

**GRIEVANCE PROCEDURE FOR ANTI- HARASSMENT
AND ANTI-DISCRIMINATION
(TITLE IX, SECTION 504 GRIEVANCE POLICY)**

The Clinton-Essex-Warren-Washington BOCES (hereinafter “CEWW 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 individual is entitled to be treated with dignity and respect, and a recognition that harassment and discrimination are a violation of law and CEWW BOCES policy, CEWW BOCES strictly prohibits communication (verbal, written or graphic) or physical conduct that constitutes harassment or discrimination based on an individual’s actual or perceived race, color, creed, religion, national origin, political affiliation, sex, sexual orientation (the term “sexual orientation” means heterosexuality, homosexuality, bisexuality or asexuality, whether actual or perceived), age, marital status, military status, veteran status, weight, ethnic group, religious practice, gender or disability. CEWW BOCES also prohibits harassment based on an individual’s opposition to discrimination or participation in a related investigation or complaint proceeding under the anti-discrimination statutes.

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

The CEWW BOCES strictly prohibits all forms of harassment and discrimination on CEWW BOCES premises and in CEWW BOCES buildings; and at all CEWW BOCES sponsored programs, activities and events.

This policy should not be read to abrogate other CEWW BOCES policies or CEWW BOCES Code of Conduct regulations prohibiting other forms of unlawful discrimination, inappropriate behavior, or hate crimes within this CEWW BOCES. It is the intent of this CEWW BOCES that all such policies and regulations be read consistently to provide the highest level of protection from unlawful discrimination in the provision of employment/educational services and opportunities. However, different treatment of any member of the above-named groups which has a legitimate, legal and nondiscriminatory reason shall not be considered a violation of CEWW BOCES policy or regulation.

Definitions

“Prohibited Discrimination of Employees.” Prohibited discrimination of employees can take the form of any negative treatment of an employee, by either a CEWW BOCES employee or official, or a third party engaged in CEWW BOCES sponsored activities which: a) negatively impacts an employee’s employment opportunities or employment benefits; and b) is based upon the employee’s race, color, creed, religion, national origin, disability, political affiliation, age, sex, sexual orientation, military status, veteran status, weight, ethnic group, religious practice, gender or marital status. Prohibited discrimination of employees can also take the form of harassment even where there is no tangible impact upon the employee’s employment opportunities or employment benefits. The phrase “prohibited discrimination” as used in this regulation includes all forms of “prohibited harassment” (defined below).

“Prohibited Discrimination of Students.” Prohibited discrimination of students can take the form of any negative treatment of a student, by either a fellow student, CEWW BOCES employee, or third party engaged in CEWW BOCES sponsored activities which: a) negatively impacts a student’s educational opportunities; and b) is based upon the student’s race, color, creed, religion, national origin, disability, political affiliation, age, sex, sexual orientation, military status, veteran status, weight, ethnic group, religious practice, gender or marital status. Prohibited discrimination of students can also take the form of harassment even where there is no tangible impact upon the student’s educational opportunities. The phrase “prohibited discrimination” as used in this regulation includes all forms of “prohibited harassment” (defined below).

“Prohibited Harassment of Employees.” Harassment can constitute a form of prohibited discrimination under this regulation if it is unwelcome and has the purpose or effect of unreasonably interfering with an individual’s work performance, or creating an intimidating, hostile or offensive working environment. Such harassment of employees is prohibited if it is based upon race, color, creed, religion, national origin, disability, political affiliation, age, sex, sexual orientation, military status, veteran status, weight, ethnic group, religious practice, gender or marital status. In this regard, individuals should be mindful that conduct or behavior that is acceptable, amusing or inoffensive to some individuals may be viewed as unwelcome, abusive or offensive to others.

“Prohibited Harassment of Students.” Harassment can constitute a form of prohibited discrimination if it is unwelcome and has the effect or making a student uncomfortable while at CEWW BOCES or otherwise creates a hostile learning environment. Such harassment of students is prohibited if it is based upon race, color, creed, religion, national origin, disability, political affiliation, age, sex, sexual orientation, military status, veteran status, weight, ethnic group, religious practice, gender or marital status. In this regard, individuals should be mindful that conduct or behavior that is acceptable, amusing or inoffensive to some individuals may be viewed as unwelcome, abusive, or offensive to others.

“Prohibited Behavior.” While all forms of unlawful harassment cannot be listed, the following is a list of examples of conduct that may constitute harassment:

- Using slurs or derogatory terms based on race, color, creed, religion, national origin, disability, political affiliation, age, sex, sexual orientation, military status, veteran status, weight, ethnic group, religious practice, gender or marital status;
- Telling derogatory jokes or stories based on race, color, creed, religion, national origin, disability, political affiliation, age, sex, sexual orientation, military status, veteran status, weight, ethnic group, religious practice, gender or marital status;
- Displaying graffiti or other derogatory or insulting writings based on race, color, creed, religion, national origin, disability, political affiliation, age, sex, sexual orientation, military status, veteran status, weight, ethnic group, religious practice, gender or marital status;
- Making degrading comments about a person and/or his/her appearance based on race, color, creed, religion, national origin, disability, political affiliation, age, sex, sexual orientation, military status, veteran status, weight, ethnic group, religious practice, gender or marital status;
- Demeaning or criticizing an individual because of his/her race, color, creed, religion, national origin, disability, political affiliation, age, sex, sexual orientation, military status, veteran status weight, ethnic group, religious practice, gender or marital status;
- Sabotaging, damaging, or interfering with an individual’s work or learning because of that individual’s race, color, creed, religion, national origin, disability, political affiliation, age, sex, sexual orientation, military status, veteran status, weight, ethnic group, religious practice, gender or marital status;
- Threatening or intimidating an individual because of his/her race, color, creed, religion, national origin, disability, political affiliation, age, sex, sexual orientation, military status, veteran status, weight, ethnic group, religious practice, gender or marital status.

This list is not all-inclusive, merely examples. While a single incident of these types of behavior may or may not create a hostile working/learning environment, if such behavior is severe, persistent or pervasive, or if submission to such conduct is made either explicitly or implicitly a term or condition of employment or receipt of employment/academic benefits, such conduct constitutes prohibited discrimination.

Authority and Responsibility

It is the responsibility of all CEWW BOCES students and employees to ensure that their behavior and environment are maintained free of harassment and discrimination. Furthermore, each administrator and supervisor has the responsibility to maintain a non-threatening environment, which includes discussing the CEWW BOCES policy pertaining to harassment and discrimination with all students and employees, and assuring students and employees that they are not required to endure insulting, degrading or exploitative treatment.

All complaints of harassment or discrimination, whether written or verbal, formal or informal, will be thoroughly investigated to determine whether the totality of the alleged behavior and circumstances may constitute harassment. It is recommended that any individual of the above-named groups who believes she/he has been subjected to harassment or discrimination, or has reason to know of and/or witness any incident of harassment or discrimination by a CEWW BOCES student, employee, or other third party subject to the control and supervision of the CEWW BOCES, submit a written complaint.

However, complaints may be filed verbally, and the absence of a written complaint does not negate the CEWW BOCES' responsibility to investigate such allegations as thoroughly as possible. CEWW BOCES officials are required to provide a written report of investigation findings and any action taken to resolve the complaint within timeframes as established by CEWW BOCES.

First Step in Grievance Procedure

Any individual of the above-named groups who believes she/he has been subjected to harassment or discrimination in the CEWW BOCES environment or at a CEWW BOCES-sponsored activity, including those CEWW BOCES-sponsored activities that take place off CEWW BOCES premises, shall promptly report such occurrence to his/her building principal/supervisor, unless that building principal/supervisor is the source of the complaint in which case the complaint would be taken directly to the appropriate Title IX, or 504 compliance officer or another building administrator, who is then responsible for forwarding the complaint to the appropriate compliance officer. The compliance officers are listed below.

CEWW BOCES has designated:

Names: Jim McCartney Title IX Compliance Officer CVES P.O. Box 455 Plattsburgh, New York 12901 (518) 561-0100 Email: mccartney_james@cves.org	Cathy Snow Title IX Compliance Officer CVES P.O. Box 455 Plattsburgh, New York 12901 (518) 561-0100 Email: snow_cathy@cves.org	Name: Roxanne Pombrio Section 504 Compliance Officer CVES P.O. Box 455 Plattsburgh, New York 12901 (518) 561-0100 E-mail: pombrio_roxanne@cves.org
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as the DASA (discrimination/harassment/bullying), Title IX (sex discrimination/harassment), and Section 504 (disability discrimination/harassment) compliance officers.

Should a compliance officer be the alleged offender, the report shall be made to the other compliance officer, or an administrator at the next level of supervising authority, or the building principal, who will then take it to a person other than the alleged offender.

All building principals and supervisors who receive a verbal or written complaint based on any of the above-named groups shall contact the Title IX or Section 504 compliance officer for assistance/direction in conducting an investigation, and forward the report to the compliance officer(s).

If the building principal/supervisor is in doubt as to the “seriousness” of the incident and whether such behavior constitutes harassment or discrimination, she/he is directed to immediately report such conduct to the appropriate compliance officer for resolution.

The Title IX or Section 504 compliance officer will personally conduct the investigation or with the assistance of others deemed to be appropriate persons to assist.

Utilization of these CEWW BOCES complaint guidelines does not preclude an individual from pursuing other avenues of legal recourse. However, if the individual reports such occurrence to any other CEWW BOCES employee, the individual shall be informed of the employee’s obligation to report the complaint to the administration/building principal. The administrator who is made aware of the occurrence of possible harassment or discrimination, whether or not a complaint has been filed, is required to promptly report the incident(s) to the building principal and designated Title IX and/or Section 504 compliance officer.

Other agencies an individual might contact include:

New York Enforcement Office
Office for Civil Rights
U.S. Department of Education
32 Old Slip, 26th Floor
New York, New York 10005-2500
Phone: 646-428-3900
Fax: 646-428-3843
TDD: 877-521-2172
E-mail: OCR.NewYork@ed.gov

New York State Div. of Human Rights
Corning Tower, 28th Floor
Empire State Plaza
P.O. Box 2049
Albany, New York 12220
Phone: 888-392-3644
Website: www.dhr.state.ny.us/

Contact with either or both of these agencies should be within 180 days of the alleged discrimination or harassment, or, if CEWW BOCES has made a final determination which the complainant is not satisfied with, the complainant may request a review of the CEWW BOCES process by OCR. This request must be made within 60 days of the final determination of CEWW BOCES.

Complaints of harassment or discrimination will be investigated thoroughly, promptly, and impartially in accordance with law and regulations as well as any applicable collective bargaining agreement. However, when the CEWW BOCES officers receive a complaint or report of alleged harassment/discrimination that is criminal in nature or that could lead to violence, law authorities will be notified.

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

Complaint Procedure

Notification Procedure

Prompt reporting of complaints or concerns is encouraged so that timely and constructive action can be taken before relationships become strained. Reporting of all perceived incidents of prohibited discrimination or harassment is encouraged, regardless of the offender's identity or position.

A student, employee or other individual who feels aggrieved because of harassment or discrimination has several ways to make his/her concerns known:

- 1) An aggrieved person who feels comfortable doing so should directly inform the person(s) engaging in the harassment or discrimination that such conduct or communication is offensive and must stop.

Confronting the offender is NOT required. All employees have the right to file a good faith complaint without first communicating with the offender;

- 2) An aggrieved person who does not wish to communicate directly with the individual whose conduct or communication is offensive, or if direct communication with the offending party has been unavailing, shall contact his/her building principal/supervisor, a compliance officer, or a CEWW BOCES administrator;
- 3) An aggrieved person alleging harassment or discrimination or alleging a failure of supervision to take timely action on the

individual's complaint shall contact the appropriate compliance officers and a building principal/supervisor/administrator.

Making a Complaint

All complaints should be in writing. However, complaints may be filed verbally, and the absence of a written complaint does not negate CEWW BOCES' responsibility to investigate such allegations as thoroughly as possible. All individuals are encouraged to use the CEWW BOCES' "Discrimination/Harassment Complaint Form."

Complaint forms can be obtained from any building principal's or guidance counselor's office, or from the Title IX or Section 504 compliance officer with no questions asked. Because an accurate record of the allegedly objectionable behavior is necessary to resolve a complaint of prohibited discrimination, all complaints should be made in writing.

If a student, parent/legal guardian, and/or employee has any questions or difficulty completing the complaint form, she/he can obtain assistance from any teacher, guidance counselor, building principal or compliance officer. All complaints should include: the name of the complaining party; the name of the alleged offender(s); date of the incident(s); description of the incident(s); names of witnesses to the incident(s) or those with other pertinent information regarding the discrimination/harassment; the date the complaint is being submitted to school officials; and the signature of the complaining party.

Once the complaining party has completed the complaint, the written complaint should be personally delivered or mailed to a building principal/supervisor/administrator or to the appropriate compliance officer or placed in one of their school office mailboxes.

Complainants are expected to cooperate with CEWW BOCES' investigation procedures by providing all relevant information relating to the complaint, as are other supervisory and non-supervisory employees, vendors, other third parties, and students having relevant or related knowledge or information.

Time for Reporting a Complaint

Prompt reporting of a complaint is strongly encouraged. All students and employees should be aware that appropriate resolution of discrimination or harassment complaints, and effective remedial action, often is possible only when complaints are promptly filed. Statutes of limitations may constrain the time period for instituting legal actions.

Confidentiality and Privacy

In recognition of the personal nature of discrimination complaints and the emotional impact of alleged discrimination, CEWW BOCES shall keep complaints as confidential as is consistent with a thorough investigation, applicable collective bargaining agreement provisions, and laws and regulations. For the protection of all individuals who make

complaints or are accused of prohibited discrimination or harassment, every witness interviewed during an investigation will be advised of the confidentiality requirement and instructed not to discuss the complaint, the investigation, or the persons involved except as part of the investigation process. To the extent complaints made under this regulation implicate criminal conduct, CEWW BOCES may be required by law to contact and cooperate with the appropriate law enforcement authorities.

Acknowledgment of Complaints

Upon receipt of a written complaint, the compliance officer, building principal/supervisor/administrator should endeavor to contact promptly the complainant to confirm that the written complaint has been received. If the complainant does not receive such confirmation promptly, she/he is encouraged to file a copy of the first complaint or a second written complaint or contact a compliance officer or building principal/supervisor or administrator. The purpose of this acknowledgment procedure is to ensure that all written complaints are received by authorized individuals, carefully processed, and promptly investigated.

Investigation Procedures

Timing of Investigation

CEWW BOCES will promptly investigate all allegations of prohibited discrimination and harassment. The compliance officer will notify the complainant and the accused as to the course of action within twenty (20) working days following receipt of the formal complaint. If additional time is necessary to complete the investigation, an extension may be requested by the compliance officer to the District Superintendent.

Method of Investigation

Investigations will be conducted by the CEWW BOCES compliance officer, the CEWW BOCES legal counsel, or other impartial persons as appropriate. The primary purposes of the investigation will be to determine:

- Did the conduct complained of occur?;
- Did the conduct complained of violate CEWW BOCES relevant policy and regulations, or any of the Title IX or Section 504 (or other additional) laws?;
- What remedial or preventative steps, if any, are recommended?

Investigations may include: fact-finding interviews; document review; depositions; observations; or other reasonable methods. The CEWW BOCES investigator should pursue reasonable steps to investigate each complaint in a thorough and comprehensive manner. Any notes, memoranda, or other records created by the CEWW BOCES employees or agents conducting an investigation shall be deemed confidential and privileged to the extent allowed by law.

Notification to Complainant Party and the Accused Party

The District Superintendent or his/her designee shall notify the complainant of the outcome of the investigation within twenty (20) working days unless, for good cause, the investigation has not concluded. If the investigation has not concluded, notification to the complainant shall be in writing, including that the investigation is continuing, and an estimated date of completion shall be given.

If the investigation has concluded, notification to the complainant shall be in writing, including a brief summary of the factual findings to date, and, whenever possible, shall include a summary of remedial measures that have been or will be taken by CEWW BOCES.

While reasonable efforts will be made to inform the complaining party about the outcome of the investigation, CEWW BOCES will consider the privacy rights of all parties involved in disseminating information obtained during and through the investigation.

The District Superintendent or his/her designee, shall promptly notify the person accused of violating Title IX or Section 504 (or other laws/regulations) whether a violation of this policy was found and what remedial measures, if any, will be taken.

Remedial Measures

CEWW BOCES' primary goal in responding to complaints of prohibited discrimination and harassment is intended to prevent all forms of unlawful discrimination and harassment in CEWW BOCES and put an end to any prohibited discrimination and harassment that are found to have occurred. While disciplinary action may be appropriate in certain instances, punitive measures are not the exclusive means for responding to prohibited discrimination. During the investigation being conducted pursuant to this policy, remedial measures may be taken if appropriate and necessary.

Any individual who is found to have engaged in prohibited discrimination or conduct which may be prohibited, may receive education, training, counseling, warnings, discipline, or other measures designed to prevent future violations. Disciplinary action may include, but is not limited to: warnings; suspension; or discharge from school or employment. Any third party found to have engaged in discrimination or harassment of a student or an employee may be barred from CEWW BOCES property.

Prohibition Against Retaliation

Retaliation is strictly prohibited by law against anyone who in good faith reports a suspected violation, who assists in making such a complaint, or who cooperates in a discrimination or harassment investigation. Retaliation means taking any adverse action in response to a complaint being made.

Complaints of retaliation should be brought directly to the appropriate compliance officer and building principal/supervisor/administrator. Such complaints will be promptly investigated. If retaliation is found, the person retaliating will be subject to corrective action up to and including suspension (student), termination from employment (employee), or in the case of a business non-employee, an appropriate remedy up to and including termination of the business relationship.

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 discrimination or harassment will be subject to disciplinary action up to and including suspension or termination in accordance with legal guidelines and CEWW BOCES policy and regulations.

Appeals – General

Any complainant or accused party who wishes to appeal the procedures which CEWW BOCES followed in investigating a written complaint may do so within ten (10) working days of receipt of the notification of the investigation outcome. Untimely submissions shall not receive consideration. The appellant shall be entitled to present evidence as to why the investigation procedures were flawed, improper, or otherwise not in compliance with this regulation.

CEWW BOCES retains sole discretion to determine the appropriate disciplinary or corrective action to be taken with regard to a meritorious complaint.

Appeal to District Superintendent

All formal complaints, if not satisfactorily resolved by the compliance officer, may be appealed in writing by any party to the District Superintendent (hereinafter “DS”) within ten (10) working days of receipt of the compliance officer’s report of the investigation outcome.

Should the DS determine that additional action is necessary, the DS will follow all applicable law and regulations, CEWW BOCES policy and guidelines, and the appropriate collective bargaining agreement in the resolution of the complaint. The complainant and the accused will receive a copy of the DS appeal investigation and decision within twenty (20) working days of receipt of the appeal notice. If additional time is necessary to complete the investigation, the DS will provide the Board with a written status report requesting additional time to complete the investigation and notify all parties.

If the appellant is not satisfied with the DS’ resolution, she/he may appeal the decision to the Board within ten (10) working days following receipt of the DS’ report.

Appeal to Board

In the event that a complainant and/or accused files an appeal with the Board following an investigation by the DS, such appeal must be in writing and submitted to the DS' office or to the District Clerk within ten (10) working days of receipt of the DS' report. The Board will review the decision and the basis for the appeal and issue a written response to the complainant and the accused within thirty (30) working days of receipt of the appeal. If additional time is needed, a written status report shall be submitted to all parties indicating the need for additional time.

Record Keeping

CEWW BOCES shall maintain a written record of all complaints of discrimination and harassment prohibited by Title IX and Section 504 for a period of at least six years. CEWW BOCES shall also document the steps taken with regard to investigations, conclusions reached, and remedial action taken, if any. CEWW BOCES shall maintain these documents for, at a minimum, six years.

Questions

Any questions about this policy should be brought to the attention of appropriate compliance officer or the building principal/supervisor/administrator.

Dissemination

This policy, including a copy of the complaint form, is available in the CEWW BOCES student handbook, teacher/faculty handbook, employee manual, administrative manual and on the CEWW BOCES website.

Complaint Form See 9012-R (E.1)

Appeal Form See 9012-R (E.2)