

Monroe 2-Orleans BOCES Policy
Series 6000 – Students
Policy #6462 – STUDENT HARASSMENT AND BULLYING PREVENTION AND INTERVENTION (DIGNITY FOR ALL STUDENTS ACT)

The Board is committed to providing an educational and working environment that promotes respect, dignity and equality. The Board recognizes that discrimination, such as harassment, hazing and bullying is detrimental to student learning and achievement. These behaviors interfere with the mission of the BOCES to educate its students and disrupt the operation of the schools/program. Such behavior affects not only the students who are its targets but also those individuals who participate and witness such acts.

To this end, the Board condemns and strictly prohibits all forms of discrimination, such as harassment, hazing and bullying on BOCES owned or leased grounds, school buses and at all BOCES-sponsored activities, programs, work study locations, and events. Discrimination, harassment, hazing or bullying that takes place at locations outside of BOCES which can be reasonably expected to materially and substantially interfere with the operation of the school or program or impinge on the rights of a student or students is prohibited, and may be subject to disciplinary consequences.

Definitions

Discrimination

Discrimination is the act of denying rights, benefits, equitable treatment or access to programs and/or facilities available to all others, to an individual or group of people because of the group, class or category to which that person belongs (as enumerated in the Definitions section, under Harassment, below).

Hazing

Hazing is an induction, initiation or membership process involving harassment which produces public humiliation, physical or emotional discomfort, bodily injury or public ridicule or creates a situation where public humiliation, physical or emotional discomfort, bodily injury or public ridicule is likely to occur.

Harassment or Bullying

Harassment or bullying has been defined in various ways in federal and state law and regulation. The Board recognizes that these definitions are important standards, but the Board's goal is to prevent misbehavior from escalating in order to promote a positive school environment and to limit liability. The Dignity for All Students Act defines harassment or bullying as:

- the creation of a hostile environment by conduct or by threats, intimidation or abuse including cyberbullying that either has or would have the effect of unreasonably and substantially interfering with a student's educational performance, opportunities or benefits, or mental, emotional and/or physical well-being; including conduct, threats, intimidation, or abuse that reasonably causes or would reasonably be expected to cause emotional harm; or

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- reasonably causes or would reasonably be expected to cause physical injury to a student or to cause a student to fear for his or her physical safety; or
- occurs off school property where such act creates or would foreseeably create a risk of substantial disruption within the school environment where it is foreseeable that the conduct, threats, intimidation, or abuse might reach school property; or
- occurs on BOCES owned or leased property or at a school function, wherever located.

Acts of harassment and/or bullying shall include but not be limited to those acts based on a person's actual or perceived:

- Race,
- Color,
- Weight,
- National origin,
- Ethnic group,
- Religion,
- Religious practice,
- Disability,
- Sex,
- Sexual orientation, or
- Gender (including gender identity and expression).

The term threats, intimidation, or abuse shall include verbal and non-verbal actions. In some instances, bullying or harassment may constitute a violation of an individual's civil rights. The BOCES is mindful of its responsibilities under the law and in accordance with its policy regarding civil rights protections.

Emotional harm that takes place in the context of harassment or bullying means harm to a student's emotional well-being through creation of a hostile school environment that is so severe or pervasive as to unreasonably and substantially interfere with a student's education.

Cyberbullying

Harassment or bullying through any form of electronic communication.

NOTE: When the term "bullying" is used throughout this policy it refers collectively to discrimination, harassment, bullying, and hazing.

Prevention

The school setting provides an opportunity to teach students, and emphasize among staff, that cooperation with and respect for others is a key BOCES value. A program geared to prevention is designed to not only decrease incidents of bullying but to help students build more supportive

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relationships with one another by integrating the bullying prevention program into classroom instruction.

Staff members and students will be sensitized, through district-wide professional development and instruction, to the warning signs of bullying, as well as to their responsibility to become actively involved in the prevention of bullying before overt acts occur.

In order to implement this program the Board will designate at its annual reorganizational meeting a BOCES-wide Dignity for All Students Act (DASA) Coordinator and School Level DASA Coordinators. The role of the BOCES-wide DASA Coordinator is to coordinate, implement, review trends, and report as required and enforce this policy. The BOCES-wide DASA Coordinator and School Level DASA coordinator's roles will include reporting, investigating, remedying and tracking allegations of bullying.

Intervention

Intervention is an important step in preventing escalation and resolving issues at the earliest stages. Intervention will emphasize education and skill-building.

Successful intervention may involve remediation. Remedial responses to bullying and harassment include measures designed to correct the problem behavior, prevent another occurrence of the behavior and protect the target. Remediation may be targeted to the individual(s) involved in the bullying behavior or environmental approaches which are targeted to the school or BOCES as a whole.

In addition, intervention will focus upon the safety of the target. Staff is expected, when aware of bullying, to either refer the student to designated resources for assistance, or to intervene in accordance with this policy and regulation.

Provisions for students who don't feel safe at school

The Board acknowledges that intervention may require a specific coordinated approach if the student does not feel safe at school. Students who do not feel safe at school are limited in their capacity to learn and reach their academic potential. Staff, when aware of bullying, should determine what is needed in order to help ensure the safety of the student and bring this to the attention of the principal/program administrator. The principal/program administrator, other appropriate staff, the student and the student's parent(s)/guardian will work together to define and implement any needed accommodations.

The BOCES recognizes that there is a need to balance what is essential to enhance student safety against the potential to further stigmatize the targeted student. Therefore, each case will be handled individually, and the student, parent/guardian, and school administration will collaborate to establish safety provisions that best meet the needs of the targeted student. Follow-up discussion and/or meetings will be scheduled, as needed, to ensure that safety concerns have been adequately addressed and to determine when and if accommodations need to be changed or discontinued.

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Training

Training needs in support of this prevention and intervention program will be reflected in the BOCES annual professional development plan, new teacher orientation and in curriculum. Employees shall receive training to support implementation of this policy, regulation and on related legal developments.

Reporting and Investigation

The BOCES cannot effectively address bullying if incidents are not reported. Students who have been bullied, parents whose children have been bullied and staff or others who have knowledge of or who observe bullying behavior are expected to make a verbal and/or written complaint to any BOCES personnel in accordance with the training provided. Principal/program administrator is the staff member responsible to receive reports. Supervisors will refer the information to appropriate BOCES staff for investigation as designated in regulation. A BOCES employee may be deemed to have permitted unlawful discrimination or harassment if he/she fails to report an observed incident, whether or not the student complains. A BOCES employee who receives an oral or written report or observes discrimination, harassment, or bullying must promptly notify the principal/program administrator orally not later than one day after they receive a report or observe the behavior, and must file a written report with principal/program administrator not later than two school days after making the oral report. At all times, complaints will be documented, tracked and handled in accordance with the regulations and procedures accompanying this policy, or, the BOCES' Code of Conduct. If a staff person is unsure of the reporting procedure, he/she is expected to inquire about how to proceed by speaking with their supervisor.

The results of the investigation shall be reported back to both the complainant and the accused in accordance with the accompanying regulation. If either of the parties disagrees with the results of the investigation, he/she can appeal the findings in accordance with the regulations.

Disciplinary Consequences/Remediation

While the focus of this policy is on prevention, bullying acts may still occur. In these cases, offenders will be given the clear message that their actions are wrong and the behavior must discontinue. Student offenders will receive in-school guidance in making positive choices in their relationships with others. If appropriate, disciplinary action will be taken by the administration in accordance with the Code of Conduct, as applicable. If the behavior rises to the level of criminal activity, law enforcement will be contacted.

Consequences for a student who commits an act of bullying shall be unique to the individual incident and will vary in method and severity according to the nature of the behavior, the developmental age of the student, and the student's history of problem behaviors, and must be consistent with the Code of Conduct.

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Non-Retaliation

All complainants and those who initiate, testify, assist, report, or participate in the investigation of a complaint in conformity with state law and/or BOCES policies, who have acted reasonably and in good faith, have the right to be free from retaliation of any kind by any student or employee and has civil immunity.

Dissemination, Monitoring, Review, and Reporting

This policy, or a plain language summary, shall be published in student registration materials, student, parent and employee handbooks, and posted on the BOCES' website. Annually all BOCES employees, parents, and students will receive a copy of the policy or plain language summary. The full policy is posted on the Internet; a copy will be provided upon request. A complaint form will be available on the BOCES' website. The website with this policy will be regularly updated.

Each year this policy will be reviewed to assess its effectiveness and compliance with state and federal law.

BOCES will report to New York State Education Department on or before the BEDS reporting deadline or on a date determined by the Commissioner and on a form prescribed by the Commissioner a material incident of harassment, bullying, or discrimination that was the result of the investigation of a written or oral complaint or an incident directly observed by an employee. The report will include information such as the type of bias involved, type of incident, location, whether the incident involved physical or verbal conduct, including cyberbullying, whether the incident stemmed from employee or student behavior. This data will not be counted in the School Violence Index.

A material incident of harassment, bullying and/or discrimination means a single verified incident or a series of related verified incidents where a student is subjected to harassment, bullying and/or discrimination by a student and/or employee on BOCES property or at a BOCES function and is subject to an oral or written complaint to the District Superintendent, principal, program administrator or their designee, or other school employee; and shall mean a verified incident or series of related verified incidents of harassment or bullying that occur off BOCES property and is subject to an oral or written complaint to the District Superintendent, principal, program administrator or their designee, or other school employee.

The District Superintendent will receive a regular report (once per school year and in a manner of BOCES choosing) from the building specific principal/program administrator on data and trends related to discrimination, harassment, and bullying.

The BOCES Board will receive the annual VADIR report, for each building and for the BOCES as a whole, with particular attention to the trends in the incidence of bullying. Based on the review of the data, the Board may consider further action, including but not limited to modification of this policy and additional training.

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The BOCES will ensure that reporting of information to the public will be in a manner that complies with student privacy rights under the Family Educational Rights and Privacy Act (FERPA).

BOCES recognizes allegations under this policy may also be a violation of the sexual harassment policy, see Policy 6440.

Ref: Dignity for All Students Act, Education Law, §10 – 18
Americans with Disabilities Act, 42 U.S.C. §12101 *et seq.*
Title VI, Civil Rights Act of 1964, 42 U.S.C. §2000d *et seq.*
Title, VII, Civil Rights Act of 1964, 42 U.S.C. §2000e *et seq.*; 34 CFR §100 *et seq.*
Title IX, Education Amendments of 1972, 20 U.S.C. §1681 *et seq.*
§504, Rehabilitation Act of 1973, 29 U.S.C. §794
Individuals with Disabilities Education Law, 20 U.S.C. §§1400 *et seq.*
Executive Law §290 *et seq.* (New York State Human Rights Law)
Executive Law §§313(3), 3201, 3201-a
Tinker v. DesMoines Independent Community School Dist., 393 US 503, (1969) *Davis v. Monroe County Board of Education*, 526 U.S. 629 (1999)
Gebser v. Lago Vista Independent School District, 524 U.S., 274 (1998)
Faragher v. City of Boca Raton, 524 U.S. 775 (1998)
Burlington Industries v. Ellerth, 524 U.S. 742 (1998)
Oncale v. Sundowner Offshore Services, Inc., 523 U.S. 75 (1998)
Franklin v. Gwinnett County Public Schools, 503 U.S. 60 (1992)
Meritor Savings Bank, FSB v. Vinson, 477 U.S. 57 (1986)

Adopted: 6/20/2012
Revised: 5/15/2013
Revised: 5/14/2014
Revised: 5/13/2015
Reviewed: 8/19/2015
Reviewed: 6/15/2016
Revised: 5/10/2017
Revised: 5/09/2018