

## **ACKNOWLEDGEMENT OF ERIE 1 BOCES POLICIES AND REGULATIONS**

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### **REGULATIONS**

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## Community Relations

**SUBJECT: CONFIDENTIALITY OF COMPUTERIZED INFORMATION****Western New York Regional Information Center**

The development of centralized computer banks of educational data gives rise to the question of the maintenance of the confidentiality of such data while still conforming to State and Federal Law. The safeguarding of the data from inappropriate use is essential to the success of the Western New York Regional Information Center's operation.

Therefore, it shall be the policy of the Regional Information Center to release confidential computerized data only to authorized personnel of the BOCES to which data belong or to such others as may be directed by such BOCES. The Superintendent of each BOCES and those whom he/she may designate, in writing, are the only individuals to whom data may be released. The District Superintendent or his/her designee may, at his/her discretion, provide written direction to release specific elements of data in specified formats to authorized officials or entities pursuant to the Family Educational Rights and Privacy Act (20 U.S.C. 1232g), and only such data as has been specifically referred to shall be released. Furthermore, such information shall be treated as confidential data by all BOCES employees. It shall be a violation of Erie 1 BOCES policy and procedures to release data to any unauthorized person or agency and any employee who releases or otherwise makes improper use of such data shall be subject to disciplinary action.

However, if the computerized information sought is available under the Freedom of Information Law and can be retrieved by means of existing computer programs, the BOCES is required to disclose such information.

The Western New York Regional Information Center staff will install and maintain the necessary management procedures and the appropriate technology to prevent the circumvention of this policy.

**Other Databases**

Confidential information stored in other databases within the organization shall be treated in a like manner.

Public Officers Law Sections 84 et seq.

Adopted: 6/14/00

## Personnel

**SUBJECT: CODE OF ETHICS FOR ALL BOCES PERSONNEL****General Provisions**

Pursuant to the provisions of Section 806 of the General Municipal Law, the Board of Erie 1 BOCES recognizes that there are rules of ethical conduct for members of the Board and employees of the BOCES that must be observed if a high degree of moral conduct is to be obtained in our unit of local government. It is the purpose of this resolution to promulgate these rules of ethical conduct for the Board members and employees of the BOCES. These rules shall serve as a guide for official conduct of the Board members and employees of the BOCES. The rules of ethical conduct of this resolution, as adopted, shall not conflict with, but shall be in addition to any prohibition of Article Eighteen of the General Municipal Law or any other general or special law relating to ethical conduct and interest in contracts of Board members and employees.

**Standards of Conduct**

Every Board member or employee of Erie 1 BOCES shall be subject to and abide by the following standards of conduct:

Gifts

\*Pursuant to Section 805-a of the General Municipal Law, he/she shall not, directly or indirectly, solicit any gift or accept or receive any gift having a value of seventy-five dollars (\$75) 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 or expected to influence him/her in the performance of official duties or was intended as a reward for any official action on his/her part.

Confidential Information

He/she shall not disclose confidential information acquired by him/her in the course of his/her official duties or use such information to further his/her personal interest.

**Disclosure of Interest in Contracts**

Any BOCES officer or employee, as well as his/her spouse, who has, will have, or later acquires an interest in any actual or proposed contract, purchase agreement, lease agreement or other agreement, including oral agreements, with the BOCES shall publicly disclose the nature and extent of such interest in writing to his/her immediate supervisor and to the Board as soon as he/she has knowledge of such actual or prospective interest. Such written disclosure shall be made part of and set forth in the Board minutes.

(Continued)

## Personnel

**SUBJECT: CODE OF ETHICS FOR ALL BOCES PERSONNEL (Cont'd.)**Representation before one's own agency

He/she shall not receive, or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any municipal agency of which he/she is an officer, member or employee or of any municipal agency over which he/she has jurisdiction or to which he/she has the power to appoint any member, officer or employee.

Representation before any agency for a contingent fee

He/she shall not receive, or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any agency of his/her municipality, whereby his/her compensation is to be dependent or contingent upon any action by such agency with respect to such matter, provided that this paragraph shall not prohibit the fixing at any time of fees based upon the reasonable value of services rendered.

Disclosure of interest in resolution

To the extent that he/she knows thereof, a member of the Board or employee of Erie 1 BOCES, whether paid or unpaid, who participates in the discussion or gives official opinion to the Board on any resolution before the Board shall publicly disclose on the official record the nature and extent of any direct or indirect financial or other private interest he/she has in such resolution.

Investments in conflict with official duties

He/she shall not invest or hold any investment directly or indirectly in any financial, business, commercial, or other private transaction, that creates a conflict with his/her official duties.

Private employment

He/she shall not engage in, solicit, negotiate for or promise to accept private employment or render services for private interests when such employment or service creates a conflict with or impairs the proper discharge of his/her official duties.

Future employment

He/she shall not, after the termination of service or employment with Erie 1 BOCES, appear before any board or agency of Erie 1 BOCES in relation to any case, proceeding, or application in which he/she personally participated during the period of his/her service or employment or which was under his/her active consideration.

(Continued)

## Personnel

**SUBJECT: CODE OF ETHICS FOR ALL BOCES PERSONNEL (Cont'd.)****Legal Remedies**BOCES Officers

In accordance with the Penal Law 60.27(5), if a BOCES officer is convicted of a violation against the BOCES under Penal Law Article 155 relating to larceny, the courts may require an amount of restitution up to the full amount of the offense or reparation up to the full amount of the actual out-of-pocket loss suffered by the BOCES.

Board Members and Employees

Nothing herein shall be deemed to bar or prevent the timely filing by a present or former Board member or employee of any claim, account, demand or suit against Erie 1 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 Erie 1 BOCES shall cause a copy of this code of ethics to be distributed to every Board member and employee of Erie 1 BOCES within thirty (30) days after the effective date of this resolution. Each Board member 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 Board members and employees. Failure to distribute any such copy of this code of ethics or failure of any Board member 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.

**Effective Date**

This resolution shall take effect immediately.

Education Law Section 410  
General Municipal Law Article 18 and Section 803  
Education Law Section 410  
General Municipal Law Article 18 and Section 803  
Labor Law 201-d  
Penal Law Article 155 and Section 60.27(5)

Adopted: 6/14/00  
Revised: 4/05/06

## Personnel

**SUBJECT: SEXUAL HARASSMENT (PERSONNEL)**

The Board affirms its commitment to non-discrimination and recognizes its responsibility to provide for all BOCES employees an environment that is free of sexual harassment and intimidation. Sexual harassment is a violation of law and stands in direct opposition to BOCES policy. Therefore, the Board prohibits and condemns all forms of sexual harassment by employees, school volunteers, student, and non-employees such as contractors and vendors which occur on BOCES grounds and at all BOCES-sponsored events, programs and activities including those that take place at locations off BOCES 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:

- a) Submission of such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment;
- b) Submission to or rejection of such conduct by an individual as used is a basis for employment decisions affecting such individuals; and
- c) Such conduct has the purpose or effect of unreasonably 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 BOCES.

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 BOCES' designated complaint officer(s) through informal and/or formal complaint procedures as developed by the BOCES. 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 BOCES will conduct a thorough investigation of the charges. However, even in the absence of a complaint, if the BOCES has knowledge of or has reason to know of or suspect any occurrence of sexual harassment, the BOCES will investigate such conduct promptly and thoroughly.

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## Personnel

**SUBJECT: SEXUAL HARASSMENT OF BOCES PERSONNEL (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 BOCES 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, BOCES 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 any 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.

**Finding That Harassment Did Not Occur**

At any level/stage of investigation of alleged harassment, if a determination is made that harassment did not occur, the Complaint Officer will so notify the complainant, the alleged offender and the District Superintendent of this determination. Such a finding does not preclude the complainant from filing an appeal pursuant to BOCES policy or regulation and/or pursuing other legal avenues of recourse.

However, even if a determination is made that harassment did not occur, the District Superintendent/designee reserves the right to initiate staff awareness and training, as applicable, to help ensure that the school community is not conducive to fostering harassment in the workplace.

In all cases, the District Superintendent will inform the Board of the results of each investigation involving a finding that harassment did not occur.

**Knowingly Makes False Accusations**

Employees and/or students who *knowingly* make false accusations against another individual as to allegations of harassment may also face appropriate disciplinary action. Because of the damage that can be done to someone falsely accused, any individual who in bad faith knowingly makes a false complaint or report of sexual harassment or sex discrimination will be subject to disciplinary action up to and including termination in accordance with legal guidelines, BOCES policy, and any applicable collective bargaining agreement(s).

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**SUBJECT: SEXUAL HARASSMENT OF BOCES PERSONNEL (Cont'd.)****Development and Dissemination of Administrative Regulations**

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 District Superintendent/designee(s) will affirmatively discuss the topic of sexual harassment with all employees, express the BOCES' 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 BOCES' policy and regulations on sexual harassment will be published in appropriate school publications such as teacher/employee handbooks and/or school calendars.

Title VII of the Civil Rights Act of 1964,  
42 United States Code (USC) Section 2000e et seq.  
Civil Rights Act of 1991  
42 United States Code (USC) Section 1981(a)  
29 Code of Federal Regulations (CFR)  
Section 1604.11(a)  
Executive Law Sections 296 and 297



## Personnel

**SUBJECT: STAFF-STUDENT RELATIONS (FRATERNIZATION)**

The Board requires that all BOCES employees maintain a professional, ethical relationship with BOCES students that is conducive to an effective, safe learning environment; and that staff members act as role models for students at all times, whether on or off school property and both during and outside of school hours. Staff must establish appropriate personal boundaries with students and not engage in any behavior that could reasonably lead to even the appearance of impropriety.

Staff members are prohibited, under any circumstances, to date or engage in any improper fraternization or undue familiarity with students, regardless of the student's age and/or regardless of whether the student may have "consented" to such conduct. Further, employees shall not entertain students or socialize with students in such a manner as to create the perception that a dating relationship exists. Similarly, any action or comment by a staff member which invites romantic or sexual involvement with a student is considered highly unethical, in violation of BOCES policy, and may result in the notification of law enforcement officials and the filing of criminal charges and/or disciplinary action by the BOCES up to and including termination of employment.

Inappropriate employee behavior includes, but is not limited to, flirting; making suggestive comments; dating; requests for sexual activity; physical displays of affection; giving inappropriate personal gifts; frequent personal communication with a student (via phone, e-mail, letters, notes, etc.) unrelated to course work or official school matters; providing alcohol or drugs to students; inappropriate touching; and engaging in sexual contact and/or sexual relations.

Even if the student participated "willingly" in the activity (regardless of the student's age), inappropriate fraternization of staff with students is against BOCES policy and may be in violation of professional standards of conduct and New York State Law. However, inappropriate employee conduct does not need to rise to the level of criminal activity for such conduct to be in violation of BOCES rules and subject to appropriate disciplinary sanctions.

Any student who believes that he/she has been subjected to inappropriate staff behavior as enumerated in this policy, as well as students, school employees or third parties who have knowledge of or witness any possible occurrence of inappropriate staff-student relations, shall report the incident to any staff member or either the employee's supervisor, the student's principal or the BOCES' designated complaint officer. In all events such reports shall be forwarded to the designated complaint officer for further investigation. Anonymous complaints of inappropriate fraternization of staff members with students shall also be investigated by the BOCES. Investigations of allegations of inappropriate staff-student relations shall follow the procedures utilized for complaints of harassment within the BOCES. Allegations of inappropriate staff-student behavior shall be promptly investigated and will be treated as confidential and private to the extent possible within legal constraints.

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## Personnel

**SUBJECT: STAFF-STUDENT RELATIONS (FRATERNIZATION) (Cont'd.)**

Any employee having knowledge of or reasonable suspicion that another employee may have engaged in inappropriate conduct with a student that may constitute child abuse (specifically, child abuse in an educational setting) must also follow the BOCES' reporting procedures for such allegations; and such information will be reported by the designated administrator as required by state law to law enforcement officials, the State Education Department and/or Child Protective Services as may be applicable.

If a student initiates inappropriate behavior toward a staff member, that employee shall document the incident and report it to his/her building principal or supervisor.

The BOCES shall promptly investigate all complaints of inappropriate staff-student relations, and take prompt corrective action to stop such conduct if it occurs.

**Prohibition of Retaliation**

The Board prohibits any retaliatory behavior directed against complainants, victims, witnesses, and/or any other individuals who participate in the investigation of allegations of inappropriate staff-student relations. Follow-up inquiries and/or appropriate monitoring shall be made to ensure that the alleged conduct has not resumed and that all those involved in the investigation have not suffered retaliation. Any act of retaliation is subject to appropriate disciplinary action by the BOCES.

**BOCES Responsibility/Training**

The principal of each school and/or program supervisor shall be responsible for informing students, staff and volunteers of the requirements of this policy, including the duty to report and the procedures established for investigation and resolution of complaints. Further, staff training shall be provided to facilitate staff identification of possible behavior that may constitute inappropriate staff-student relationships. Students shall be provided such training in an age appropriate manner.

The BOCES' policy (or a summary thereof) shall be disseminated as appropriate to staff, students and parents. Further, this topic shall be addressed in the BOCES Code of Conduct.

**Disciplinary Sanctions**

Any staff member who engages in inappropriate conduct with a student, prohibited by the terms of this policy, shall be subject to appropriate disciplinary measures up to and including termination of employment in accordance with legal guidelines, BOCES policy and regulation, and the applicable collective bargaining agreement. A violation of this policy may also subject the employee to criminal and/or civil sanctions as well as disciplinary action by the State Education Department.

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Personnel

**SUBJECT: STAFF-STUDENT RELATIONS (FRATERNIZATION) (Cont'd.)**

Title IX of the Education Amendments of 1972,  
20 United States Code (USC) Section 1681 et seq.  
Education Law Article 23-B  
Social Services Law Sections 411-428  
8 New York Code of Rules and Regulations (NYCRR)  
Part 83

Adopted: 4/05/06

## Personnel

**SUBJECT: BOCES PERSONNEL USE OF COMPUTERIZED INFORMATION  
RESOURCES**

The Board of Cooperative Educational Services will provide BOCES personnel (including Board members) with access to various technology resources through its Technology Services division. Technology resources include software, hardware, and communication networks. This may include access to electronic mail and the "Internet." It may also include the opportunity for some BOCES personnel to have independent access to the Erie 1 BOCES Network from remote locations. All use of the Erie 1 BOCES Network, including independent use off school premises, shall be subject to this policy and accompanying regulations.

Erie 1 BOCES provides technology resources to its BOCES personnel for educational and administrative purposes. The Board anticipates that BOCES personnel 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 BOCES personnel with training in the proper and effective use of the Erie 1 BOCES Network.

The use of these technology resources is a privilege, not a right. BOCES personnel use of the Erie 1 BOCES Network is conditioned upon agreement (written or electronic) by the BOCES personnel member that use of the Erie 1 BOCES Network will conform to the requirements of this policy and any regulations adopted to insure acceptable use of the Erie 1 BOCES Network. All such agreements shall be kept on file in Technology Services division.

Generally, the same standards of acceptable BOCES personnel conduct which apply to any aspect of job performance shall apply to use of the Erie 1 BOCES Network. BOCES personnel are expected to communicate in a professional manner consistent with applicable BOCES policies and regulations governing the behavior of school staff. Technology resources are not to be utilized to disclose confidential information about students or other employees to unauthorized persons.

This policy does not attempt to articulate all required and/or acceptable uses of the Erie 1 BOCES Network; nor is it the intention of this policy to define all inappropriate use. Administrative regulations will further define general guidelines of appropriate BOCES personnel conduct and use as well as proscribed behavior.

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

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## Personnel

**SUBJECT: BOCES PERSONNEL USE OF COMPUTERIZED INFORMATION  
RESOURCES (Cont'd.)**

BOCES personnel who engage in unacceptable use may lose access to the Erie 1 BOCES Network and may be subject to further discipline under the law or in accordance with applicable collective bargaining agreements. Legal action may be initiated against a BOCES personnel who willfully, maliciously or unlawfully damages or destroys property of the BOCES.

**Privacy Rights**

BOCES personnel email files and electronic storage media shall remain BOCES property, subject to BOCES control and inspection, at its discretion. The District Superintendent or his/her designee may access all such files and communications to insure system integrity and that users are complying with requirements of this policy and accompanying regulations. BOCES personnel should **NOT** expect that information stored in any manner on BOCES electronic media will be private.

**Implementation**

Administrative regulations will be developed to implement the terms of this policy, addressing general parameters of acceptable conduct as well as prohibited activities so as to provide appropriate guidelines for BOCES personnel use of the Erie 1 BOCES Network.

## Personnel

**SUBJECT: INTELLECTUAL PROPERTY/WORKS MADE FOR HIRE**

All works completed by employees of Erie 1 BOCES, as part of their employment, shall be considered "works made for hire" as described in the United States Code Annotated, Title 17, Copyrights to the extent permitted by law. This determination includes but is not limited to the following activities:

- a) Work prepared by an employee within the scope of his/her employment, whether tangible or intangible;
- b) Work specifically ordered or commissioned for use as a contribution to a collective work, as enumerated in law.

Any work created within the scope of such a relationship will be considered a work made for hire when a regular employment relationship exists. The following factors will identify these tasks as "works made for hire":

- a) The work has been done using the employer's equipment and/or at the employer's location;
- b) The employer controls the employee's schedule during the time that the work was created;
- c) The employer produces this type of product;
- d) The employer withholds taxes and/or provides benefits.

Work identified with education is automatically considered a "work made for hire" unless there is an expressed agreement to the contrary. "Works for hire" includes, but is not limited to, instructional materials, distance learning, use of a computer software, and digital technology.

Work covered under this policy is the property of Erie 1 BOCES, not the creator of such work. Erie 1 BOCES shall own any and all rights to such works, or derivatives thereof, unless there is a written agreement to the contrary.

An employee who wishes clarification of their use/distribution of "works for hire" should contact his/her immediate supervisor.

Staff members who violate the provisions of this policy may be subject to disciplinary action in accordance with law and/or the applicable collective bargaining agreement. Erie 1 BOCES may pursue other legal remedies to recover any loss or damage arising from actions of staff members in violation of this policy.

Copyright Act of 1976, as amended,  
17 United States Code (USC) Sections 101-120

Adopted: 10/15/03

## Students

**SUBJECT: SEXUAL HARASSMENT OF STUDENTS**

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

- a) Submission to or rejection of such sexually harassing conduct and/or communication by a student affects decisions regarding any aspect of the student's education, including participation in school-sponsored activities;
- b) Conditions exist within the school environment that allow or foster obscene pictures, lewd jokes, sexual advances, requests for sexual favors or other harassing activities of a sexual nature; and
- c) Such conduct and/or communication has the purpose or effect of substantially or unreasonably interfering with a student's academic performance or participation in an educational or extracurricular activity, or creating an intimidating, hostile or offensive learning environment; and/or effectively bars the student's access to an educational opportunity or benefit.

The Board acknowledges that in determining whether sexual harassment has occurred the totality of the circumstances, expectations, and relationships should be evaluated including, but not limited to, the ages of the harasser and the victim; the number of individuals involved; and the type, frequency and duration of the conduct. 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 a third party such as a school visitor, volunteer, or vendor, or any other individual associated with the BOCES. Sexual harassment may occur from student-to-student, from staff-to-student, from student-to-staff, as well as staff-to-staff.

In order for the Board to enforce this policy, and to take corrective measures as may be necessary, it is essential that any student who believes he/she has been a victim of sexual harassment in the school 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; such report shall be directed to or forwarded to the BOCES designated complaint officer(s) through informal and/or formal complaint procedures as developed by the BOCES. Such complaints are recommended to be in writing, although verbal complaints of alleged sexual

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## Students

**SUBJECT: SEXUAL HARASSMENT OF STUDENTS (Cont'd.)**

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 report will be directed to the next level of supervisory authority.

Upon receipt of an informal/formal complaint, the BOCES will conduct a thorough investigation of the charges. 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 BOCES determines that an employee and/or student has violated the terms of this policy and/or accompanying regulations, immediate corrective action will be taken as warranted. Should the offending individual be a student, appropriate disciplinary measures will be applied, up to and including suspension, in accordance with BOCES policy and regulation, the Student Code of Conduct, and applicable laws and/or regulations. Should the offending individual be a school employee, appropriate disciplinary measures will be applied, up to and including termination of the offender's employment, in accordance with legal guidelines, BOCES 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 any 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.

**Finding That Harassment Did Not Occur**

At any level/stage of investigation of alleged harassment, if a determination is made that harassment did not occur, the Complaint Officer will so notify the complainant, the alleged offender and the District Superintendent of this determination. Such a finding does not preclude the complainant from filing an appeal pursuant to BOCES policy or regulation and/or pursuing other legal avenues of recourse.

However, even if a determination is made that harassment did not occur, the District Superintendent/designee reserves the right to initiate staff awareness and training, as applicable, to help ensure that the school community is not conducive to fostering harassment in the workplace.

In all cases, the District Superintendent will inform the Board of the results of each investigation involving a finding that harassment did not occur.

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**SUBJECT: SEXUAL HARASSMENT OF STUDENTS (Cont'd.)****Knowingly Makes False Accusations**

Employees and/or students who *knowingly* make false accusations against another individual as to allegations of harassment may also face appropriate disciplinary action. Because of the damage that can be done to someone falsely accused, any individual who in bad faith knowingly makes a false complaint or report of sexual harassment or sex discrimination will be subject to disciplinary action up to and including termination in accordance with legal guidelines, BOCES policy, and any applicable collective bargaining agreement(s).

**Development and Dissemination of Administrative Regulations**

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 District Superintendent/designee(s) will affirmatively discuss the topic of sexual harassment with all employees and students, express the BOCES condemnation of such conduct, and explain the sanctions for such harassment. Appropriate training and/or "awareness" programs will be established for staff and students to help ensure knowledge of and familiarity with the issues pertaining to sexual harassment in the BOCES, 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 BOCES' policy and regulations on sexual harassment will be published in appropriate school publications such as teacher/employee handbooks, student handbooks, and/or school calendars.

Title IX of the Education Amendments of 1972,  
20 United States Code (USC) Section 1681 et seq.  
34 Code of Federal Regulations (CFR)  
Section 100 et seq.  
Title VII of the Civil Rights Act of 1964,  
42 United States Code (USC) Section 2000e et seq.  
The Civil Rights Act of 1991  
42 United States Code (USC) Section 1981(a)  
29 Code of Federal Regulations (CFR)  
Section 1604.11(a)  
Executive Law Sections 296 and 297

Adopted: 6/14/00  
Revised: 4/05/06

## Instruction

**SUBJECT: MISUSE/ABUSE OF SOFTWARE AND/OR ELECTRONIC  
COMMUNICATION SYSTEMS**

Any employee in Erie 1 BOCES who is aware of any misuse or abuse of any software or electronic communication system owned or rented by Erie 1 BOCES shall notify his/her immediate supervisor or building principal.

Any student in Erie 1 BOCES who is aware of any misuse or abuse of any software or electronic communication system shall notify his/her teacher or building principal.

Administrators who are aware of any abuse/misuse shall notify the District Superintendent or his/her designee and appropriate disciplinary action shall occur based on the circumstances and in accordance with all applicable laws, bargaining agreements, and BOCES policies and regulations.

This policy will be disseminated to all Erie 1 BOCES staff and students.

## REGULATIONS

## Personnel

**SUBJECT: SEXUAL HARASSMENT**

Erie 1 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 and student 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 as warranted. Should the offending individual be a student, appropriate disciplinary measures will be applied, up to and including suspension, in accordance with BOCES policy and regulation, the Code of Conduct, and applicable laws and/or regulations. Should the offending individual be a school employee, appropriate disciplinary measures will be applied, up to and including termination of the offender's employment, in accordance with legal guidelines, BOCES policy and regulation, and the applicable collective bargaining agreement(s). Third parties (such as school volunteers, vendors, etc.) who are found to have violated BOCES policy and/or accompanying regulations will be subject to appropriate sanctions as warranted and in compliance with law.

Retaliation against any individual for filing a sexual harassment charge or making a sexual harassment complaint is illegal and prohibited. Similarly, retaliation against any person who participates in an investigation or proceeding and/or hearing of a sexual harassment complaint is also prohibited. Any employee or student who retaliates against another shall be subject to disciplinary action, as warranted, in accordance with legal guidelines and applicable 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 and in another state.

**Definitions/Examples of Prohibited Conduct**

Sexual harassment consists of *unwanted and unwelcome* sexual or gender-based behavior which has the purpose or effect of:

- 1) Substantially or unreasonably interfering with a student's academic performance or participation in an educational or extracurricular activity;
- 2) Creating an intimidating, hostile or offensive learning environment;
- 3) Effectively barring the student's access to an educational opportunity or benefit; and/or
- 4) Substantially or unreasonably interfering with an employee's ability to work, professional performance, productivity, physical security, career opportunities, services or other benefits of employment.

(Continued)

## Personnel

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

Sexual harassment includes, but is not limited to, overt or implicit bribes, requests for sexual favors, and other verbal or physical conduct or communication of a sexual nature or that is based on sexual/gender stereotypes. Sexual harassment does not depend on the "voluntary" nature of the behavior or activity, but instead focuses on whether the alleged advances or behavior were unwelcome.

Sexual harassment can originate from a person of either sex against a person of the opposite or same sex, and from students, supervisors, co-workers or third parties such as visitors and school volunteers. Sexual harassment may occur from student-to-student, from staff-to-student, from student-to-staff, as well as staff-to-staff. 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 innuendoes, 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.
- 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 a student, insinuating that refusal to acquiesce in such favors will adversely affect a student's grades, references, academic/scholastic placement, and/or participation in extracurricular activities.
- 8) Unwelcome staring, leering, or gesturing which is sexually suggestive in nature.
- 9) Unwelcome and/or offensive public displays of sexual/physical affection.
- 10) Clothing that reflects sexually obscene and/or sexually explicit messages, slogans, or pictures.

(Continued)

## Personnel

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

- 11) 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 student or employee did not initiate, request or invite such conduct or communication and/or regarded such conduct or communication as undesirable or offensive.

**Authority and Responsibility**

It is the responsibility of all BOCES employees and students 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 students, and assuring students and staff 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 and/or student who believes he/she has been subjected to sexual harassment, or has reason to know of and/or witnesses any incident of sexual harassment, submit a *written* complaint; however, complaints may be filed verbally and 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.

Any student or employee who believes he/she has been subjected to sexual harassment in the school 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, shall promptly report such occurrence. The report is to be directed to or forwarded to the BOCES' designated complaint officer(s) or as otherwise indicated in this regulation. If the individual is in doubt as to the "seriousness" of the incident and/or whether such behavior constitutes sexual harassment, he/she is still encouraged to immediately report such conduct for resolution. If the complaint officer is the alleged offender, the report shall be directed to the next level of supervisory authority as indicated below. Allegations of sexual harassment may be reported through informal and/or formal complaint procedures. Utilization of the BOCES' grievance guidelines does not preclude a student or employee from pursuing other avenues of legal recourse including the right to register complaints with the U.S. Department of Education's Office for Civil Rights, the federal Equal Employment Opportunity Commission or the New York State Department of Human Rights. These regulations are further not to be construed as to limit the right of any individual to file a lawsuit in either federal or state court.

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## Personnel

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

If there is some reason why a student or employee cannot make a report to the designated complaint officer, he/she may report the matter to the next level of supervisory authority or building administrator as appropriate. If a **student** reports such occurrence to any other school employee, the student shall be informed of the employee's obligation to report the complaint to administration. 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 District Superintendent and/or designated complaint officer. The complaint officer for students is the Associate Superintendent for Instruction. The complaint officer for staff is the Director of Human Resources Services.

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

The District 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: General Guidelines**

Any student or employee who believes that he/she has been subjected to sexual harassment or who is made aware of and/or witnesses any possible occurrence of sexual harassment shall 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.
- 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.

(Continued)

## Personnel

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

- 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.

Parents of students subjected to possible sexual harassment and/or students filing a sexual harassment complaint, as well as parents of accused students, may be notified by the appropriate administrator of such occurrence and/or allegations as warranted and in accordance with legal guidelines. If the accused student has been identified as having a disability (or is suspected of having a disability) pursuant to Section 504/Individuals with Disabilities Education Act, a student referral shall be made to the Section 504 Team/Committee on Special Education for evaluation/assessment and/or a manifestation determination, as may be applicable in accordance with state and federal law and regulations, to determine whether the student's conduct is caused or affected by his/her disability.

The designated complaint official 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 District Superintendent/designee 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 District 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.

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. Such records will be maintained for the period of time required by law.

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## Personnel

**SUBJECT: SEXUAL HARASSMENT (Cont'd.)****Step 1 – Informal Complaints**

A complainant who believes that he/she has been subjected to sexual harassment or anyone who is aware of or 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 (or by reporting such occurrence as otherwise indicated in this regulation) 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 building principal\* and District Superintendent/designee for his/her information; and the complaint officer will keep the building principal and District Superintendent/designee informed throughout all stages of the investigation. The principal and District Superintendent/designee 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 building principal and District Superintendent/designee of his/her recommendations. If the District Superintendent/designee concurs with the report of the complaint officer, the District Superintendent/designee will then take prompt disciplinary action in accordance with the terms of BOCES policy and regulations, federal and state law and regulations, 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/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).

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\*If the building principal is the alleged offender, then the complaint officer shall designate another school official who will take the place of the building principal in all applicable phases of the complaint process.

## Personnel

**SUBJECT: SEXUAL HARASSMENT (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**

A complainant may file a formal 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 building principal and District Superintendent/designee. 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 building principal and District Superintendent/designee of his/her recommendations. If the District Superintendent/designee concurs with the report of the complaint officer, the District Superintendent/designee will then take prompt disciplinary action in accordance with the terms of BOCES policy and regulations, federal and state law and regulations, and/or the applicable collective

(Continued)

## Personnel

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

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.

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 District Superintendent/designee. 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 District Superintendent**

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

If the District Superintendent/designee issues a finding that no sexual harassment has occurred, the complainant, if not satisfied with this resolution, may appeal the decision to the Board within ten (10) working days following receipt of the report. If the complainant is satisfied with the District Superintendent/designee's finding, the complainant will so indicate in writing.

Should the District Superintendent/designee determine that corrective action is necessary, the District Superintendent/designee 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 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 District Superintendent/designee 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 District Superintendent/designee will provide all parties and the Board with a written status report requesting additional time to complete the investigation.

**Step 4 – Appeal to the Board**

In the event that a complainant and/or accused files an appeal with the Board following an investigation by the District Superintendent/designee, such appeal must be submitted in writing within ten (10) working days of receipt of the District Superintendent/designee's report. The Board 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.

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## Personnel

**SUBJECT: SEXUAL HARASSMENT (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.

**Finding That Sexual Harassment Did Not Occur**

At any level/stage of investigation of alleged sexual harassment, if a determination is made that sexual harassment did not occur, the Complaint Officer will so notify the complainant, the alleged offender and the District Superintendent of this determination. Such a finding does not preclude the complainant from filing an appeal pursuant to BOCES policy or regulation and/or pursuing other legal avenues of recourse.

However, even if a determination is made that sexual harassment did not occur, the District Superintendent/designee reserves the right to initiate staff awareness and training, as applicable, to help ensure that the school community is not conducive to fostering sexual harassment in the workplace.

In all cases, the District Superintendent will inform the Board of the results of each investigation involving a finding that sexual harassment did not occur.

**Knowingly Makes False Accusations**

Employees and/or students who *knowingly* make false accusations against another individual as to allegations of sexual harassment may also face appropriate disciplinary action. Because of the

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

damage that can be done to someone falsely accused, any individual who in bad faith knowingly makes a false complaint or report of sexual harassment or sex discrimination will be subject to disciplinary action up to and including termination in accordance with legal guidelines, BOCES policy, and any applicable collective bargaining agreement(s).

**BOCES Responsibility/Training**

Regardless of whether a complaint has been filed, if the BOCES knows of the occurrence or the possible 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 students and staff on a yearly basis of BOCES policy and regulations regarding the prohibition of sexual harassment, 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 and students.

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.

**Dissemination of BOCES Policy/Regulation and Evaluation**

A copy of BOCES policy and regulations pertaining to prohibition of 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, student handbooks, and/or school calendars.

The District Superintendent or his/her designee(s), has a responsibility to review BOCES policy and regulations to ensure continued effectiveness and compliance with applicable law. The District Superintendent/designee will recommend revisions as may be warranted to the Board.

NOTE: Refer also to Regulation #3420R -- Anti-Harassment in the BOCES

## Personnel

**SUBJECT: STAFF-STUDENT RELATIONS (FRATERNIZATION)**

The BOCES is committed to providing a safe, productive and positive learning environment within its schools. All BOCES employees are to maintain a professional, ethical relationship with BOCES students and other students in host district buildings where staff are assigned that is conducive to creating and maintaining an effective learning environment; and shall serve as role models for students at all times, whether on or off school property and both during and outside of school hours. Staff must establish appropriate personal boundaries with students and not engage in any behavior that could reasonably lead to even the appearance of impropriety.

In order to help prevent the occurrence and/or appearance of inappropriate relationships between staff and students, staff must adhere to the following guidelines as a means to foster the safety and well being of students and to protect staff from unfounded accusations.

**Prohibited Conduct by Staff Members Toward Students /Examples of Inappropriate Behavior**

Staff members are prohibited, under any circumstances, to date or engage in any improper fraternization or undue familiarity with students, regardless of the student's age and/or regardless of whether the student may have "consented" to such conduct. Further, employees shall not entertain students or socialize with students in such a manner as to create the perception that a dating relationship exists. Similarly, any action or comment by a staff member which invites romantic or sexual involvement with a student is considered highly unethical, in violation of BOCES policy and regulations, and may result in the notification of law enforcement officials and the filing of criminal charges and/or disciplinary action by the BOCES up to and including termination of employment.

Inappropriate employee conduct directed toward students includes, but is not limited to, the following behavior:

- 1) Flirting.
- 2) Making suggestive comments.
- 3) Dating and/or asking students for dates.
- 4) Requests for sexual activity.
- 5) Physical displays of affection including kissing, caressing of face or body, and massages.
- 6) Giving inappropriate personal gifts.
- 7) Frequent personal communication with a student (whether by cell phone, regular telephone, e-mail, letters, or notes) unrelated to course work or official school matters.

(Continued)

## Personnel

**SUBJECT: STAFF-STUDENT RELATIONS (FRATERNIZATION) (Cont'd.)**

- 8) Providing alcohol or drugs to students; or permitting students, in the absence of parental/guardian supervision, to drink alcohol or take drugs in the presence of the employee.
- 9) Inviting a student to go somewhere alone with the employee without approval of the Division Director, Superintendent/designee and parent/guardian.
- 10) Inappropriate touching.
- 11) Promoting, providing access to and/or sharing pornographic material including, but not limited to, viewing pornographic movies, videos, pictures, magazines, and web sites.
- 12) Engaging in sexual contact and/or sexual relations.

Even if the student participated "willingly" in the activity (regardless of the student's age), inappropriate fraternization of staff with students is against BOCES policy and regulations, and may be in violation of professional standards of conduct and New York State Law. However, inappropriate employee conduct does not need to rise to the level of criminal activity for such conduct to be in violation of BOCES rules and subject to appropriate disciplinary sanctions.

**Inappropriate Behavior Initiated by Students**

If a student initiates inappropriate behavior toward a staff member, that employee shall document the incident and report it to his/her building principal or supervisor. If appropriate, the principal/supervisor will intervene and speak to the student and the student's parents about the inappropriate behavior.

**Supervision of Students**

Staff members shall maintain a reasonable standard of care for the supervision and protection of students commensurate with their assigned duties and responsibilities.

**Reporting of Complaints/General Guidelines**

- 1) Any student who believes that he/she has been subjected to inappropriate staff behavior as outlined in this regulation, as well as students, school employees or third parties who have knowledge of or witness any possible occurrence of inappropriate staff-student relations, shall report the incident to any staff member or either the employee's supervisor, the student's principal or the BOCES' designated complaint officer.

(Continued)

## Personnel

**SUBJECT: STAFF-STUDENT RELATIONS (FRATERNIZATION) (Cont'd.)**

- 2) In all events such reports shall be forwarded to the BOCES' designated complaint officer for further investigation.
- 3) Anonymous complaints of inappropriate fraternization of staff members with students shall also be investigated by the BOCES.
- 4) Investigations of allegations of improper staff-student relations shall follow the procedures utilized for complaints of harassment/sexual harassment within the BOCES, including the filing of "informal" and/or "formal" complaints and levels of appeal.
- 5) All allegations of inappropriate staff-student relations, whether written or verbal, formal or informal, will be investigated thoroughly, promptly and impartially in accordance with law and/or regulations, the applicable collective bargaining agreement, BOCES policy and administrative regulations.
- 6) To the extent possible, within legal constraints, all allegations of inappropriate staff-student conduct will be treated as confidentially and privately as possible. However, disclosure may be necessary to complete a thorough investigation of the charges and/or to notify law enforcement officials, Child Protective Services, and/or the State Education Department as warranted; and any disclosure will be provided on a "need to know" basis.
- 7) Any employee having knowledge of or reasonable suspicion that another employee may have engaged in inappropriate conduct with a student that may constitute child abuse (specifically, child abuse in an educational setting) must also follow the BOCES' reporting procedures for such allegations; and such information will be reported by the designated administrator as required by state law to law enforcement officials, the State Education Department and/or Child Protective Services as may be applicable.
- 8) Administration shall also refer to and use, as appropriate, existing policies and administrative regulations (such as those addressing harassment/sexual harassment in the school setting and child abuse/child abuse in an educational setting) when investigating allegations of improper staff-student fraternization.
- 9) The District Superintendent/designee is to be informed as soon as possible regarding all allegations and/or reports regarding inappropriate staff-student relations and the status of any investigations.
- 10) All investigations of allegations of improper fraternization between staff and students, as well as any action taken, shall be appropriately documented in order to create a written record that demonstrates the BOCES' efforts to prevent such conduct and to facilitate the evaluation of the BOCES' efforts.

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## Personnel

**SUBJECT: STAFF-STUDENT RELATIONS (FRATERNIZATION) (Cont'd.)**

- 11) Parents of students subjected to possible improper behavior on the part of a staff member and/or students filing a complaint of such inappropriate behavior will be notified by the appropriate administrator of such occurrence and/or allegations as warranted and in accordance with legal guidelines. Applicable due process procedures will be followed depending upon the nature of the investigation and possible disciplinary sanctions.

**Prohibition of Retaliation**

The BOCES prohibits any retaliatory behavior directed against complainants, victims, witnesses and/or any other individuals who participated in the investigation of allegations of inappropriate staff-student relations. Follow-up inquiries and/or appropriate monitoring shall be made to ensure that the alleged conduct has not resumed and that all those involved in the investigation have not suffered retaliation. Any act of retaliation is subject to appropriate disciplinary action by the BOCES.

**BOCES Responsibility/Training**

Principals in each school building and/or program supervisors will be responsible for informing students, staff and volunteers on a yearly basis of BOCES policy and regulations regarding the prohibition of inappropriate staff-student relations. At this time, the principal/supervisor shall also review the procedures established for reporting, investigation and resolution of complaints. Further, staff training shall be provided to facilitate staff identification of possible behavior that may constitute inappropriate staff-student fraternization. Students shall be provided such training in an age appropriate manner.

**Disciplinary Sanctions**

Any staff member who engages in inappropriate conduct with a student, as prohibited by the terms of BOCES policy and regulations, shall be subject to appropriate disciplinary measures up to and including termination of employment in accordance with legal guidelines, BOCES policy and regulations, and the applicable collective bargaining agreement. A violation of BOCES policy and regulations may also subject the employee to criminal and/or civil sanctions as well as disciplinary action by the State Education Department.

**Dissemination/Publication of BOCES' Prohibition against Inappropriate Staff-Student Relations**

The BOCES' policy and regulations (or a summary thereof) prohibiting inappropriate staff-student relations will be published in appropriate school publications such as teacher/employee handbooks, student handbooks and/or school calendars. A copy of the BOCES policy and regulations prohibiting such inappropriate behavior will also be available upon request. Further, this topic shall be addressed in the BOCES Code of Conduct.

## Personnel

**SUBJECT: STAFF USE OF COMPUTERIZED INFORMATION RESOURCES**

The Board of Cooperative Educational Services will provide staff with access to various technology resources through its Technology Services (TS) division. The Erie 1 BOCES Technology Services (TS hereafter) is provided for staff to enhance the educational programs of the BOCES, to further 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 use of the TS. The standards of acceptable use as well as prohibited conduct by staff accessing the TS, as outlined in 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 BOCES policy and/or regulation may also be subject to disciplinary action, including loss of access to the TS as well as the 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 the BOCES.

Staff are encouraged to utilize electronic communications in their roles as employees of BOCES. Staff 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. Communications over the TS are often public in nature; therefore, general rules and standards for professional behavior and communications will apply.

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

**Privacy Rights**

Staff data files, E-mail, the Internet, and all electronic information systems and storage areas shall remain BOCES property, subject to BOCES control and inspection. The computer coordinator may access all such files and communications to ensure system integrity and that users are complying with requirements of BOCES policy and accompanying regulations. Staff should **NOT** expect that information stored on the TS will be private. Use of BOCES' systems constitutes consent to monitoring by BOCES.

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**SUBJECT: STAFF USE OF COMPUTERIZED INFORMATION RESOURCES (Cont'd.)****Prohibitions**

**It is not the intention of this regulation to define all inappropriate usage. However, in addition to the general requirements of acceptable staff behavior, activities which shall be prohibited by staff members using the TS include, but are not limited to, the following:**

- 1) Using the TS which in any way results in unauthorized charges or expense to the BOCES.
- 2) Damaging, disabling or otherwise interfering with the operation of computers, computer systems, software or related equipment through physical action or by electronic means.
- 3) Using unauthorized software on the TS.
- 4) Changing, copying, renaming, deleting, reading or otherwise accessing files or software not created by the staff member without express permission from the computer coordinator.
- 5) Violating copyright law.
- 6) Employing the TS for commercial purposes, product advertisement or political lobbying.
- 7) Disclosing an individual password to others or using others' passwords.
- 8) Sharing confidential information on students and employees.
- 9) Sending or displaying offensive messages or pictures.
- 10) Using obscene language.
- 11) Harassing, insulting or attacking others.
- 12) Engaging in practices that threaten the TS (e.g., loading files that may introduce a virus).
- 13) Violating regulations prescribed by the network provider.
- 14) Use of the TS for other than school related work or activities.
- 15) Assisting a student to violate BOCES policy and/or regulation, or failing to report knowledge of any student violations of BOCES' policy and regulation on student use of computerized information resources.

(Continued)

## Personnel

**SUBJECT: STAFF USE OF COMPUTERIZED INFORMATION RESOURCES (Cont'd.)**

- 16) Use which violates any other aspect of BOCES policy and/or regulations, as well as local, state or federal laws or regulations.
- 17) Employees shall not use unauthorized encryption software on BOCES equipment.
- 18) E-mail must include a signature; neither anonymity nor impersonation are permitted.
- 19) Network accounts are to be used only by the authorized owner of the account for the authorized purpose.

Any user of the TS that accesses another network or other computer resources shall be subject to that network's acceptable use policy.

BOCES makes no warranty as to the accuracy, appropriateness, or quality of information accessed on the Internet.

**Sanctions**

The computer coordinator will report inappropriate behavior to the staff member's supervisor who will take appropriate disciplinary action. Any other reports of inappropriate behavior, violations or complaints will be routed to the staff member's supervisor for appropriate action. Violations may result in a loss of access to the TS and/or disciplinary action. When applicable, law enforcement agencies may be involved.

**Notification**

All staff will be given a copy of BOCES' policies on staff and student use of computerized information resources and the regulations established in connection with those policies. Each staff member will sign an acceptable use agreement (Refer to Form #5260F) before establishing an account or continuing their use of the TS.

**ERIE 1 BOCES  
EMPLOYEE COMPUTER USE AGREEMENT**

Every Erie 1 BOCES employee will be required to read and acknowledge this Employee Computer Use Agreement. This form supersedes previous forms. Employees who have signed previous forms must also complete this new form.

Computer use is often a valuable and necessary component of an employee's work. In addition, varying work responsibilities result in access to information sources such as software, programs, the Internet, and the district's computer network. Although employees may have access to these information sources, their use must be specially authorized. Access and authorization to information and equipment carry a corresponding responsibility to their appropriate use. Access should be primarily for educational and professional or career development activities. Electronic mail and telecommunications shall not be utilized to share confidential information about students or staff without authorization. No staff member may disclose, use, or disseminate any personal information regarding students or staff without authorization.

All hardware, including computers and equipment, is the property of Erie 1 BOCES and will fall under the guidelines listed below. Expectations of employees include, but are not limited to, the following:

1) Student Personal Safety

- a. Employees who supervise students with access to technical resources shall be familiar with the Erie 1 BOCES Student Internet Use Agreement and enforce its provisions.
- b. All student computer use must be supervised.

2) Illegal or Destructive Activities

- a. Employees shall not go beyond their authorized access to the district network or other computer equipment or software including the files or accounts of others.
- b. Employees shall not disrupt or attempt to damage or disrupt any computer, system, system performance, or data.
- c. Employees shall not use district equipment to engage in illegal acts.

3) System Security

- a. Employees are responsible for the security of their computer equipment, files and passwords.
- b. Employees shall promptly notify their immediate supervisor of security problems.
- c. Employees with access to student records may not use, release, or share these records except as authorized by Federal and State law.

4) Inappropriate Conduct

The following are prohibited when using any technical resource:

- a. Obscene, profane, lewd, vulgar, rude, inflammatory, threatening or disrespectful language;
- b. Potentially damaging, dangerous, or disruptive material;
- c. Personal or generalized harassment in violation of district policies; and
- d. False or defamatory information.

(Continued)

**ERIE 1 BOCES  
EMPLOYEE COMPUTER USE AGREEMENT (Cont'd.)**

5) Plagiarism and Copyright Infringement

- a. Works may not be plagiarized.
- b. The rights of copyright owners are to be respected. Copyright infringement occurs when an individual inappropriately reproduces a work that is protected by copyright. If an employee is unsure whether or not a work can be used, the copyright owner should be contacted for permission.
- c. Software copyrights and software licenses must be strictly respected.

6) Inappropriate Access to Material

- a. Technical resources shall not be used with material that is profane, obscene (pornographic), or advocates illegal acts, violence, or illegal discrimination.
- b. Business use of instant messaging within Lotus Notes is allowed for Erie 1 staff. The use of Internet games, web chats, unauthorized software, or other instant messaging software (e.g. AOL Instant Messenger, etc.) is prohibited except when specifically authorized by the District Superintendent (or designee).
- c. Inadvertent inappropriate access shall be reported immediately to the supervisor.

7) Expectation of Privacy

Employees have no expectation of privacy in files, disks, or documents that have been created in, entered in, stored in, downloaded from, or used on district equipment.

8) Services and Assumption of Risks

Erie 1 BOCES makes no warranties of any kind, whether express or implied, for services provided and is not responsible for any damages suffered while on the system to include loss of data and inaccurate or poor quality information obtained from the system. Users are responsible for backing up data stored on the hard drive of any computer assigned to them.

9) Discipline

- a. Staff members who engage in unacceptable use may lose access to the Information Technology System and may be subject to further discipline under the law or in accordance with applicable collective bargaining agreements.
- b. Deliberate violations of this agreement (e.g., malicious acts or omissions; searching for, viewing or otherwise visiting pornographic or sexually explicit sites) are cause for disciplinary action.

(Continued)

**ERIE 1 BOCES  
EMPLOYEE COMPUTER USE AGREEMENT (Cont'd.)**

10) Unacceptable Uses

The following uses will be regarded as not acceptable:

- a. Illegal or malicious use, including downloading or transmitting of copyright material such as music, videos and games.
- b. Use for racial, sexual or other harassment in violation of district policy.
- c. To access, view, or transmit pornographic or obscene material.
- d. To solicit personal information with the intent of using such information to cause emotional or physical harm.
- e. To disrupt the work of other users. This included the propagation of computer viruses and use of the Internet to make unauthorized entry to any other Internet resource.
- f. Use for private business purposes. This includes the installation or loading of personal business programs onto your computer for your use for tasks not associated with your Erie 1 BOCES job duties.
- g. Downloading of music, games or screen savers is prohibited under all circumstances.

11) Etiquette

The following general principles should be adopted:

- a. Be polite; do not be abusive in messages to others.
- b. Use appropriate language: Remember that you are a representative of Erie 1 BOCES and that you are using a non-private network.
- c. Do not disrupt the use of the Internet by other users.

12) E-Mail massive files during peak hours and other high volume activities

- a. Every user is responsible for all e-mail originating from their user ID (e-mail address). Forgery or attempted forgery of electronic mail is prohibited. The organization's e-mail standard (currently, Lotus Notes) is the only allowable e-mail to be used. Do not access your personal e-mail account (ex. Hotmail, AOL, etc.) through the Erie 1 network or dialup modem, unless authorized by Divisional Director/designee.
- b. Attempts to read, delete, copy or modify the e-mail of other users are prohibited.
- c. E-mail is NOT private. The District Superintendent (or designee) has the right of access to all e-mail sent or received. In the event of Erie 1 BOCES being involved in any legal proceedings, any relevant e-mails (including Internet e-mail) may have to be disclosed, on the same basis as the case for written documents.
- d. Forwarding of chain letters is not allowed.
- e. Excessive personal use of email, during the work day, may result in disciplinary action.

**I have read the Employee Computer Use Agreement. I understand that violation of this Agreement may be grounds for disciplinary action, including termination.**

FIRST NAME \_\_\_\_\_ LAST NAME \_\_\_\_\_

DIVISION \_\_\_\_\_ DEPARTMENT/PROGRAM \_\_\_\_\_

BUILDING/LOCATION \_\_\_\_\_

SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

## Instruction

**SUBJECT: GUIDELINES FOR COMPUTER SOFTWARE**

A teacher or other staff member may:

- 1) Create new copies if an essential step in the utilization of the computer program.
- 2) Create new copies for archival purposes only to be held in case the working copy is destroyed or no longer functions.

A teacher or other staff member may not:

- 1) Create new copies while using a disk-sharing system.
- 2) Create replacement copies from an archival or back-up copy.
- 3) Load a copyrighted program into several computers or a network from the same diskette and use them at the same time.
- 4) Make multiple copies of the printed documents that accompany copyrighted software.
- 5) Use illegally copied software in the schools or offices.