

Civil Rights Compliance Reporting Procedure

Compliance Coordinator(s)

A. The Compliance Coordinator for purposes of implementing this Policy shall be:

James Picolla

Herkimer-Fulton-Hamilton-Otsego BOCES

352 Gros Boulevard Herkimer, NY 13350 (315) 867-2032

B. The Compliance Coordinator is responsible for enforcing civil rights legislation and implementing regulations and guidelines; and for receiving and thoroughly investigating complaints made under this Policy, making sure that this Policy has been publicized as required by law, making recommendations for reasonable accommodation of student and employee disabilities, keeping records of all reports of possible discrimination and related investigations and determinations, and making recommendations for the updating of this Policy, as necessary. The Compliance Coordinator serves as the Superintendent's designee for purposes of Article 2-A of the Education Law.

C. This Policy shall be interpreted and implemented so that the BOCES complies with its obligations under Titles VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Title II of the Americans With Disabilities Act, the Age Discrimination in Employment Act, Section 504 of the Rehabilitation Act of 1973, the New York State Human Rights Law, and the New York State Education Law, as interpreted and enforced by applicable regulations.

D. When a report complains of possible discrimination by the Compliance Coordinator, the District Superintendent shall designate another school official to conduct the necessary fact-finding and make recommendations.

Complaint and Fact-finding Procedure

A. Report of Possible Harassment, Bullying, or Discrimination: To download the BOCES' form for making a Report of Possible Discrimination, [click here](#). The Compliance Coordinator shall make sure that this form is available in each school building, and its availability is known to those who may need to use it. The use of

this form is encouraged, but not required; the Compliance Coordinator shall conduct a fact-finding inquiry anytime a written or oral report is received that contains enough information to reasonably investigate.

1. An employee may report possible discrimination or harassment directed at them or another employee to the employee's supervisor or directly to the Compliance Coordinator, the report may be made to the District Superintendent. If an employee makes a verbal report, they shall be asked to make a written report and told of the availability of the Report form.
2. A student may report possible harassment, bullying or discrimination directed at them or another student to any teacher, counselor, or school administrator. If a student makes a verbal report, they shall be asked to make a written report and told of the availability of the Report form. BOCES staff shall be trained on how to receive and refer student complaints.
3. A parent, school volunteer, or other member of the public who wishes to report possible harassment, bullying, or discrimination against a student shall make the report to the District Superintendent, the Compliance Coordinator, or any building principal or teacher. If a verbal report is made, a written report shall be requested and the complaint directed to the Compliance Coordinator.
4. District employees who either witness conduct directed at a student that may be harassment, bullying, or discrimination, or receive an oral or written report of such conduct, must report that to the Compliance Coordinator. The employee must make an oral report to the Compliance Coordinator within one school day, followed by a written report to the Compliance Coordinator no more than two school days after their oral report.

B. Fact-finding Inquiry: Upon receiving a written report of possible harassment, bullying, or discrimination, the Compliance Coordinator shall log the report, acknowledge in writing its receipt, and conduct a fact-finding inquiry designed to determine with a reasonable degree of probability what actually transpired.

1. The fact-finding inquiry should begin within five [5] days after receiving the complaint, and be pursued with sufficient diligence to reach a conclusion within ten [10] days, unless for good cause, after receipt of a written report.
2. The inquiry should determine with as much detail as possible the sequence in which events occurred, the identity of each person involved and their respective roles, and the exact words spoken by each participant. To the extent practicable, all interviews should be conducted by one person.
3. The inquiry shall include an opportunity for any person who has been identified as possibly violating this Policy to respond to each assertion made against them.
4. Interviews shall be scheduled and conducted in compliance with applicable provisions of New York law and collective bargaining agreements.
5. Each person interviewed shall be reminded that they are protected by the non-retaliation provision of this Policy, and that they are bound by that provision.

C. Resolution: The Compliance Coordinator shall prepare a written fact-finding report describing the investigation, conclusions, a conclusion as to whether the conduct violated the BOCES Policy, and, if it did, the proposed corrective action should be taken. This report shall be submitted to the District Superintendent for further action.

1. If the determination is that this Policy has not been violated, the person who made the report, and each person whose conduct was challenged, shall be told of that determination verbally and in writing. The person who made the report shall be told of the option to have the determination reviewed.

2. If the determination is that this Policy has been violated, the person who made the report of possible discrimination shall be told of that determination verbally and in writing and, consistent with the confidentiality accorded to student and personnel records, told that appropriate corrective action has been taken to deter any repetition of the offending conduct. The person whose conduct violated the Policy shall have that explained to them, shall be told of the corrective action being taken by the BOCES, and shall be told of the option to have the determination reviewed
3. When the Compliance Coordinator verifies the occurrence of harassment, bullying, or discrimination directed at a student, the school shall take prompt action that are consistent with the District's Code of Conduct and are reasonably calculated to end the harassment, bullying, or discrimination to eliminate any hostile environment; to create a more positive school culture and climate; to prevent a recurrence of the behavior; and to ensure the safety of the student(s) at whom the conduct was directed.
 - a. Responsive actions shall be measured, balanced, and age-appropriate.
 - b. Responsive actions shall follow a progressive model and make appropriate use of intervention, education, and discipline.
 - c. Responsive actions shall vary according to the nature of the offending behavior, the developmental age of the person engaging in the behavior, and the prior history of problem behaviors by the person engaging in the conduct.

D. Report to Law Enforcement Agency: When the Compliance Coordinator believes that conduct has occurred that constitutes criminal conduct, the Coordinator shall promptly notify the Superintendent, and the Superintendent shall promptly notify the appropriate law enforcement agency.

E. 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 witness interviewed

during the fact-finding inquiry shall be instructed not to discuss the complaint or the investigation with anyone else, except as may be privileged by law.

F. Special Fact-finder: The District Superintendent is authorized to appoint a special fact-finder to carry out the responsibilities of the Compliance Coordinator when the District Superintendent concludes that the circumstances of a particular report warrant that action.

G. Immediate Corrective Action: The District Superintendent has discretion to implement immediate corrective action, pending the completion of a fact-finding inquiry, to protect an individual when the District Superintendent concludes that the circumstances of a particular report warrant that action.

H. Review of Coordinator's Determination: If a person who initiated a report of possible discrimination, or a person whose conduct was challenged by a report of possible discrimination, is not satisfied with the determination of the Compliance Coordinator (or other designated investigator), they may request that the determination be reviewed by the Board of Education.

1. A request for Board review must be made in writing, filed with the Board Clerk within 10 business days of receiving the written notice of the determination.
2. The person requesting review shall provide a written explanation of their objection(s) to the determination, including the corrective action taken, if any. That statement shall be filed with the Board Clerk at least five (5) business days before the Board meeting at which the review will be conducted. The Board shall also be provided with a copy of the Compliance Coordinator(s) report and recommendation, and documentation of the District Superintendent's subsequent action(s).
3. Board discussion of the determination and the objection(s) made shall take place in executive session. Board action to adopt or change the determination shall be take place in public session.

I. No Retaliation: No employee or student shall take a retaliatory action, or request or cause anyone else to take a retaliatory action, against any person who,

in good faith, reports information about a possible violation of this Policy to a District employee or to the Commissioner of Education or to a law enforcement agency, or who initiates a report or testifies or assists or participates in the investigation of a report.

Remedial Measures When This Policy is Violated

- A.** An employee found to have engaged in prohibited discrimination against another person (whether an employee, student, or member of the public) in the course of their employment will be subject to discipline, up to and including termination. Such decisions will be made and implemented in accordance with other BOCES policies (e.g. the Code of Conduct) and applicable statutes and collective bargaining agreements.

- B.** A student found to have engaged in prohibited discrimination against another person (whether an employee, student, or member of the public) while participating in a school activity or on school property will be subject to discipline. Such decisions will be made and implemented in accordance with other BOCES policies (e.g. the Code of Conduct), the New York State Education Law, and any other applicable statutes.

- C.** Any other person found to have engaged in prohibited discrimination against another person (whether a employee, student, or member of the public) while participating in a school activity or on school property may have their future access to school activities limited, as deemed appropriate under the circumstances.