol counseling and/or rehabilitation programs shall be made available to employees. Data will also include the range of penalties, (consistent with local, state and federal law), up to and including termination of employment and referral for prosecution that will be imposed on employees who have transgressed the terms of this policy.

Alcoholic beverages are prohibited on BOCES premises and at BOCES-sponsored activities where students are present, regardless of the location of the activity.

Additionally, confidentiality shall be insured as required by state and federal law.

The District Superintendent shall biennially review the drug and alcohol abuse prevention program to determine its effectiveness and support appropriate modifications, as needed.

Drug and Alcohol-Free Education and Prevention Program

In support of the Board's interest in the health and well-being of BOCES' students and employees, and its commitment to a drug and alcohol-free learning and work environment, provision shall be made for a "Drug and Alcohol-Free Education and Prevention Program" for students and employees. (Refer also to Policy #7113 -- Prevention Instruction.)

Education Law Sections 913, 1711(5)(e), and 3020-a
Civil Service Law Section 75
Drug-Free Schools and Communities Act Amendment of 1989
(Public Law 101-226)

NOTE: Refer also to Policy #6220 -- Alcohol, Drugs and Other Substances (Students).

SUBJECT: SEXUAL HARASSMENT OF BOCES PERSONNEL (Cont’d.)

Dissemination of BOCES Policy/Regulation and Evaluation

A copy of BOCES policy and regulations pertaining to sexual 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 school publications such as teacher/employee handbooks and/or school calendars.

The Superintendent of Schools, or his/her designee(s), has a responsibility to review BOCES policy and regulations to ensure continued effectiveness and compliance with applicable law. The Superintendent will recommend revisions as may be warranted to the Board of Education.
SUBJECT: SEXUAL HARASSMENT OF BOCES PERSONNEL (Cont’d.)

Prohibition of Retaliation

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 for Non-BOCES Employees

Vendors/contractors and other individuals who do business with the BOCES, who have been found to violate the terms of the sexual 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. 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.

Knowingly False Accusations

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

BOCES Responsibility/Training

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

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

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

(Continued)
SUBJECT: SEXUAL HARASSMENT OF BOCES PERSONNEL (Cont’d.)

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 Superintendent of Schools. 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 Superintendent of Schools

All formal complaints, if not satisfactorily resolved at the initial stage of investigation, may be appealed by any party to the Superintendent of Schools.

If the Superintendent of Schools issues a finding that no sexual 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 Superintendent’s finding, the complainant will so indicate in writing.

Should the Superintendent determine that corrective action is necessary, the 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 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 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 Superintendent will provide all parties and the Board of Education with a written status report requesting additional time to complete 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 Superintendent of Schools, such appeal must be in writing and submitted within ten (10) working days of receipt of the 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) 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.

(Continued)
SUBJECT: SEXUAL HARASSMENT OF BOCES PERSONNEL (Cont'd.)

Some types of informal actions which may be instituted if agreeable to the victim include the following:

1) Conducting a workshop on the recognition and prevention of sexual harassment for the building or department.
2) Speaking to the alleged offender.
3) Separating the parties, if possible and appropriate.

Mediation

Where appropriate, the designated complaint officer may suggest mediation as an alternative means of resolving the complaint. The use of mediation is not intended to replace but, rather, is a supplement to utilization of the BOCES' informal/formal complaint procedures. If mediation is requested and agreed to by the victim and the accused, the BOCES will use qualified mediators as provided by an outside agency to help resolve the complaint.

Step 2 – Formal Complaint

An employee may file a formal written complaint of sexual 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.

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 Superintendent of Schools. 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 sexual harassment did occur, the complaint officer will notify the Superintendent of his/her recommendations. If the Superintendent concurs with the report of the complaint officer, the Superintendent will then take prompt disciplinary action in accordance with the terms of BOCES policy and regulations, federal and state law, 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.

(Continued)
SUBJECT: SEXUAL HARASSMENT OF BOCES PERSONNEL (Cont’d.)

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 complainant to sign the documentation.

A copy of all written material pertaining to the case/investigation will be retained in a separate confidential file in the personnel office. Such records will be maintained for a period of three (3) years after resolution of the grievance.

Step 1 – Informal Complaints

An employee who believes that he/she has been subjected to sexual harassment or anyone who has knowledge of or witnesses an occurrence of sexual harassment may file an informal complaint, whether verbal or written, by requesting a meeting between himself/herself and the complaint officer 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. All complaints, whether formal or informal, concerning allegations of sexual harassment are to be reported immediately to the Superintendent for his/her information; and the complaint officer will keep the Superintendent informed throughout all stages of the investigation. The Superintendent will be kept informed of the complainant’s and/or accused’s response and recommended course of action, if any.

If the initial investigation results in a finding that sexual harassment did occur, the complaint officer will notify the Superintendent of his/her recommendations. If the Superintendent concurs with the report of the complaint officer, the Superintendent will then take prompt disciplinary action in accordance with the terms of BOCES policy and regulations, federal and state law, 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 sexual 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).

(Continued)
SUBJECT: SEXUAL HARASSMENT OF BOCES PERSONNEL (Cont’d.)

3) The specific nature of the alleged harassment including the complainant’s explanation of why he/she believes it to be harassment.

4) 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).

5) 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.

6) 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.

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

The designated complaint officer will begin investigating the allegations of sexual harassment no later than three (3) working days following receipt of the complaint; and will report the findings of the investigation to the 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 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; 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.

(Continued)
SUBJECT: SEXUAL HARASSMENT OF BOCES PERSONNEL (Cont’d.)

Any employee who believes he or she has been subjected to sexual harassment, or has knowledge of and/or witnesses any incident of sexual harassment, should promptly report such conduct to the designated complaint officer. If the employee is in doubt as to the “seriousness” of the incident and/or whether such behavior constitutes sexual harassment, the employee is still encouraged to immediately report such conduct for resolution. If the complaint officer is the alleged offender, the report shall be made to the next level of supervisory authority as indicated below. Allegations of sexual harassment may be reported through informal and/or formal complaint procedures; and utilization of the BOCES’ grievance guidelines does not preclude the employee from pursuing other avenues of legal recourse including the right to register complaints with the federal Equal Employment Opportunity Commission and the New York State Department of Human Rights. These regulations are further not to be construed as to limit the right of any employee to file a lawsuit in either federal or state court.

Complaints of harassment will be investigated thoroughly, promptly and impartially in accordance with applicable law and regulations as well as any applicable collective bargaining agreement(s).

Building level staff should submit complaints or reports of sexual harassment to the building principal. All other staff should submit such complaints to their immediate supervisor. If the principal or supervisor are implicated in the allegations, complaints should be submitted to the next level of supervisory authority. If there is some reason why an employee cannot make a report to the designated complaint officer, the employee may report the matter to any other administrator, supervisor, or designated complaint officer (ex. Executive Director for Human Resources) as appropriate. The administrator or supervisor who is made aware of the occurrence of possible sexual harassment, whether or not a complaint has been filed, is required to promptly report the incident(s) to the Superintendent and/or designated complaint officer as appropriate.

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

Reporting of Complaints by Employees General Guidelines

Any employee who believes that he or she has been subjected to sexual harassment or who is made aware of and/or witnesses any possible occurrence of sexual harassment should 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 the harassment as soon as it occurs, providing as much detail as possible including, but not limited to, the following:

1) The name, address and telephone number of the complainant.
2) The name and/or description of the alleged offender or offenders.

(Continued)
SUBJECT: SEXUAL HARASSMENT OF BOCES PERSONNEL (Cont’d.)

4) Unwelcome and unwanted physical contact of a sexual nature including, but not limited to, physical acts such as assault, impeding or blocking movement, offensive touching, or any physical interference with normal work or movement.

5) Displaying or distributing pornographic or other sexually explicit materials such as magazines, pictures, internet material, cartoons, etc.

6) The use of profanity and/or other obscenities that are sexually suggestive or degrading in nature.

7) Demanding sexual favors of an employee, insinuating that refusal to acquiesce in such favors will adversely affect an employee’s evaluation, wages, advancement, assignment of duties or shifts, or any other condition of employment, benefits or career development.

8) Unwelcome staring, leering, or gesturing which is sexually suggestive in nature.

9) Any other unwelcome and unwanted sexually oriented and/or gender-based behavior which is sexually demeaning, belittling, intimidating, or perpetrates sexual stereotypes and attitudes.

Behavior shall be considered unwelcome and unwanted if the employee did not initiate, request or invite such conduct and the employee who is subjected to the behavior regarded such conduct as undesirable or offensive.

Authority and Responsibility

It is the responsibility of all BOCES employees to ensure that their behavior and environment are maintained free of sexual 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 sexual harassment with all employees, and assuring employees that they are not required to endure insulting, degrading or exploitative sexual treatment.

All complaints of sexual 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 sexual harassment. It is recommended that any employee who believes he/she has been subjected to sexual harassment, or has reason to know of and/or witnesses any incident of sexual harassment, submits a written complaint; however, the absence of a written complaint does not negate the BOCES’ responsibility to investigate such allegations as thoroughly as possible. School officials are required to provide a written report of investigation findings and any action taken to resolve the complaint within time frames as established by the BOCES.

(Continued)
SUBJECT: SEXUAL HARASSMENT OF BOCES PERSONNEL

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 employee is entitled to be treated with dignity and respect, and a recognition that sexual harassment is a violation of law and BOCES policy, the BOCES strictly prohibits conduct which constitutes sexual harassment in any form. Anyone who is in violation of BOCES policy and/or regulation will be subject to sanctions and/or disciplinary action, up to and including termination, in accordance with law and/or applicable collective bargaining agreements.

Any retaliation against a person for filing a harassment charge or making a harassment complaint is prohibited; and any employee who complains about harassment or participates in investigations of such complaints will be protected against retaliation. Employees found to be retaliating against another employee shall be subject to disciplinary action, up to and including termination, in accordance with legal guidelines and contractual mandates.

The BOCES strictly prohibits all forms of sexual harassment on school grounds and at all school-sponsored programs, activities and events including those which take place off school premises.

Definitions/Examples of Prohibited Conduct

Sexual harassment consists of unwanted and unwelcome sexual or gender-based behavior including but not limited to overt or implicit bribes, requests for sexual favors, and other verbal or physical conduct of a sexual nature or that is based on sexual/gender stereotypes which interferes with an individual’s ability to work; professional performance; productivity; physical security; or career opportunities, services or other benefits of employment.

Sexual harassment does not depend on the “voluntary” nature of the behavior or activity, but instead focuses on whether the alleged advances or behavior was unwelcome.

Sexual harassment can originate from a person of either sex against a person of the opposite or same sex, and from supervisors, co-workers and third parties such as visitors and school volunteers. Prohibited conduct can be verbal, non-verbal, or physical (the latter may qualify as criminal sexual assault). Examples of such conduct include, but are not limited to, the following:

1) Verbal abuse or ridicule, including innuendos, stories and jokes, which are of a sexual nature and/or gender-related. This might include inappropriate sex-oriented comments on appearance, including dress or physical features.

2) Direct or indirect threats or bribes for unwanted sexual activity.

3) Asking or commenting about a person’s sexual activities.

(Continued)
SUBJECT: SEXUAL HARASSMENT (Cont'd.)

Title VII of the Civil Rights Act of 1964,

Civil Rights Act of 1991
42 United States Code (U.S.C) Section 1981(a)

29 Code of Federal Regulations (CFR)
Section 1604.11(a)

Executive Law Sections 296 and 297

SUBJECT: SEXUAL HARASSMENT (Cont'd.)

To the extent possible, within legal constraints, all complaints will be treated as confidentially and privately as possible. However, disclosure may be necessary to complete a thorough investigation of the charges, and any disclosure will be provided on a "need to know" basis.

Based upon the results of the investigation, if the District determines that an employee has violated the terms of this policy and/or accompanying regulations, immediate corrective action will be taken, as warranted, up to and including termination of the offender’s employment in accordance with legal guidelines, District policy and regulation, and the applicable collective bargaining agreement(s). Third parties (such as school volunteers, vendors, etc.) who are found to have violated this policy and/or accompanying regulations will be subject to appropriate sanctions as warranted and in compliance with law.

The Board prohibits any retaliatory behavior directed against complainants, victims, witnesses, and/or other individuals who participated in the investigation of a complaint of sexual harassment. Follow-up inquiries shall be made to ensure that harassment has not resumed and that all those involved in the investigation of the sexual harassment complaint have not suffered retaliation.

Regulations will be developed for reporting, investigating and remedying allegations of sexual harassment. An appeal procedure will also be provided to address any unresolved complaints and/or unsatisfactory prior determinations by the applicable complaint officer(s).

Such regulations will be developed in accordance with federal and state law as well as any applicable collective bargaining agreement(s).

The Superintendent/designee(s) will affirmatively discuss the topic of sexual harassment with all employees, express the District’s condemnation of such conduct, and explain the sanctions for harassment. Training programs will be established for employees to help ensure awareness of the issues pertaining to sexual harassment in the workplace, and to disseminate preventative measures to help reduce such incidents of prohibited conduct. Furthermore, special training will be provided for designated supervisors and managerial employees, as may be necessary, for training in the investigation of sexual harassment complaints.

A copy of this policy and its accompanying regulations will be available upon request and may be posted at various locations in each school building. The district’s policy and regulations on sexual harassment will be published in appropriate school publications such as teacher/employee handbooks and/or school calendars.

(Continued)
SUBJECT: SEXUAL HARASSMENT

The Board of Education affirms its commitment to non-discrimination and recognizes its responsibility to provide for all District employees an environment that is free of sexual harassment and intimidation. Sexual harassment is a violation of law and stands in direct opposition to District policy. Therefore, the Board prohibits and condemns all forms of sexual harassment by employees, school volunteers, students, and non-employees such as contractors and vendors which occur on school grounds and at all school-sponsored events, programs and activities including those that take place at locations off school premises. Generally, sexual harassment is defined as unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when:

1) Submission of each conduct is made, either explicitly or implicitly, a term or condition of an individual’s employment;

2) Submission to or rejection of such conduct by an individual as used is a basis for employment decisions affecting such individuals; and

3) Such conduct has the purpose or effect of unreasonable interfering with an individual’s work performance or creating an intimidating, hostile or offensive work environment.

The Board acknowledges that in determining whether sexual harassment has occurred the totality of the circumstances should be evaluated. The Board recognizes that sexual harassment can originate from a person of either sex against a person of the opposite or same sex, and from co-workers as well as supervisors, and from a third party such as a school visitor, volunteer, or vendor, or any other individual associated with the School District.

In order for the Board to enforce this policy, and to take corrective measures as may be necessary, it is essential that any employee who believes he/she has been a victim of sexual harassment in the work environment, as well as any other person who is aware of and/or who has knowledge of or witnesses any possible occurrence of sexual harassment, immediately report such alleged harassment to the District’s designated complaint officer(s) through informal and/or formal complaint procedures as developed by the District. Such complaints are recommended to be in writing, although verbal complaints of alleged sexual harassment will also be promptly investigated in accordance with the terms of this policy. In the event that the complaint officer is the alleged offender, the employee should report his/her complaint to the next level of supervisory authority.

Upon receipt of an informal/formal complaint, the District will conduct a thorough investigation of the charges. However, even in the absence of a complaint, if the District has knowledge of or has reason to know of or suspect any occurrence of sexual harassment, the District will investigate such conduct promptly and thoroughly.

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SUBJECT: CODE OF ETHICS FOR ALL BOCES PERSONNEL (Cont'd.)

Nothing herein shall be deemed to bar or prevent the timely filing by a present or former officer of any claim, account, demand, or suit against the BOCES, or any agency thereof on behalf of himself/herself or any member of his/her family arising out of any personal injury or property damage or for any lawful benefit authorized or permitted by law.

Distribution/Posting of Code of Ethics

The District Superintendent of the BOCES shall cause a copy of this code of ethics to be distributed to every officer and employee of the BOCES. Each officer and employee elected or appointed thereafter shall be furnished a copy before entering upon the duties of his/her office or employment.

The District Superintendent shall also cause a copy of Article 18 of the General Municipal Law to be kept posted in each building in the BOCES in a place conspicuous to its officers and employees. Failure to distribute any such copy of this code of ethics or failure of any officer or employee to receive such copy, as well as failure to post any such copy of General Municipal Law, Article 18, shall have no effect on the duty of compliance with such code or Article 18, nor with the enforcement of provisions thereof.

Penalties

In addition to any penalty contained in any other provision of law, any person who shall knowingly and intentionally violate any of the provisions of this code may be fined, suspended or removed from office or employment, as the case may be, in the manner provided by law.

General Municipal Law, Article 18

NOTE: Refer also to Policy #1340 -- Obligations of Board Members.

SUBJECT: CODE OF ETHICS FOR ALL BOCES PERSONNEL (Cont'd.)

b) **Confidential Information** - No officer or employee shall disclose confidential information acquired in the course of official duties, except when permitted or required by law, or use such information to further personal interest.

c) **Representation before the BOCES** - No officer or employee shall receive, or enter into any agreement, express or implied, for compensation for services to be rendered in any matter before the BOCES.

d) **Representation before any agency for a contingent fee** - No officer or employee shall receive, or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before the BOCES, whereby compensation is to be dependent or contingent upon any action by the BOCES with respect to such matter, provided that this paragraph shall not prohibit the fixing at anytime of fees based upon the reasonable value of services rendered.

e) **Disclosure of interest in resolution** - An officer or employee who participates in the discussion of or gives official opinion to the Board on any resolution before such Board shall publicly disclose in the minutes of a public Board meeting the nature and extent of any direct or indirect financial or other private interest in such resolution.

f) **Investments in conflict with official duties** - No officer or employee shall invest or hold any investment, directly or indirectly, in any financial, business, or commercial, venture, or other private transaction, which creates a conflict of interest with official duties or work assignments.

g) **Private employment** - No officer or employee shall engage in, solicit, negotiate for or promise to accept private employment or render services to private interests when such employment or service creates a conflict of interest with or impairs the proper discharge of official duties or work assignments.

h) **Future employment** - No officer or employee after termination of service or employment with the BOCES, shall appear before any board or agency or committee of the BOCES in relation to any matter in which the officer or employee personally participated during the period of his or her service or employment, or which was under his/her active consideration.

i) **Employment of Board Members** - No member of the Board shall apply for a position as a paid employee of the BOCES and neither the Board nor any officer or employee of the BOCES shall consider any application from any such Board member unless that Board member shall have resigned as such member prior to the submission thereof.

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