

OCM BOCES DISCRIMINATION/HARASSMENT COMPLAINT PROCEDURE

A BOCES student or employee who wishes to file a complaint regarding discrimination, which includes discriminatory harassment, on any basis, including disability, by employees, students or third parties shall make such a complaint in writing using the BOCES approved Harassment and/or Discrimination Complaint/Report Form.

Examples of prohibited discrimination include denial of access to educational programs and facilities, and denial of a free appropriate public education. Prohibited discrimination includes harassment on the basis of disability or other protected status. The term disability includes various physical or mental impairments. Protection from discrimination is also extended to individuals who are perceived to be disabled, regardless of actual disability.

Individuals who file a complaint, or participate in the investigation into a complaint, are protected from retaliation in accordance with BOCES Policy and Law, including the Americans with Disabilities Act of 1990 and the Rehabilitation Act of 1973.

HOW TO FILE A COMPLAINT

- The complaint form may be obtained by accessing the “Notice of Non-discrimination” box on the OCM BOCES website, www.ocmboces.org
- The complaint form is also available in the main office at each BOCES facility
- The complaint form may be mailed or personally delivered to the BOCES Human Resources Director, Joseph Bufano, who also serves as the Compliance Officer, whose office is located at: BOCES OCM: Main Campus, 110 Elwood Davis Rd, Syracuse, NY 13212. The complaint form may also be emailed to the BOCES Human Resources Director/Compliance Officer, Joseph Bufano, email address: JBufano@ocmboces.org
If you have questions about the procedure for filing a complaint/report, please call the BOCES Human Resources Director/Compliance Officer at (315) 433-2631.

If unable to make the complaint in writing, students may contact a teacher, counselor, administrator or the Compliance Officer (the BOCES Human Resources Director) to assist with putting the complaint in writing. Employees may contact their department head or the Compliance Officer. The written complaint must be signed by the person making the complaint, dated, and include at a minimum, the following information:

- Date(s), time(s), place(s) of alleged incident(s)
- Alleged perpetrators of the discrimination or harassment (names, identifiers, etc)
- Description of each incident, by date
- Witnesses, if any (names and identifying information)
- Other relevant information
- Desired resolution – what you’d like to see change as a result of the investigation

The written complaint should be forwarded to the Compliance Officer or the administrator or department head assisting the person making the complaint. If forwarded to the principal or other administrator, s/he will forward the complaint form to the Compliance Officer.

Upon receipt of a written complaint, the Compliance Officer or his/her designee will:

- Begin a fact-finding investigation which will be prompt and equitable to all parties. The investigation may include interviews of appropriate witnesses. Individuals making complaints, as well as those accused of any type of discrimination, may identify and/or present any evidence they wish to the Compliance Officer, and may identify witnesses who may support a complaint of discrimination or a defense to such a complaint.
- While the nature of an investigation will necessarily vary depending on the facts and circumstances surrounding a given complaint, the Compliance Office will review evidence and conduct witness interviews as appropriate based on the nature of a given complaint.
- Where appropriate, the BOCES may also take interim steps pending the completion of an investigation, including, but not limited to, making arrangements to minimize contact between a complainant and an individual accused of engaging in discriminatory behavior.
- In general, the Compliance Officer will render a decision within two weeks after receipt of a complaint, and, to the extent permitted by law, notify the complainant, Superintendent, and others, including the subject(s) of a complaint, who need to be advised of the decision. If additional time is needed for good cause, (e.g., key witnesses cannot be interviewed in a timely manner), the decision will be made as soon as reasonably possible. If the decision is to be delayed for good cause, the complainant, Superintendent, and other material parties shall so be notified and an estimated date for a decision will be noted.
- Within one week of the decision, enact or implement the changes/recommendations, if any, based on the decision, which may include steps to correct the discriminatory effects of any discrimination on the complainant and others as appropriate. Such steps to correct the discriminatory effects may include counseling and academic support services.
- If the person making the complaint or a person who is the subject of a complaint is dissatisfied with the Compliance Officer's decision, s/he has one week from the date s/he received the compliance Officer's decision to appeal the decision.
 - a. In order to appeal, the person making the complaint or a person who is the subject of a complaint must notify the Compliance Officer or Superintendent in writing (see Appeals below).
 - b. If the person making the complaint fails to notify the Compliance Officer or Superintendent of his/her disagreement with the decision, it will be assumed that the resolution is acceptable, and the Compliance Officer will appropriately implement or facilitate the implementation of the changes/recommendations. Such changes/recommendations will necessarily vary depending on the nature of a given complaint, but may include additional anti-discrimination training for students, staff or third parties, or opportunities for students subject to discrimination to be provided with additional opportunities to avail themselves of educational programs, or program components, their participation in which was materially negatively impacted by discrimination.
 - c. The changes/recommendations of the Compliance Officer may include written or verbal warnings or disciplinary actions up to and including the removal of a student/employee from enrollment in/employment by the BOCES.

Appeals: Superintendent-level appeal

1. The Compliance Officer will forward all materials, including the letter requesting an appeal of the initial decision, to the Superintendent for review within one week of receipt of the same. The Superintendent or his/her designee, who may also be an employee or other designee of the BOCES, shall be an impartial decision-maker when considering such appeals.
2. The Superintendent or designee will schedule a meeting within two weeks of receipt of the request for review/appeal.
3. The participants at the scheduled meeting shall be, at a minimum, the complainant, the Compliance Officer, and the Superintendent and/or designee. The accused may be in attendance as well.
4. The Superintendent, or designee(s), shall conduct a prompt, impartial, equitable and thorough review of the materials. S/he shall have the right to re-interview witnesses, e.g., if testimony is unclear or new evidence has been brought to light, or to interview additional witnesses or otherwise review additional evidence if needed to ensure an equitable decision.
5. The Superintendent or designee will present his/her decision within three weeks after the meeting of the parties unless additional time is needed for good cause. If additional time is needed, material parties shall so be notified and provided with an estimated date for the issuance of the appeal decision.
6. The decision of the Superintendent or designee shall be in writing, and, to the extent permitted by law, sent to the complainant, the principal of the school of the complainant, the Compliance Officer and others, including the subject(s) of a complaint, who need to be advised of the decision.

Concurrent Appeals or Appeal of the Superintendent level appeal

For civil rights discrimination claims based on race, color, national origin, sex, and/or disability, a complainant can, at any time,, also contact:

Office for Civil Rights

Phone: 646-428-3900 / 800-421-3481

U.S. Department of Education

Fax: 646-428-3843

32 Old Slip, 26th floor

TDD: 877-521-2172

New York, NY 10005-2500

E-mail: OCR.NewYork@ed.gov

Where discrimination has occurred, the BOCES will take appropriate steps aimed at preventing its recurrence and correcting its discriminatory effects, if appropriate.