

Book	SW BOCES Policies
Section	7000- STUDENTS
Title	Alcohol, Tobacco, Drugs and Other Substances (STUDENTS)
Code	7320
Status	Active
Adopted	April 26, 2023

Prohibited Conduct

The Board recognizes that the misuse of alcohol, tobacco, electronic cigarettes (e-cigarettes), cannabis (marijuana), drugs, counterfeit and designer drugs, over-the-counter drugs, prescription drugs, vitamins, supplements, herbs, and other similar substances is a serious problem with legal, physical, emotional, and social implications for our students, as well as the entire community. Therefore, the consumption, sharing, selling, use, and/or possession of these and similar substances, as well as tobacco products and drug paraphernalia are prohibited in accordance with law and regulation, BOCES policy, the BOCES Code of Conduct, and/or other similar documents.

Students are not permitted to be under the influence of alcohol, cannabis (marijuana), drugs, or other prohibited substances on school grounds or at school functions. "School function" means a BOCES-sponsored or BOCES-authorized event or activity regardless of where the event or activity takes place, including any event or activity that may take place virtually or in another state.

Exceptions may exist for authorized medical cannabis use.

Disciplinary Measures

Students will be disciplined in accordance with BOCES policy, the BOCES Code of Conduct, and/or other similar documents for the consumption, sharing, selling, use, and/or possession of alcohol, tobacco, e-cigarettes, cannabis (marijuana), drugs, counterfeit and designer drugs, over-the-counter drugs, prescription drugs, vitamins, supplements, herbs, and other similar substances, as well as tobacco products and drug paraphernalia.

Information on Substance Use Related Services

The District Superintendent has designated one or more individuals to provide information regarding where and how to find available substance use related services to students, parents, and staff.

* The designated individual(s) for the BOCES is/are: The SWBOCES Lead Nurse

Any information provided by a student, parent, or staff member to the designated individual(s) will not be used in any school disciplinary proceeding and will, in addition to any other applicable privilege, be considered confidential in accordance with law.

20 USC §§ 6083(a), 7118, and 7973(a)
Cannabis Law § 127

Education Law §§ 409, 2801, and 3038

Penal Law § 222.10

Public Health Law §§ 1399-n and 1399-o

NOTE: Refer also to Policies #3280 -- Use of BOCES Facilities, Materials, and Equipment

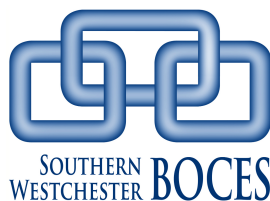
#3410 -- Code of Conduct

#5640 -- Smoking, Tobacco, and Cannabis (Marijuana) Use

#6150 -- Alcohol, Tobacco, Drugs, and Other Substances (Staff)

#8240 -- Instruction in Certain Subjects

BOCES Code of Conduct



Book	SW BOCES Policies
Section	6000 - PERSONNEL
Title	Alcohol, Tobacco, Drugs and Other Substances (Staff)
Code	6150
Status	Active
Adopted	April 26, 2023

Prohibited Conduct

The BOCES, recognizing that students are often influenced by teachers and other staff members, impresses upon staff the importance of maintaining a high level of professionalism appropriate to their position, which, in turn, will set a positive example for students.

Accordingly, when in the workplace or when the effects of these actions may impair job performance, staff are prohibited from consuming, sharing, selling, using, and/or possessing:

- a) Illegal drugs;
- b) Cannabis (marijuana) or any other controlled substance in schedules I through V of the Controlled Substances Act;
- c) Counterfeit and designer drugs;
- d) Drug paraphernalia; or
- e) Alcohol.

Exceptions may exist for authorized medical cannabis use.

Additionally, the misuse and/or unprescribed use of prescription and over-the-counter drugs is prohibited in the workplace or when the effects of these actions may impair job performance.

Further, all staff are bound by the conduct prohibitions contained in BOCES policy #5640 -- [Smoking, Tobacco, and Cannabis \(Marijuana\) Use.](#)

Disciplinary Measures

Staff will be informed of the range of penalties or consequences, up to and including termination of employment, that may be imposed for engaging in prohibited conduct. Penalties and consequences will be in accordance with any applicable law, BOCES policy, collective bargaining agreement, and/or other similar document.

Information on Substance Use Related Services

The District Superintendent has designated one or more individuals to provide information regarding where and how to find available substance use related services to students, parents, and staff.

*The designated individual(s) for the BOCES is/are: Assistant Director of Student Services

Any information provided by a student, parent, or staff member to the designated individual(s) will not be used in any school disciplinary proceeding and will, in addition to any other applicable privilege, be considered confidential in accordance with law.

20 USC §§ 6083(a), 7118, and 7973(a)
41 USC § 8101 et seq.
Cannabis Law § 127
Civil Service Law § 75
Education Law §§ 409, 2801, 3020-a, and 3038
Labor Law § 201-d
Penal Law § 222.10
Public Health Law §§ 1399-n and 1399-o

NOTE: Refer also to Policies #3410 -- Code of Conduct
#5640 -- Smoking, Tobacco, and Cannabis (Marijuana) Use
#7320 -- Alcohol, Tobacco, Drugs, and Other Substances (Students)
BOCES Code of Conduct

SUBJECT: ANTI-HARASSMENT IN THE SOUTHERN WESTCHESTER BOCES

The Board affirms its commitment to nondiscrimination and recognizes its responsibility to provide an environment that is free of harassment and intimidation. Harassment is a violation of law and stands in direct opposition to SWBOCES policy. Therefore, the Board prohibits and condemns all forms of harassment on the basis of race, color, creed, religion, national origin, political affiliation, membership in the Boy Scouts or other designated youth groups, sex, sexual orientation, age, marital status, military status, veteran status, disability, or use of a recognized guide dog, hearing dog or service dog by employees, school volunteers, students, and non-employees such as contractors and vendors as well as any third parties who are participating in, observing, or otherwise engaging in activities subject to the supervision and control of the SWBOCES.

Sexual orientation is defined as heterosexuality, homosexuality, bisexuality, or asexuality, whether actual or perceived.

The Board 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. This policy of nondiscrimination and anti-harassment will be enforced on SWBOCES premises and in SWBOCES buildings; and at all SWBOCES-sponsored events, programs and activities, including those taking place at locations off SWBOCES premises.

This policy applies to dealings between or among employees with employees; employees with students; students with students; employees/students with vendors/contractors and others who do business with the SWBOCES, as well as SWBOCES volunteers, visitors, guests and other third parties. All of these persons are hereinafter referred to collectively as "the named group."

For purposes of this policy, harassment shall mean communication (verbal, written or graphic) and/or physical conduct based on an individual's actual or perceived race, color, creed, religion, national origin, political affiliation, sex, sexual orientation, age, marital status, military status, veteran status, disability, or use of a recognized guide dog, hearing dog or service dog that:

- a) Has the purpose or effect of substantially or unreasonably interfering with an individual's work performance or is used as a basis for employment decisions (including terms and conditions of employment) affecting such individual; and/or creates an intimidating, hostile or offensive work environment;
- b) 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 creates an intimidating, hostile or offensive learning environment; and/or effectively bars the student's access to an educational opportunity or benefit;
- c) Otherwise adversely affects the employment and/or educational opportunities and benefits provided by the SWBOCES.

(Continued)

SUBJECT: ANTI-HARASSMENT IN THE SOUTHERN WESTCHESTER BOCES (Cont'd.)

The SWBOCES will promptly investigate all complaints, either verbal or written, formal or informal, of allegations of harassment based on any of the characteristics described above; and will promptly take appropriate action to protect individuals from further harassment. The SWBOCES will designate, at a minimum, two (2) Compliance Officers, one of each gender.

Any employee, student, or other member of the above named group who believes he/she has been a victim of harassment in the SWBOCES/school environment and/or at programs, activities and events under the control and supervision of the SWBOCES, as well as any individual who is aware of and/or who has knowledge of, or witnesses any possible occurrence of harassment, shall immediately report such alleged harassment; such report shall be directed to or forwarded to the SWBOCES' designated Compliance Officer(s) through informal and/or formal complaint procedures as developed by the SWBOCES. Alleged harassment complaints are recommended to be in writing, although verbal complaints of alleged harassment will also be promptly investigated. In the event 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 SWBOCES will conduct a thorough investigation of the charges. However, even in the absence of an informal/formal complaint, if the SWBOCES has knowledge of any occurrence of harassment, the SWBOCES will investigate such conduct promptly and thoroughly. 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/or to notify law enforcement officials as warranted, and any disclosure will be provided on a "need to know" basis.

As part of the investigation, the SWBOCES has the right to search all school property and equipment including SWBOCES computers. Rooms, desks, cabinets, lockers, computers, etc. are provided by the SWBOCES for the use of staff and students, but the users do not have exclusive use of these locations or equipment and should not expect that materials stored therein will be private.

Based upon the results of this investigation, if the SWBOCES 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 applicable laws and/or regulations, SWBOCES policy and regulation, and the Code of Conduct. Should the offending individual be a SWBOCES employee, appropriate disciplinary measures will be applied, up to and including termination of the offender's employment, in accordance with legal guidelines, SWBOCES policy and regulation, and the applicable collective bargaining agreement(s). Third parties (such as SWBOCES volunteers, vendors, etc.) who are found to have violated this policy and/or accompanying regulations and/or the Code of Conduct will be subject to appropriate sanctions as warranted and in compliance with law. The application of such disciplinary measures by the SWBOCES does not preclude the filing of civil and/or criminal charges as may be warranted.

(Continued)

SUBJECT: ANTI-HARASSMENT IN THE SOUTHERN WESTCHESTER BOCES (Cont'd.)**Prohibition of Retaliatory Behavior**

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 harassment. Follow-up inquiries shall be made to ensure the harassment has not resumed and all those involved in the investigation of the 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 Compliance Officer will so notify the complainant, the alleged offender and the District Superintendent/Designee of this determination. Such a finding does not preclude the complainant from filing an appeal pursuant to SWBOCES 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/Designee 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.

Privacy Rights

As part of any investigation, the SWBOCES has the right to search all school property and equipment including SWBOCES computers. Rooms, desks, cabinets, lockers, computers, etc. are provided by the SWBOCES for the use of staff and students, but the users do not have exclusive use of these locations or equipment and should not expect that materials stored therein will be private.

Development and Dissemination of Administrative Regulations

Regulations will be developed for reporting, investigating, and remedying allegations of harassment based on the characteristics described above. An appeal procedure will also be provided to address any unresolved complaints and/or unsatisfactory prior determinations by the applicable Compliance Officer(s). Such regulations will be developed in accordance with federal and state law as well as any applicable collective bargaining agreement(s).

(Continued)

Community Relations

SUBJECT: ANTI-HARASSMENT IN THE SOUTHERN WESTCHESTER BOCES (Cont'd.)

The District Superintendent/designee(s) will affirmatively discuss the topic of harassment with all employees and students, 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 harassment in the schools, and to disseminate preventative measures to help reduce such incidents of prohibited conduct. Special training will be provided for designated supervisors and managerial employees for the investigation of 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 SWBOCES building. The SWBOCES' policy and regulations on anti-harassment will be published in appropriate SWBOCES publications such as teacher/employee handbooks, student handbooks, and/or SWBOCES calendars.

This policy does not abrogate other SWBOCES policies and/or regulations or the Southern Westchester BOCES Code of Conduct prohibiting other forms of unlawful discrimination, inappropriate behavior, and/or hate crimes within this SWBOCES. Different treatment of any member of the above named group which has a legitimate, legal and nondiscriminatory reason shall not be considered a violation of SWBOCES policy.

Age Discrimination in Employment Act, 29 United States Code (USC) Section 621

Americans With Disabilities Act, 42 United States Code (USC) Section 12101 et seq.

Prohibits discrimination on the basis of disability.

Section 504 of the Rehabilitation Act of 1973, 29 United States Code (USC) Section 794 et seq.

Prohibits discrimination on the basis of disability.

Title VI of the Civil Rights Act of 1964, 42 United States Code (USC) Section 2000d et seq.

Prohibits discrimination on the basis of race, color or national origin.

Title VII of the Civil Rights Act of 1964, 42 United States Code (USC) Section 2000e et seq.

Prohibits discrimination on the basis of race, color, religion, sex or national origin.

Title IX of the Education Amendments of 1972, 20 United States Code (USC) Section 1681 et seq.

Prohibits discrimination on the basis of sex.

Civil Rights Law Section 40-c

Prohibits discrimination on the basis of race, creed, color, national origin, sex, sexual orientation, marital status or disability.

Education Law Section 2801(1)

Executive Law Section 290 et seq.

Prohibits discrimination on the basis of age, race, creed, color, national origin, sex, sexual orientation, disability, military status, marital status, or use of a recognized guide dog, hearing dog or service dog.

Military Law Sections 242 and 243

Boy Scouts of America Equal Access Act, part of the No Child Left Behind Act of 2001, which prohibits denial of access to or other discrimination against the Boy Scouts or other Title 36 U.S.C. youth groups in public elementary schools, public secondary schools, local education agencies, and state education agencies that have a designated open forum or limited public forum.

NOTE: Refer also to Policies #5121 -- Sexual Harassment (Personnel)
#5170 -- Complaints and Grievances by Employees
#6440 -- Sexual Harassment (Students)
#6461 -- Complaints and Grievances by Students

Adopted: 8/6/2014

Personnel

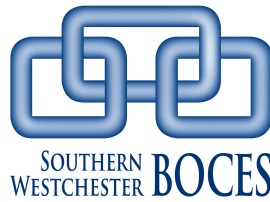
SUBJECT: FAMILY MEMBERS IN SUPERVISOR-SUPERVISEE RELATIONSHIPS

The Southern Westchester Board of Cooperative Educational Services ("SWBOCES") Board of Education recognizes that members of the same family may hold positions in SWBOCES. However, not at any time subsequent to the adoption of this policy shall members of the same family hold regular positions in which one member would be required, as part of his/her responsibilities, to supervise another family member; provided that this policy does not apply retroactively to assignments which were made prior to the adoption date of this policy.

For purposes of this policy only, members of the same family shall include the spouse and the mother, father, grandmother, grandfather, grandchild, son, son-in-law, daughter, daughter-in-law, brother or sister of the employee, or a person in any of these relations to the employee's spouse, or a member of the same household.

In cases where SWBOCES wishes to employ a member of the same family of a SWBOCES Board of Education Member, that Board of Education Member will be obligated to inform the Board prior to the vote on that agenda item.

Adoption Date: June 23, 2021



Book	SW BOCES Policies
Section	7000- STUDENTS
Title	Child Abuse and Maltreatment
Code	7530
Status	Active
Adopted	April 26, 2023

Child Abuse in a Domestic Setting

The BOCES takes seriously the obligations of its officers and employees to report cases of child abuse or maltreatment. To this end, regulations will be developed, maintained, and disseminated by administration regarding the:

- a) Mandatory reporting of suspected child abuse or maltreatment;
- b) Reporting procedures and obligations of persons required to report;
- c) Provisions for taking a child into protective custody;
- d) Mandatory reporting of deaths;
- e) Immunity from liability and penalties for failure to report;
- f) Obligations for provision of services and procedures necessary to safeguard the life or health of a child; and
- g) Provision of information in recognizing signs of unlawful methamphetamine laboratories for all current and new school officials (i.e., "mandated reporters") who, as part of their usual responsibilities, visit children's homes.

Additionally, an ongoing training program for all current and new school officials will be established and implemented to enable the staff to carry out their reporting responsibilities.

Reporting Information

The BOCES will post the child abuse hotline telephone number and directions for accessing the Office of Children and Family Services (OCFS) website in English and Spanish on its website and in clearly and highly visible areas of school buildings.

The BOCES will also make this information available from its administrative offices; provide it to parents and persons in parental relation at least once per school year by electronic communication, sending the information home with students, or otherwise; and provide it to each teacher and administrator. The BOCES may post and provide this information in other, common languages used by the school community.

Persons Required to Report

Persons required to report cases of child abuse or maltreatment to the State Central Register (SCR) in accordance with Social Services Law Section 413(1) include, but are not limited to, school teachers, school counselors, school psychologists, school social workers, school nurses, school administrators. The BOCES will post the child abuse hotline telephone number and directions for accessing the Office of Children and Family Services (OCFS) website in English

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The BOCES will not take any retaliatory personnel action against an employee because the employee believes that he or she has reasonable cause to suspect that a child is an abused or maltreated child and that employee makes a report to SCR. Further, no BOCES official will impose any conditions, including prior approval or prior notification, upon any staff member specifically designated a mandated reporter.

"Retaliatory personnel action" means the discharge, suspension, or demotion of an employee, or other adverse employment action taken against an employee in the terms and conditions of employment.

Report Form

The "Report of Suspected Child Abuse or Maltreatment" Form LDSS-2221A may be accessed at the OCFS website. Child Abuse in an Educational Setting

The BOCES is committed to the protection of students in educational settings from abuse and maltreatment by employees or volunteers.

Definitions

"Administrator" or "school administrator" means a principal, or the equivalent title, in a school, or other chief school officer.

"Child abuse" means any of the following acts committed in an educational setting by an employee or volunteer against a child (defined as a person under the age of 21 years enrolled in a school):

- a) Intentionally or recklessly inflicting physical injury, serious physical injury, or death;
- b) Intentionally or recklessly engaging in conduct which creates a substantial risk of physical injury, serious physical injury, or death;
- c) Any child sexual abuse, defined as conduct prohibited by Penal Law Articles 130 or 263; or
- d) The commission or attempted commission against a child of the crime of disseminating indecent materials to minors in accordance with Penal Law Article 235.

"Educational setting" means the building(s) and grounds of a school; the vehicles provided directly or by contract by the school for the transportation of students to and from school buildings, field trips, co-curricular and extracurricular activities both on and off school grounds; all co-curricular and extracurricular activity sites; and any other location where direct contact between an employee or volunteer and a child has allegedly occurred.

"School" means a school district, public school, charter school, nonpublic school, Board of Cooperative Educational Services (BOCES), special act school district as defined in Education Law Section 4001, approved preschool special education program pursuant to Education Law Section 4410, approved private residential or non-residential school for the education of students with disabilities including certain private schools, or state-operated or state-supported school in accordance with Education Law Articles 85, 87, or 88.

Duties Upon Receipt of an Allegation of Child Abuse in an Educational Setting

In any case where an oral or written allegation is made to a teacher, school nurse, school counselor, school psychologist, school social worker, school administrator, Board member, or other school personnel required to hold a teaching or administrative license or certificate, as well as a licensed and registered physical therapist,

licensed and registered occupational therapist, licensed and registered speech-language pathologist, teacher aide, or school resource officer that a child has been subjected to child abuse by an employee or volunteer in an educational setting, that person will upon receipt of the allegation:

- a) Promptly complete a written report of the allegation including the full name of the child alleged to be abused; the name of the child's parent; the identity of the person making the allegation and their relationship to the alleged child victim; the name of the employee or volunteer against whom the allegation was made; and a listing of the specific allegations of child abuse in an educational setting. This written report must be completed on a form prescribed by the Commissioner of Education.
- b) Except where the school administrator is the person receiving the oral or written allegation, the employee completing the written report must promptly personally deliver a copy of that written report to the school administrator of the school in which the child abuse allegedly occurred.

In any case where an oral or written allegation is made to a school bus driver employed by a school or a person or entity that contracts with a school to provide transportation services to children that a child has been subjected to child abuse by an employee or volunteer in an educational setting, that school bus driver will upon receipt of the allegation, promptly report or cause a report to be made to his or her supervisor employed by the school or the contracting person or entity.

In any case where an oral or written report or allegation is made to a supervisor who is employed by a school or a person or entity that contracts with a school to provide transportation services to children from a person employed by the school or the contracted person or entity that a child has been subjected to child abuse by an employee or volunteer in an educational setting, the supervisor must, upon receipt of an allegation:

- a) Promptly complete a written report of the allegation including the full name of the child alleged to be abused; the name of the child's parent or guardian; the identity of the person making the allegation and their relationship to the alleged child victim; the name of the employee or volunteer against whom the allegation was made; and a listing of the specific allegations of child abuse in an educational setting. This written report must be completed on a form prescribed by the Commissioner.
- b) Ensure that the written report is personally delivered to the superintendent employed by the school district where the child abuse occurred or, for a school other than a school district or public school, the school administrator employed by the school where the child abuse occurred.

In any case where it is alleged a child was abused by an employee or volunteer of a school other than a school within the school district of the child's attendance, the report of these allegations will be promptly forwarded to the superintendent of the school district of the child's attendance and the superintendent of the school district where the abuse of the child allegedly occurred. If a case involves a school that is not a school district or public school, the appropriate school administrator or administrators, in addition to any appropriate superintendent, must be notified of the allegations of abuse.

If it is alleged the child was abused by the superintendent or administrator, the report of the allegations will be made to another designated administrator.

Upon receipt of a written report alleging child abuse in an educational setting, a school administrator or superintendent must then determine whether there is reasonable suspicion to believe that an act of child abuse has occurred. If it is determined that reasonable suspicion exists, the school administrator or superintendent must follow the procedures mandated in law and further described in administrative regulations including parental notification. When the school administrator receives a written report, he or she must promptly provide a copy of the report to the superintendent. The report must be promptly forwarded to appropriate law enforcement. In no event will reporting to law enforcement be delayed by an inability to contact the superintendent.

Where the superintendent or, in a school other than a school district or public school, the school administrator has forwarded a written report of child abuse in an educational setting to law enforcement authorities, he or she will also refer the report to the Commissioner if the employee or volunteer alleged to have committed an act of child abuse holds a certification or license issued by NYSED.

Civil Immunity

Any employee, volunteer, or supervisor who is employed by a person or entity that contracts with a school to provide transportation services to children who reasonably and in good faith makes a report of allegations of child abuse in an educational setting in accordance with the reporting requirements of the law will have immunity from civil liability which might otherwise result by reason of those actions.

Any school administrator or superintendent who reasonably and in good faith makes a report of allegations of child abuse in an educational setting, or reasonably and in good faith transmits a report to a person or agency as required by law, will have immunity from civil liability which might otherwise result by reason of those actions.

Confidentiality

Reports and other written material submitted in accordance with law with regard to allegations of child abuse in an educational setting, and photographs taken concerning those reports that are in the possession of any person legally authorized to receive that information, will be confidential and will not be redisclosed except to law enforcement authorities involved in an investigation of child abuse in an educational setting or as expressly authorized by law or in accordance with a court-ordered subpoena. School administrators and the superintendent will exercise reasonable care in preventing unauthorized disclosure.

Training

The BOCES will implement a training program regarding child abuse in an educational setting for all current and new teachers, school nurses, school counselors, school psychologists, school social workers, school administrators, Board members, other school personnel required to hold a teaching or administrative license or certificate, and any school bus driver or supervisor employed by the BOCES or any person or entity that contracts with the BOCES to provide transportation services to children, as well as licensed and registered physical therapists, licensed and registered occupational therapists, licensed and registered speech-language pathologists, teacher aides, and school resource officers.

Prohibition of "Silent" (Unreported) Resignations

The District Superintendent and other school administrators are prohibited from withholding from law enforcement authorities, the District Superintendent, or the Commissioner, as appropriate, information concerning allegations of child abuse in an educational setting against an employee or volunteer in exchange for that individual's resignation or voluntary suspension from his or her position.

The District Superintendent or other school administrator who reasonably and in good faith reports to law enforcement officials information regarding allegations of child abuse or a resignation as required by law will have immunity from any liability, civil or criminal, which might otherwise result by reason of those actions.

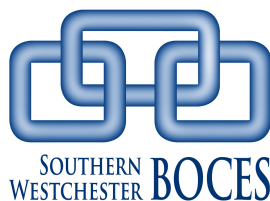
Notification

Teachers and all other school officials will be provided an annual written explanation concerning the reporting of child abuse and child abuse in an educational setting including the immunity provisions as set forth in law. The Commissioner will furnish the BOCES with required information, including rules and regulations for training necessary to implement BOCES and staff responsibilities under the law.

Prohibition on Aiding and Abetting Sexual Abuse

Unless employee, contractor, or agent in obtaining a new job, apart from the routine transmission of administrative and personnel files, if the individual or agency knows or has probable cause to believe, that the individual engaged in sexual misconduct regarding a minor or student in violation of the law.

Education Law Article 23-B and §§ 409-1, 3028-b, and 3209-a
 Family Court Act § 1012
 Labor Law § 740(1)(e)
 Penal Law Articles 130, 235, and 263
 Social Services Law §§ 411-428
 8 NYCRR Part 83 and § 100.2(hh) and (nn)
 20 USC § 7926



Book	SW BOCES Policies
Section	6000 - PERSONNEL
Title	Code of Ethics for Board Members and all BOCES Personnel
Code	6110
Status	Active
Adopted	April 26, 2023

Officers and employees of the BOCES hold their positions to serve and benefit the public, and not to obtain unwarranted personal or private gain in the exercise of their official powers and duties. The Board recognizes that, in furtherance of this fundamental principle, there is a need for clear and reasonable standards of ethical conduct.

The provisions of this policy are intended to supplement Article 18 of the General Municipal Law and any other law relating to ethical conduct of BOCES officers and employees, and should not be construed to conflict with those authorities.

Standards of Conduct

The following rules and standards of conduct apply to all officers, including Board members, and employees of the BOCES.

Gifts

No person may directly or indirectly solicit, accept, or receive any gift having a value of *\$75 or more under circumstances in which it could reasonably be inferred that the gift was intended or expected to influence the individual in the performance of his or her official duties or was intended as a reward for any official action on the part of the individual. This prohibition applies to any gift, including money, services, loan, travel, entertainment, hospitality, thing or promise, or any other form.

Confidential Information

No person may disclose confidential information acquired by him or her in the course of his or her official duties or use this information to further his or her personal interests.

Conflicts of Interest

Except as permitted by law, no person may have an interest in any contract with the BOCES when he or she, individually, or as a member of the Board, has the power or duty to: negotiate, prepare, authorize, or approve the contract or authorize or approve payment under the contract; audit bills or claims under the contract; or appoint an officer or employee who has any of these powers or duties.

Likewise, unless permitted by law, no chief fiscal officer, treasurer, or his or her deputy or employee, may have an interest in a bank or trust company designated as a depository, paying agent, registration agent, or for investment of funds of the BOCES.

No employee, officer, or agent will participate in selecting, awarding, or administering a contract supported by a federal award if he or she has a real or apparent conflict of interest. These conflicts could arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization that employs or is about to employ any of these parties has a financial or other interest in or a tangible personal interest benefit from a firm considered for a contract. Employees, officers, and agents will not solicit or accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. The BOCES may, however, set standards for situations where the financial interest is not substantial or the gift is an unsolicited item of nominal value.

"Interest," as used in this policy, means a direct or indirect pecuniary or material benefit accruing to a BOCES officer or employee as the result of a contract with the BOCES. A BOCES officer or employee will be considered to have an interest in the contract of: his or her spouse, minor children and dependents, except a contract of employment with the BOCES; a firm, partnership or association of which he or she is a member or employee; a corporation of which he or she is an officer, director or employee; and a corporation any stock of which is owned or controlled directly or indirectly by him or her.

Representing Others in Matters Before the BOCES

No person may receive, or enter into any agreement, express or implied, for compensation for services rendered in relation to any matter before the BOCES. Likewise, no one may receive, or enter into any agreement, express or implied, for compensation for services rendered in relation to any matter before the BOCES, where the individual's compensation is contingent upon any action by the BOCES with respect to the matter.

Disclosure of Interest in Contracts and Resolutions

Any BOCES officer or employee who has, will have, or later acquires an interest in or whose spouse 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 must publicly disclose the nature and extent of that interest in writing. The disclosure must be made when the officer or employee first acquires knowledge of the actual or prospective interest, and must be filed with the person's immediate supervisor and the Board. Any written disclosure will be made part of and included in the official minutes of the relevant Board meeting.

Investments in Conflict with Official Duties

No person may invest or hold any investment directly or indirectly in any financial, business, commercial, or other private transaction, that creates a conflict with his or her official duties, or that would otherwise impair his or her independence of judgment in the exercise or performance of his or her official powers or duties.

Private Employment

No person may engage in, solicit, negotiate for, or promise to accept private employment or render services for private interests when that employment or service creates a conflict with or impairs the proper discharge of his or her official duties.

Future Employment

No person may, after the termination of service or employment with the BOCES, appear before the BOCES on behalf of his or her employer in relation to any case, proceeding, or application in which he or she personally participated during the period of his or her service or employment with the BOCES or which was under his or her active consideration while he or she was with the BOCES.

Notice of Code of Ethics and General Municipal Law Sections 800-809

The District Superintendent will ensure that a copy of this code of ethics is distributed to every BOCES officer and employee, and that a copy of General Municipal Law Sections 800-809 is posted conspicuously in each BOCES building. The failure to distribute this code of ethics or to post General Municipal Law Sections 800-809 will have no effect on either the duty of BOCES officers and employees to comply with their provisions, or the ability of the BOCES or other relevant authorities to enforce them.

Penalties

Any person who knowingly or intentionally violates any of the provisions of this policy may be fined, suspended, removed from office or employment, or subject to additional or other penalties as provided by law.

Education Law § 410

General Municipal Law Article 18 and §§ 800-809

2 CFR § 200.318(c)(1)

Personnel

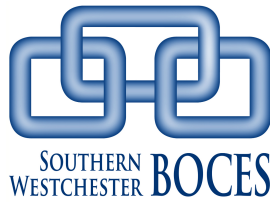
SUBJECT: CONFLICT OF INTEREST

The Board is committed to avoiding any situation in which the existence of simultaneous, conflicting interests in any officer or employee may call into question the integrity of the management or operation of the SWBOCES. Therefore:

- a) No person employed by the SWBOCES shall hire, supervise, evaluate, promote, review or discipline any other employee who is a member of the same family. In the event that marriage, promotion, or reorganization results in a situation not in compliance with this policy, reassignment or transfer will be effected, in accordance with the applicable provisions of any collective bargaining agreement, to correct the situation.
- b) No person employed by the SWBOCES shall negotiate or execute any contract on behalf of the SWBOCES for the purchase, sale or lease of real or personal property, services of any nature, nor for insurance without first having determined the common price for such property, services or insurance, or requesting bids from all potential providers of such property, services or insurance.
- c) No person employed by the SWBOCES shall allow any matter, concern or interest, personal, financial or otherwise, to influence or interfere with the performance of his or her duties. Should such a matter, concern or interest arise, the employee shall bring the matter to the attention of his or her supervisor to seek ways to reduce or eliminate the influence or interference.
- d) The Board affirms its commitment to adhere scrupulously to all applicable provisions of law regarding material conflicts of interest.
- e) Knowing or willful violation of this policy by any employee may result in disciplinary action up to and including dismissal.
- f) Any officer, employee or member of the public noting or suspecting a violation of this policy is encouraged to bring the matter, either in confidence or in public, to the Board or the District Superintendent.

Education Law Sections 410, 3016
General Municipal Law Article 18, Sections 801-813
Labor Law Section 201-d

Adopted: 6/23/10



Book	SW BOCES Policies
Section	6000 - PERSONNEL
Title	Drug-Free Workplace
Code	6151
Status	Active
Adopted	April 26, 2023

In compliance with the Drug-Free Workplace Act of 1988, the BOCES affirms its commitment to maintaining a workplace that is free of controlled substances.

"Controlled substance" means a controlled substance in schedules I through V of the Controlled Substances Act. An acknowledgment form will be signed by the District Superintendent indicating that the BOCES is in full compliance with the Drug-Free Workplace Act.

"Workplace" is defined as a school building or other school premises, any school-owned vehicle or any other school-approved vehicle used to transport students to and from school or school activities, off school property during any school-sponsored or school-approved activity, event or function, such as a field trip or athletic event, where students are under the jurisdiction of the BOCES.

The Board directs the administration to develop regulations to comply with this policy, and further supports actions and activities of the administration as required to maintain a drug-free workplace.

21 USC § 812
 41 USC § 8101 et seq.
 21 CFR §§ 1308.11-1308.15
 34 CFR Part 84

NOTE: Refer also to Policies #3410 -- Code of Conduct
 #6150 -- Alcohol, Tobacco, Drugs, and Other Substances (Staff)
 #7320 -- Alcohol, Tobacco, Drugs, and Other Substances (Students)
 BOCES *Code of Conduct*

SUBJECT: EQUAL EMPLOYMENT OPPORTUNITY

The SWBOCES will provide equal opportunities for employment, retention and advancement of all people regardless of race, color, creed, religion, national origin, political affiliation, membership in the Boy Scouts or other designated youth groups, sex, sexual orientation, age, marital status, military status, veteran status, disability, predisposing genetic characteristics, or use of a recognized guide dog, hearing dog or service dog.

Sexual orientation is defined as heterosexuality, homosexuality, bisexuality or asexuality, whether actual or perceived.

The term "military status" means a person's participation in the military service of the United States or the military service of the state, including but not limited to, the armed forces of the United States, the army national guard, the air national guard, the New York naval militia, the New York guard, and such additional forces as may be created by the federal or state government as authorized by law.

Provisions will be provided for the publication and dissemination, internally and externally, of this policy to ensure its availability to interested citizens and groups.

Additionally, administration shall establish grievance procedures that provide for the prompt and equitable resolution of complaints alleging discrimination. Those intending to file a grievance due to alleged discrimination must follow the grievance procedure as established by the SWBOCES.

Prohibition of Retaliatory Behavior

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 discrimination. Follow-up inquiries shall be made to ensure that discrimination has not resumed and that all those involved in the investigation of the discrimination complaint have not suffered retaliation.

Age Discrimination in Employment Act, 29 United States Code (USC) Section 621
Americans With Disabilities Act, 42 United States Code (USC) Section 12101 et seq.
Prohibits discrimination on the basis of disability.

Genetic Information Nondiscrimination Act of 2008 (GINA) Public Law 110-233
Prohibits discrimination in the workplace based upon genetic information.

Section 504 of the Rehabilitation Act of 1973, 29 United States Code (USC) Section 794 et seq.
Title VI of the Civil Rights Act of 1964, 42 United States Code (USC) Section 2000d et seq.
Prohibits discrimination on the basis of race, color or national origin.

Title VII of the Civil Rights Act of 1964, 42 United States Code (USC) Section 2000e et seq.
Prohibits discrimination on the basis of race, color, religion, sex or national origin.

Title IX of the Education Amendments of 1972, 20 United States Code (USC) Section 1681 et seq.
Prohibits discrimination on the basis of sex.

(Continued)

POLICY

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Personnel

SUBJECT: EQUAL EMPLOYMENT OPPORTUNITY (Cont'd.)

Civil Rights Law Section 40-c

Prohibits discrimination on the basis of race, creed, color, national origin, sex, sexual orientation, marital status or disability.

Executive Law Section 290 et seq.

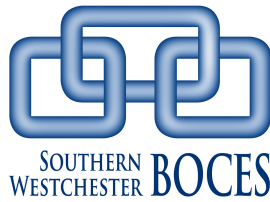
Prohibits discrimination on the basis of age, race, creed, color, national origin, sex, sexual orientation, disability, military status, predisposing genetic characteristics, marital status, or use of a recognized guide dog, hearing dog or service dog.

Military Law Sections 242 and 243

Boy Scouts of America Equal Access Act, part of the No Child Left Behind Act of 2001, which prohibits denial of access to or other discrimination against the Boy Scouts or other Title 36 U.S.C. youth groups in public elementary schools, public secondary schools, local education agencies, and state education agencies that have a designated open forum or limited public forum.

NOTE: Refer also to Policy #1440 -- Non-Discrimination

Adopted: 8/6/14



Book	SW BOCES Policies
Section	6000 - PERSONNEL
Title	Family and Medical Leave Act (FMLA)
Code	6551
Status	Active
Adopted	April 26, 2023

The BOCES allows eligible employees to take unpaid FMLA leave for up to 12 work weeks in a 12-month period as determined by the BOCES. Employees are eligible if they have been employed by the BOCES for at least 12 months and for at least 1,250 hours of service during the previous 12-month period.

*The BOCES must compute the time frame of the 12-month period for which FMLA leave is being requested. The following four choices are available:

- a) The calendar year January through December; or
- b) A fixed leave year based on (e.g., fiscal year); or
- c) A 12-month period measured forward from the date of the employee's first FMLA leave usage; or
- d) A "rolling" 12-month period measured backward from the date of any FMLA leave usage.

*The BOCES uses D (A "rolling" 12-month period measured backward from the date of any FMLA leave usage.) to calculate the FMLA leave. In certain cases, FMLA leave may be taken on an intermittent or reduced schedule basis rather than all at once. The entitlement to leave for the birth or placement of a child expires at the end of the 12-month period beginning on the date of the birth or placement.

Eligible employees may be granted leave for one or more of the following reasons:

- a) The birth of a child and care for the child;
- b) Adoption of a child and care for the child;
- c) The placement of a child with the employee from foster care;
- d) To care for a spouse, minor child or parent who has a "serious health condition" as defined by the FMLA;
- e) To care for an adult child who is incapable of self-care due to a disability (regardless of date of the onset of disability) and has a serious health condition; or
- f) The employee's serious health condition prevents the employee from performing his or her job.

A serious health condition is defined as an illness, injury, impairment, or physical or mental condition that involves inpatient care or continuing treatment by a healthcare provider that renders the person incapacitated for more than three consecutive calendar days. An employee claiming a serious health condition must first visit a healthcare provider

within seven days of the incapacity; the second visit must occur within 30 days of the incapacitating event. An employee claiming the need for continuous treatment under FMLA for a chronic serious health condition must visit a healthcare provider at least twice per year, and the condition must continue over an extended period of time. The condition may cause episodic rather than a continuing period of incapacity.

Military Family Leave Entitlements

Military Caregiver Leave

An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered servicemember with a serious injury or illness may take up to 26 weeks of leave during a single 12-month period to care for the servicemember.

Qualifying Exigency Leave

An "eligible" employee may take qualifying exigency leave when his or her spouse, son, daughter, or parent who is a member of the Armed Forces, National Guard, or Reserves is on covered active duty or has been notified of an impending call or order to covered active duty.

***Concurrent (Substitute) Leave**

Employees must use paid leave concurrently with periods of FMLA leave.

Special Provisions for Instructional Employees

An instructional employee's principal function is to teach and instruct students in a class, a small group, or an individual setting. Teaching assistants and aides who do not have instruction as the principal function of their job are not considered an instructional employee.

Intermittent Leave Taken by Instructional Employees

FMLA leave that is taken at the end of the school year and resumes at the beginning of the next school year is continuous leave. The period during summer vacation is not counted against an employee's FMLA leave entitlement; the employee will continue to receive any benefits that are customarily given over the summer break.

If an instructional employee requests intermittent leave or leave on a reduced schedule, and will be on that leave for more than 20% of the number of working days during that period, the BOCES may:

- a) Require the employee to take leave for a period or periods of a particular duration, not greater than the duration of the planned treatment; or
- b) Transfer the employee temporarily to an available alternative position for which the employee is qualified, which has equivalent pay and benefits, and which better accommodates recurring leave periods than the employee's regular position.

Leave Taken by Instructional Employees Near the End of the Instructional Year

If the instructional employee begins leave more than five weeks before the end of the term, the BOCES may require him or her to continue taking leave until the end of the term if the leave lasts more than three weeks and the employee would return during the three weeks before the end of the term.

If the instructional employee begins leave less than five weeks before the end of the term for any FMLA-related reasons except qualifying exigency, the BOCES may require that the employee remain out for the rest of the term if the leave lasts more than two weeks and the employee would return to work during that two-week period at the end of the instructional term.

If the instructional employee begins taking leave during the three weeks before the end of the term for any FMLA-related reason except qualifying exigency, the BOCES may require that the employee continue leave until the end of the term if the leave will last more than five working days.

Any additional time that is required by the BOCES will not be charged against the employee as FMLA leave.

Benefits and Restoration

An employee is entitled to have group health insurance and benefits maintained while on leave. If an employee was paying all or part of the premium payments before leave, the employee will continue to pay his or her share during the leave period.

In most instances, an employee has a right to return to the same or an equivalent position following a leave. The District Superintendent or designee may reassign an employee in accordance with any applicable collective bargaining agreement to a different grade level, building, or assignment consistent with the employee's certification and tenure area.

Employee Notice and Medical Certification

When leave is foreseeable, the employee must give at least 30 days' advance notice of when and how much leave he or she needs. When leave is not foreseeable, the employee must provide notice as soon as practicable.

The BOCES may require an employee to submit certification from a healthcare provider to substantiate a leave request. If the certification is incomplete or insufficient, the BOCES will identify in writing what information the employee must provide to correct the deficiency within seven days. If the employee fails to timely provide the requested information, the BOCES may deny his or her FMLA leave request.

The BOCES may also request a second opinion regarding the employee's medical status from a healthcare provider of its choice at its expense, and a third opinion from a provider agreed upon by the BOCES and the employee, to be paid for by the BOCES.

FMLA Notice

The BOCES will display a general notice to employees about FMLA leave rights, that will include how to file a complaint, in each school building. The BOCES will also provide a written general notice about the FMLA in the employee handbook to each new employee upon hire. The BOCES has five days to supply this notice from the date of hire.

Family and Medical Leave Act of 1993 (as amended), Public Law 103-3

National Defense Authorization Act of 2008, Public Law 110-181

10 USC §101(a) (13)

29 USC §§1630.1 and 2611-2654

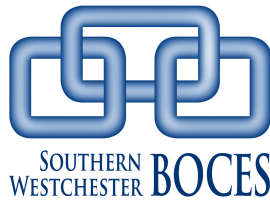
29 CFR Part 825 and Part 1630

42 USC §12102

Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191

45 CFR Parts 160 and 164

NOTE: Refer also to Policy #6552 -- Military Leaves of Absence



Book	SW BOCES Policies
Section	6000 - PERSONNEL
Title	Fingerprinting Clearance of New Hires
Code	6170
Status	Active
Adopted	April 26, 2023

Unless otherwise authorized, the BOCES will not employ or utilize a prospective school employee unless the prospective school employee has been granted "full" clearance for employment by the State Education Department (SED). The BOCES will require a prospective school employee who is not in the SED criminal history file database to undergo a fingerprint supported criminal history record background check. "Criminal history record" means a record of all criminal convictions and any pending criminal charges maintained on an individual by the Division of Criminal Justice Services (DCJS) and the Federal Bureau of Investigation. The BOCES will obtain the applicant's consent to the criminal history records search. The BOCES will request clearance for employment, view information regarding an applicant's status, and enter hire or termination dates through SED's Web-based application known as TEACH.

Safety of Students

The BOCES will make all reasonable attempts to ensure the safety of students who have contact with an employee holding conditional appointment or emergency conditional appointment. This will include the safety of students in the classroom, attending off-campus activities under the supervision of the BOCES, and participating in extracurricular and/or co-curricular activities (including athletic activities).

Other safety considerations will include supervision of the employee holding conditional appointment or emergency conditional appointment as determined appropriate by the applicable building or program administrator.

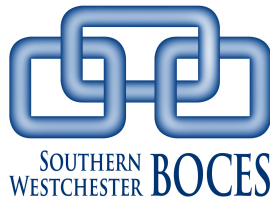
Correction Law Article 23-A

Education Law §§ 305(30), 305(33), 1604, 1709, 1804, 1950, 2503, 2554, 2590-h, 2854, 3004-b, 3004-c and 3035

Executive Law § 296(16)

Social Services Law Article 5, Title 9-B

8 NYCRR § 80-1.11 and Part 87



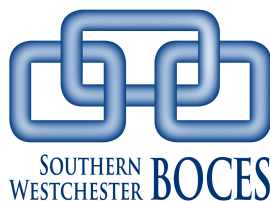
Book	SW BOCES Policies
Section	5000 - NON-INSTRUCTIONAL/BUSINESS OPERATIONS
Title	Human Immunodeficiency Virus (HIV) Related Illnesses
Code	5692
Status	Active
Adopted	April 26, 2023

A student will not be denied the right to attend school or continue his or her education because he or she has been diagnosed with AIDS or any other human immunodeficiency virus (HIV)-related illness. In addition, an employee who has been similarly diagnosed will not be denied the right to continue his or her employment with the BOCES based solely upon their AIDS/HIV status. The disclosure of confidential HIV-related information will be strictly limited.

Administrative procedures will be developed and implemented by the administration based on recommendations from the New York State Education Department and from consultation with appropriate professional and medical staff in the BOCES.

The District Superintendent will also establish protocols for routine sanitary procedures for dealing with the cleaning and handling of body fluids in school, with special emphasis placed on staff awareness.

Public Health Law Article 27-F



Book	SW BOCES Policies
Section	6000 - PERSONNEL
Title	Leaves of Absence
Code	6550
Status	Active
Adopted	April 26, 2023

In general, leaves of absence will be administered by the District Superintendent. The Board reserves the right to grant leaves of absence for purposes or under conditions not contemplated or considered in the policy statement. Where a leave of absence is falsely requested or improperly used, the Board may undertake appropriate disciplinary action. The purpose or conditions of a leave of absence may not be altered except by permission of the District Superintendent, as expressed in writing.

Leaves of Absence, Contractual, Et Al.

a) Employees who are members of a negotiating unit:

Authorization is granted to approve requests for leaves of absence submitted in accordance with provisions of contracts in effect between the BOCES and each bargaining unit.

b) Employees who are not members of a negotiating unit:

Authorization is granted to approve requests for leaves of absence submitted by these employees where the requests are consistent with provisions of contracts in effect between the BOCES and the bargaining unit most compatible with the employment status of the employee.

c) Employees who are under contract to the BOCES:

Authorization is granted to implement provisions for leaves of absence contained in each contract.

Leaves of Absence, Unpaid, Not Covered Above

a) Subject to limitations enumerated in this policy statement, authorization is granted for the following unpaid leaves of absence

1. For a period of time not to exceed one school year for approved graduate study, this leave to include any required internship experience.
2. At the expiration of a paid sick leave of absence, this leave may be extended for a period of time not longer than the end of the school year after the school year in which the paid leave of absence began.

b) Unpaid leaves of absence cannot be used to extend vacation periods, to take vacations, to engage in other occupations, or to provide additional personal leaves, except that the District Superintendent will

have discretion, where circumstances warrant, to approve leaves of absence for those purposes.

c) Unpaid leaves of absence will not be granted unless the services of a substitute employee, satisfactory in the discretion of the District Superintendent, can be secured.

d) Except where it interferes with an employee's legal or contractual rights, the timing of unpaid leaves of absence will be granted at the convenience of the BOCES.

Other Leaves of Absence

Other leaves of absence include, but are not limited to, the following:

a) Emergency Service Volunteer Leave

Upon presentation of a written request from the American Red Cross and with the approval of the District Superintendent, employees certified by the American Red Cross as disaster volunteers will be granted leave from work with pay for up to 20 days in any calendar year to participate in specialized disaster relief operations. This leave will be provided without loss of seniority, compensation, sick leave, vacation leave, or other overtime compensation to which the volunteer is otherwise entitled.

b) Screenings for Cancer

Employees will be granted up to four hours of paid leave on an annual basis to undertake a screening for cancer. This leave will be excused leave and will not be charged against any other leave to which the employee is entitled.

c) Blood Donation

The BOCES must either, at its option:

1. Grant three hours of unpaid leave of absence in any 12-month period to an employee who seeks to donate blood off-premises. The leave may not exceed three hours unless agreed to by the District Superintendent or designee; or
2. Allow its employees without use of accumulated leave time to donate blood during work hours at least two times per year at a convenient time and place set by the District Superintendent or designee, including allowing an employee to participate in a blood drive at the BOCES.

Leave taken by employees at a BOCES-designated donation alternative (such as a BOCES-sponsored blood drive at the workplace) must be paid leave that is provided without requiring the employee to use accumulated vacation, personal, sick, or other leave time.

The BOCES will not retaliate against an employee for requesting or obtaining a leave of absence under this section. Additional leaves for the purpose of blood donation under any other provision of law will not be prevented.

d) Bone Marrow Donation

Employees seeking to undergo a medical procedure to donate bone marrow will be granted leaves to do so, the combined length of the leaves to be determined by the physician, but may not exceed 24 work hours unless agreed to by the District Superintendent or designee. The BOCES will require verification for the purpose and length of each leave requested by the employee for this purpose.

The BOCES will not retaliate against an employee for requesting or obtaining a leave of absence under this section. Additional leaves for the purpose of bone marrow donation under any other provision of law will not be prevented.

e) Nursing Mothers (Breastfeeding/Lactation)

The BOCES will provide reasonable unpaid break time or permit the use of paid break time or meal time each day to allow an employee to express breast milk for her nursing child for up to three years following childbirth. The BOCES will make reasonable efforts to provide a room or other location in close proximity to the work area where the employee can express milk in privacy. The BOCES will not discriminate against an employee who chooses to express breast milk in the workplace.

Reasonable unpaid break time is generally no less than 20 minutes and no more than 30 minutes dependent upon the proximity of the designated location for expressing breast milk.

In most situations, the BOCES is required to provide unpaid break time at least once every three hours if requested by the employee. At the employee's option, the BOCES will allow the employee to work before or after her normal shift to make up the amount of time used during the unpaid break time(s) so long as the additional time requested falls within the BOCES' normal work hours.

The BOCES will provide written notice to employees who are returning to work following the birth of a child of their right to take unpaid leave for the purpose of expressing breast milk. This notice may either be provided individually to affected employees or to all employees generally through publication of the notice in the employee handbook or posting of the notice in a central location.

Any employee wishing to avail herself of this benefit is required to give the BOCES advance notice, preferably prior to her return to work, to allow the BOCES an opportunity to establish a location and schedule leave time to accommodate employees as needed.

f) Witnesses or Victims of Crimes

The BOCES will grant an unpaid leave of absence to an employee, who is a victim of or a witness to a criminal offense, that is required or chooses to appear as a witness, consult with the district attorney, or exercise his or her rights as provided in the Criminal Procedure Law, the Family Court Act, and the Executive Law.

To use this leave, the employee must provide notice of the need for leave at any time prior to the actual day of leave. The BOCES is permitted to ask the party who sought the attendance or testimony of the employee to provide verification of the employee's service. Employees will not be penalized or discharged for absences by reason of a required appearance as a witness in a criminal proceeding, or consultation with the district attorney, or exercising his or her rights as provided under the law.

g) Victims of Domestic Violence

Unless the absence would cause an undue hardship to the BOCES, the BOCES will provide reasonable accommodations to employees who are victims of domestic violence who must be absent from work for a reasonable time in accordance with law.

An employee availing themselves of this leave must provide the BOCES with reasonable advance notice, unless providing this notice is not feasible. An employee unable to provide reasonable advance notice must, within a reasonable time after the absence, provide a certification to the BOCES when requested.

To the extent allowed by law, the BOCES will maintain the confidentiality of any information related to an employee's status as a victim of domestic violence.

h) Military Leave

The BOCES will comply with state and federal laws regarding military leave and reemployment.

i) Jury Duty

As provided by law, any employee who is summoned to serve as a juror and who notifies the BOCES to that effect prior to his or her term of service will not, on account of absence by reason of jury service, be subject to discharge or penalty. The BOCES will ensure that all absences for this purpose are granted in accordance with law and the terms of any applicable collective bargaining agreement.

j) Voting

Employees who are registered voters and have four consecutive hours either between the opening of the polls and the beginning of their working shift, or between the end of their working shift and the closing of the polls, will be deemed to have sufficient time to vote and will therefore not be eligible for paid leave to vote in any election.

Employees who are registered voters, and do not have sufficient time outside of their working hours to vote in any election, may without loss of pay for up to two hours, take so much time off as will, when added to their voting time outside of their working hours, enable them to vote. The employee will be allowed time off for voting only at the beginning or the end of his or her working shift, as the BOCES may designate, unless otherwise mutually agreed.

Employees requiring working time off to vote must notify the BOCES not more than ten or less than two working days before the day of the election.

The BOCES must post a notice informing employees of their right to leave in order to vote not less than ten working days before an election and until polls close on election day. This notice will be conspicuously posted in a place where it can be seen by employees as they come and go to their place of work.

29 USC § 207(r)

Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), 38 USC §§ 4301-4333

Civil Service Law §§ 71-73 and 159-b

Education Law §§ 1709(16), 2509(6), 2573(12), 3005, 3005-a and 3005-b

Election Law § 3-110

Executive Law § 296(22)

General Municipal Law §§ 92, 92-c, and 92-d

Judiciary Law §§ 519 and 521

Labor Law §§ 202-a, 202-i, 202-j, 202-l and 206-c

Military Law §§ 242 and 243

Penal Law § 215.14

SWBOCES NON-DISCRIMINATION POLICY

The Southern Westchester Board of Cooperative Educational Services, its officers and employees, does not discriminate against any individuals, including but not limited to students, employees or applicants on the basis of race, color, national origin, ethnicity, religion, creed, sex, gender (including gender identity and gender expression), sexual orientation, disability, age, citizenship status, marital status, partner status, genetic information, predisposing genetic characteristics, weight, military status or service, political affiliation, or domestic violence victim status.

This policy of nondiscrimination includes access by students to educational programs; counseling services for students; course offerings and student activities; recruitment, appointment and promotion of employees; and employment pay and benefits. This policy also provides equal access to the Boy Scouts and other designated youth groups.

Inquiries regarding this policy should be directed to the Compliance Officers at Southern Westchester BOCES, 17 Berkley Drive, Rye Brook, NY 10573. (914) 937-3820.

Civil Rights Compliance Officers

Suzanne Doherty Director of Human Resources 17 Berkley Drive Rye Brook, NY 10573 Ph: (914) 937-3820 complianceofficer@swboces.org	Stephen Tibbetts Assistant Superintendent for Business & Administrative Services 17 Berkley Drive Rye Brook, NY 10573 Ph: (914) 937-3820 complianceofficer@swboces.org
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Personnel

SUBJECT: PROFESSIONAL STAFF CONSULTING ACTIVITIES

A professional employee invited to speak, lead a seminar, act as a consultant or become involved in other professional activities outside of their scope of duties with the SWBOCES is required to request advance permission from the District Superintendent/designee indicating what the activity will involve and identify the sponsor.

The purpose of the request is to provide full knowledge, so that any potential conflict of interest may be avoided and to document that the activity is occurring with such knowledge and assurance that no public trust is violated.

The District Superintendent/designee must ascertain that the activity is not in conflict with the basic mission of the organization and that public resources are not used for private gain.

However, employees who work for SWBOCES may not provide consulting services to districts or other SWBOCES for services available through SWBOCES. Employees who serve as consultants to districts, organizations or agencies outside the SWBOCES and receive compensation must use vacation or personal time.

NOTE: Refer also to Policies #2120 -- Copyright of Southern Westchester BOCES Work Products
#5110 -- Code of Ethics for Southern Westchester BOCES Officers
and All Southern Westchester BOCES Personnel

Adopted: 6/23/10

Personnel

SUBJECT: SEXUAL HARASSMENT IN THE WORKPLACE**Overview**

Southern Westchester BOCES ("SWBOCES") is committed to creating and maintaining an environment which is free from discrimination and harassment. Sexual harassment is one form of workplace discrimination. This policy addresses sexual harassment in the workplace. It is just one component of SWBOCES's overall commitment to maintaining a discrimination and harassment-free educational and work environment.

Sexual harassment is a form of employee misconduct, a violation of SWBOCES policy, and unlawful. Employees of every level who engage in sexual harassment, including supervisory personnel who engage in sexual harassment, who knowingly allow such behavior to continue, or fail to report suspected sexual harassment will be subject to remedial and/or disciplinary action by SWBOCES. Sexual harassment may also subject SWBOCES to liability for harm to targets of sexual harassment. Harassers may also be individually subject to liability.

SWBOCES adopts this policy as part of its effort to provide for the prompt and equitable resolution of complaints of sexual harassment in the workplace. SWBOCES will promptly respond to reports of sexual harassment in the workplace, ensure that all investigations are conducted within a reasonably prompt time frame and under a predictable fair grievance process that provides due process protections, and impose disciplinary measures and implement remedies when warranted.

Inquiries about this policy may be directed to the SWBOCES Civil Rights Compliance Officer(s) (CRCO(s)) and/or Title IX Coordinator(s).

Scope and Application

This policy applies to all instances of sexual harassment perpetrated against a "covered person," regardless of immigration status, by anyone in the workplace, including a co-worker, supervisor, or third-party such as a non-employee, paid or unpaid intern, vendor, building security, visitor, volunteer, parent, or student. For purposes of this policy, a "covered person" includes:

- a) Employees;
- b) Applicants for employment;
- c) Paid or unpaid interns; and
- d) Non-employees, which include anyone who is (or is employed by) a contractor, subcontractor, vendor, consultant, or other person providing services pursuant to a contract in the workplace.

(Continued)

Personnel

SUBJECT: SEXUAL HARASSMENT IN THE WORKPLACE (Cont'd.)

Sexual harassment in the workplace can occur between any individuals, regardless of their sex or gender. Unlawful sexual harassment is not limited to the physical workplace itself. Sexual harassment can occur on SWBOCES property and at SWBOCES functions which, for purposes of this policy, means a SWBOCES-sponsored or SWBOCES-authorized extracurricular event or activity regardless of where the event or activity takes place, including any event or activity that may take place virtually or in another state. It can also occur while employees are traveling for SWBOCES business. Calls, texts, emails, and social media usage can constitute unlawful workplace harassment, even if they occur away from SWBOCES property, on personal devices, or during non-work hours. Accordingly, conduct or incidents of sexual harassment that create or foreseeably create a disruption within SWBOCES may be subject to this policy in certain circumstances.

Other SWBOCES policies and documents such as regulations, procedures, collective bargaining agreements, and SWBOCES's *Code of Conduct* may address misconduct related to sexual harassment and may provide for additional, different, or more specific grievance procedures depending on a number of factors including, but not limited to, who is involved and where the alleged sexual harassment occurred. These documents must be read in conjunction with this policy. Applicable policies or documents may include: Policy #1440 -- Non-Discrimination.

The dismissal of a complaint under one policy or document does not preclude action under another related SWBOCES policy or document.

What Constitutes Sexual Harassment

Sexual harassment is a form of sex discrimination and is unlawful under federal, state, and (where applicable) local law. Sexual harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity, and the status of being transgender.

Sexual harassment includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual's sex, gender or sexual orientation when:

- a) Such conduct has the purpose or effect of substantially or unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment, even if the reporting individual is not the intended subject of the sexual harassment;
- b) Such conduct is made either explicitly or implicitly a term or condition of employment; or
- c) Submission to or rejection of such conduct is used as the basis for employment decisions affecting covered person's employment.

(Continued)

Personnel

SUBJECT: SEXUAL HARASSMENT IN THE WORKPLACE (Cont'd.)

A sexually harassing hostile work environment includes, but is not limited to, words, signs, jokes, pranks, intimidation or physical violence which are of a sexual nature, or which are directed at an individual because of that individual's sex, sexual orientation or gender. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements or sexually discriminatory remarks made by someone which are offensive or objectionable to the recipient or which cause the recipient discomfort or humiliation or which interfere with the recipient's job performance.

Sexual harassment also occurs when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment or any other terms, conditions, or privileges of employment. This is also called "quid pro quo" harassment.

Any covered person who is the subject of sexual harassment should report the conduct so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be addressed under this policy.

Examples of Sexual Harassment

The following describes some actions that may constitute unlawful sexual harassment and that are strictly prohibited:

- a) Physical acts of a sexual nature, such as:
 - 1. Unwelcome or offensive public sexual display of affection, including, but not limited to touching, pinching, patting, kissing, hugging, grabbing, brushing against another person's body or poking another person's body; and
 - 2. Rape, sexual assault, forcible sexual abuse, sexual battery, molestation, hazing and other sexual and gender-based activity of a criminal nature as defined under State Penal law, or attempts to commit these acts.
- b) Unwelcome sexual advances or propositions, such as:
 - 1. Requests for sexual favors accompanied by implied or overt threats concerning the subject's job performance evaluation, a promotion or other job benefits or detriments; and
 - 2. Subtle or obvious pressure for unwelcome sexual activities.
- c) Sexually oriented gestures, noises, remarks or jokes, or comments about a person's sexuality or sexual experience, which create a hostile work environment.
- d) Sex stereotyping, which occurs when conduct or personality traits are considered inappropriate simply because they may not conform to other people's ideas or perceptions about how individuals of a particular sex should act or look.

(Continued)

Personnel

SUBJECT: SEXUAL HARASSMENT IN THE WORKPLACE (Cont'd.)

- e) Sexual or discriminatory displays or publications anywhere in the workplace, such as pictures, posters, calendars, graffiti, objects, promotional material, reading materials, or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace.
- f) Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity, or the status of being transgender, such as:
 - 1. Interfering with, destroying or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job;
 - 2. Sabotaging an individual's work; and
 - 3. Bullying, yelling, or name-calling.

For the purposes of this Policy, action or conduct shall be considered "unwelcome" if the covered person did not request or invite it and regarded the conduct as undesirable or offensive.

Prohibition of Retaliatory Behavior (Whistle-Blower Protection)

Unlawful retaliation can be any action that could discourage a covered person from coming forward to make or support a sexual harassment claim. Adverse action need not be job-related or occur in the workplace to constitute unlawful retaliation (e.g., threats of physical violence outside of work hours).

SWBOCES prohibits any retaliatory behavior directed against complainants, victims, witnesses, and/or any other individuals who participate in the investigation of a complaint of sexual harassment. Such retaliation is unlawful under federal, state, and (where applicable) local law. The New York State Human Rights Law protects any individual who has engaged in "protected activity." Protected activity occurs when a person has:

- a) Made a complaint of sexual harassment, either internally or with any anti-discrimination agency;
- b) Testified or assisted in a proceeding involving sexual harassment under the Human Rights Law or other anti-discrimination law;
- c) Opposed sexual harassment by making a verbal or oral or informal complaint of harassment to a supervisor, building principal, other administrator, or the CRCO;
- d) Reported or complained that another employee has been sexually harassed; or

(Continued)

Personnel

SUBJECT: SEXUAL HARASSMENT IN THE WORKPLACE (Cont'd.)

- e) Encouraged a fellow employee to report harassment.

Any employee of SWBOCES who retaliates against anyone involved in a sexual harassment investigation will be subjected to disciplinary action. Any covered person who believes that they have been subject to such retaliation should inform a supervisor, building principal, other administrator, or the CRCO.

Even if the alleged harassment does not turn out to rise to the level of a violation of law, the individual is protected from retaliation if the person had a good faith belief that the conduct was unlawful. However, the retaliation provision is not intended to protect persons making intentionally false charges of harassment.

Reporting Allegations of Sexual Harassment

Preventing sexual harassment is everyone's responsibility. SWBOCES cannot prevent or remedy sexual harassment unless it knows about it. Any covered person who has been subjected to behavior that may constitute sexual harassment is encouraged to report such behavior to a supervisor, building principal, other administrator, or the CRCO. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior.

Reports of sexual harassment may be made verbally or in writing. A form for submission of a written complaint is posted on SWBOCES website, and all covered persons are encouraged to use this complaint form. Persons who are reporting sexual harassment on behalf of another person should use the complaint form and note that it is being submitted on another person's behalf.

District employees must comply with reporting requirements in any other applicable District policy or document. Applicable policies or documents may include: Policy #1440 -- Non-Discrimination.

Any covered person who believes they have been a subject of sexual harassment may also seek assistance in other available forums, as explained in this policy.

Supervisory Responsibilities

All supervisors, building principals, and other administrators who receive a complaint or information about suspected sexual harassment, observe what may be sexually harassing behavior or for any reason suspect that sexual harassment is occurring, are required to report such suspected sexual harassment to a CRCO. If one CRCO is unavailable, including due to a conflict of interest or other disqualifying reason, the report will be directed to the other CRCO. If there is no CRCO available, the District Superintendent or designee will ensure that another person with the appropriate training and qualifications is appointed to act as the CRCO.

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Personnel

SUBJECT: SEXUAL HARASSMENT IN THE WORKPLACE (Cont'd.)

In addition to being subject to discipline if they engaged in sexually harassing conduct themselves, supervisors, building principals, and other administrators will be subject to discipline for failing to report suspected sexual harassment or otherwise knowingly allowing sexual harassment to continue.

Supervisors, building principals, and other administrators will also be subject to discipline for engaging in any retaliation.

Investigating Complaints of Sexual Harassment

All complaints or information about sexual harassment will be investigated, whether that information was reported in verbal or written form. Investigations will be conducted in a timely manner, and will be confidential to the extent possible.

An investigation of any complaint, information or knowledge of suspected sexual harassment will be prompt and thorough, commenced immediately and completed as soon as possible. The investigation will be kept confidential to the extent possible. Disclosure may, however, be necessary to complete a thorough investigation of the charges and/or notify law enforcement officials. All persons involved, including complainants, witnesses, and alleged harassers will be accorded due process, as outlined below, and in accordance with any applicable collective bargaining agreements to protect their rights to a fair and impartial investigation.

SWBOCES will not tolerate retaliation against anyone who files complaints, supports another's complaint, or participates in an investigation regarding a violation of this policy.

While the process may vary from case to case, investigations should be done in accordance with the following steps:

- a) Upon receipt of a complaint, the CRCO will conduct an immediate review of the allegations, and take any interim actions (e.g., instructing the respondent to refrain from communications with the complainant), as appropriate.

If the CRCO is unavailable, including due to a conflict of interest or other disqualifying reason, the report will be directed to the other CRCO. If there is no CRCO available, the District Superintendent or designee will ensure that another person with the appropriate training and qualifications is appointed to act as the CRCO.

- b) All complaints of sexual harassment will be investigated regardless of the form in which those complaints are made. For verbal complaints, the individual will be encouraged to complete the complaint form, which is available on the SWBOCES website, in writing. If he or she refuses, a complaint form based on the verbal report will be prepared. The complainant will be provided a copy of the completed complaint form.

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Personnel

SUBJECT: SEXUAL HARASSMENT IN THE WORKPLACE (Cont'd.)

- c) If documents, emails, or phone records are relevant to the investigation, take steps to obtain and preserve them.
- d) Request and review all relevant documents, including all electronic communications.
- e) Interview all parties involved, including any relevant witnesses. If a student is involved, SWBOCES will follow all applicable SWBOCES policies and procedures regarding questioning students.
- f) Create written documentation of the investigation (such as a letter, memo, or email), which contains the following:
 - 1. A list of all documents reviewed, along with a detailed summary of relevant documents;
 - 2. A list of names of those interviewed, along with a detailed summary of their statements;
 - 3. A timeline of events;
 - 4. A summary of prior relevant incidents, reported or unreported; and
 - 5. The basis for the decision and final resolution of the complaint, together with any corrective action(s).
- g) Keep the written documentation and associated documents in a secure and confidential location.
- h) Promptly notify the individual who reported and the individual(s) about whom the complaint was made of the final determination and implement any corrective actions identified in the written document. Such notification must be made no later than thirty (30) days following receipt of the complaint. If additional time is needed to complete the investigation or take appropriate action, the investigator will provide a written status report within thirty (30) days following receipt of the complaint.
- i) Inform the individual who reported of the right to file a complaint or charge externally as outlined in this policy.

Additionally, other SWBOCES policies and documents address sexual harassment. These policies and documents may include: Policy #1440 -- Non-Discrimination. All complaints will be handled in accordance with the applicable SWBOCES policies and/or documents.

The determination as to which SWBOCES policies and/or documents are applicable is fact specific, and the CRCO may work with other SWBOCES staff such as SWBOCES's Title IX Coordinator(s) to determine which SWBOCES policies and/or documents are applicable to the specific facts of the complaint.

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Personnel

SUBJECT: SEXUAL HARASSMENT IN THE WORKPLACE (Cont'd.)

If an investigation reveals that sexual harassment has occurred, SWBOCES will take immediate corrective action as warranted. This action will be taken in accordance with applicable law and regulation, as well as any applicable SWBOCES policy, regulation, procedure, collective bargaining agreement, third-party contract, or other document such as SWBOCES's *Code of Conduct*.

Annual Training

SWBOCES will provide a sexual harassment prevention training program to all employees on an annual basis. All new employees will receive sexual harassment prevention training at new employee orientation or as soon as possible after starting their job, unless he/she can demonstrate that they have received equivalent training within the past year from a previous employer. The training will be interactive and will include:

- a) An explanation of sexual harassment consistent with guidance issued by the Department of Labor in consultation with the Division of Human Rights;
- b) Examples of conduct that would constitute unlawful sexual harassment;
- c) Information concerning the federal and state statutory provisions concerning sexual harassment and remedies available to subjects of sexual harassment;
- d) Information concerning employees' rights of redress and all available forums for adjudicating complaints; and
- e) Information addressing conduct by supervisors and any additional responsibilities for such supervisors.

Supervisors, building principals, other administrators, the CRCO(s) and other administrative employees who have specific responsibilities for investigating and resolving complaints of sexual harassment shall receive annual training on this policy and related legal developments.

Notification

SWBOCES will provide this policy to all employees in writing. SWBOCES will post this policy prominently throughout SWBOCES to the extent practicable and on the SWBOCES website.

At the time of hiring and at every annual sexual harassment prevention training program, SWBOCES will provide each employee a notice containing this policy and the information presented at the SWBOCES sexual harassment prevention training program.

This notice will be provided in English and in the language identified by the employee as his or her primary language, provided that the New York State Department of Labor Commissioner has published a template of the model materials in that language.

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Personnel

SUBJECT: SEXUAL HARASSMENT IN THE WORKPLACE (Cont'd.)

The notice will be delivered in writing, either in print or digitally. The notice will either link to or include, as an attachment or printed copy, the policy and training materials.

Legal Protections and External Remedies

Sexual harassment is not only prohibited by SWBOCES but is also prohibited by state, federal, and, where applicable, local law.

Aside from SWBOCES's internal process, individuals may also choose to pursue legal remedies with the following governmental entities.

In addition to those outlined below, individuals may have additional legal protections.

State Human Rights Law (HRL)

The HRL, codified as N.Y. Executive Law, art. 15, Section 290 et seq., applies to all employers in New York State with regard to sexual harassment, and protects covered persons, regardless of immigration status. A complaint alleging violation of the HRL may be filed either with the Division of Human Rights (DHR) or in New York State Supreme Court.

Complaints with DHR may be filed any time within three years of the harassment. If an individual did not file with DHR, they can sue directly in state court under the HRL, within three years of the alleged sexual harassment. An individual may not file with DHR if they have already filed a HRL complaint in state court.

Complaining internally to SWBOCES does not extend the time to file with DHR or in court. The three years is counted from the date of the most recent incident of harassment.

Individuals do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.

DHR will investigate the complaint and determine whether there is probable cause to believe that sexual harassment has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If sexual harassment is found after a hearing, DHR has the power to award relief, which varies but may include requiring SWBOCES to take action to stop the harassment, or redress the damage caused, including paying of monetary damages, attorney's fees, and civil fines.

DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458. Individuals may call (718) 741-8400 or visit: www.dhr.ny.gov.

Contact DHR at (888) 392-3644 or visit dhr.ny.gov/complaint for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized and mailed to DHR. The website also contains contact information for DHR's regional offices across New York State.

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Personnel

SUBJECT: SEXUAL HARASSMENT IN THE WORKPLACE (Cont'd.)Civil Rights Act of 1964

The United States Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. §§ 2000e *et seq.*). An individual can file a complaint with the EEOC anytime within 300 days from the harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.

The EEOC does not hold hearings or award relief but may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred.

An individual alleging discrimination at work can file a "Charge of Discrimination." The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (TTY: 1-800-669-6820), visiting their website at www.eeoc.gov, or via email at info@eeoc.gov.

If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

Title IX

Title IX of the Education Amendments Act of 1972 prohibits discrimination on the basis of sex in any federally funded education program or activity. The U.S. Department of Education's Office for Civil Rights (OCR) enforces Title IX of the Education Amendments Act of 1972.

For more information about how to file a complaint, contact OCR at 800-421-3481 (TDD 800-877-8339) or visit: <https://www2.ed.gov/about/offices/list/ocr/docs/howto.html>. The website contains information about filing the complaint online, by mail, or by email.

Local Protections

Many localities enforce laws protecting individuals from sexual harassment and discrimination. An individual should contact the county, city, or town in which they live to find out if such a law exists.

Local Police Department

If the harassment involves unwanted physical touching, coerced physical confinement, or coerced sex acts, the conduct may constitute a crime. Contact the local police department.

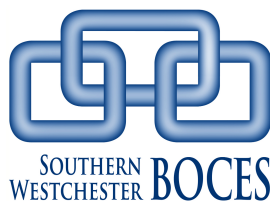
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SUBJECT: SEXUAL HARASSMENT IN THE WORKPLACE (Cont'd.)

Title VII of the Civil Rights Act of 1964, 42 USC § 2000e et seq.
Title IX of the Education Amendments Act of 1972, 20 USC § 1681 et seq.
29 CFR § 1604.11(a)
34 CFR Subtitle B, Chapter I
Civil Service Law § 75-b
New York State Human Rights Law, Executive Law § 290 et seq.
Labor Law § 201-g

NOTE: Refer also to Policies #1440 -- Non-Discrimination

Adoption Date June 23, 2021



Book	SW BOCES Policies
Section	5000 - NON-INSTRUCTIONAL/BUSINESS OPERATIONS
Title	Smoking, Tobacco, and Cannabis (Marijuana) Use
Code	5640
Status	Active
Adopted	April 26, 2023

The BOCES will communicate this policy to staff, students, parents/guardians, volunteers, visitors, contractors, and outside groups through means such as the BOCES' Code of Conduct, student handbooks, newsletters, announcements, facilities use forms/agreements, and/or the prominent display of this policy in appropriate locations.

Prohibition of Tobacco Promotional Items/Tobacco Advertising

Tobacco promotional items (e.g., brand names, logos, and other identifiers) are prohibited:

- a) On school grounds;
- b) In any vehicles used to transport students or school personnel;
- c) At school functions;
- d) In school publications;
- e) On clothing, shoes, accessories, gear, and school supplies in accordance with the BOCES' *Code of Conduct* and applicable collective bargaining agreements.

This prohibition of tobacco promotional items will be enforced in accordance with the BOCES' *Code of Conduct* and applicable collective bargaining agreements.

The BOCES will request, whenever possible, tobacco free editions of periodical publications for school libraries and classroom use.

20 USC §§ 6081-6084 and 7971-7974

41 USC § 8101 et seq.

Education Law § 409

Penal Law § 222.10

Public Health Law §§ 1399-n, 1399-o, 1399-p, and 1399-aa

8 NYCRR §§ 155.5 and 156.3

NOTE: Refer also to Policies #3280 -- Use of BOCES Facilities, Materials, and Equipment
 #6150 -- Alcohol, Tobacco, Drugs, and Other Substances (Staff)
 #7320 -- Alcohol, Tobacco, Drugs, and Other Substances (Students)
 #8240 -- Instruction in Certain Subjects
 BOCES *Code of Conduct*

SUBJECT: STAFF ACCEPTABLE USE POLICY

The Board of Education will provide staff with access to various computerized information resources through the BOCES Computer System (BCS hereafter) consisting of software, hardware, devices, computer networks, wireless networks/access and electronic communication systems. This may include access to email, online services and the internet. It may also include the opportunity for staff to have access to the BCS from their home or other remote locations, and/or to access the BCS from their personal devices, such as smart phones. All use of the BCS and the wireless network, including use of Southern Westchester BOCES (“BOCES”) property and use on personal devices, shall be subject to this policy and accompanying regulations.

The Board encourages staff to make use of the BCS to explore educational topics, conduct research and contact others in the educational world. The Board believes that staff access to various computerized information resources will allow staff members to perform their duties better, more quickly and more efficiently. As such, the Board directs the District Superintendent or his/her designee(s) to provide staff with training in the proper and effective use of the BCS.

Staff are not guaranteed access to the BCS. Staff use of and access to the BCS is conditioned upon compliance with the requirements of this policy and any regulations adopted to ensure acceptable use of the BCS. Staff will be required to acknowledge they have read and understand this policy and any accompanying regulations and that their access and use of the BCS is conditioned on their compliance with this policy and any accompanying regulations.

The same standards of acceptable staff conduct which apply to an employee’s job performance also applies to use of the BCS. Employees are expected to communicate in a professional manner consistent with applicable BOCES policies and regulations governing the behavior of BOCES staff. Email and/or telecommunications are not to be utilized to share confidential information about students or other employees except as authorized by this policy and accompanying regulation.

Staff personal use of the BCS is allowable on a limited basis. Personal use of the BCS should be kept to a minimum, may not interfere with the performance of the employee’s duties and responsibilities and should only occur during non-student contact times and/or during approved break times. The use of streaming services (personal or work related) such as Hulu, Netflix, Amazon Prime, Amazon Music, Pandora, as well as other other streaming services not identified here are not permitted. Questions or concerns regarding the use of these services on the BCS should be directed to the office of the Director of Technology.

This policy does not identify all required and/or acceptable uses of the BCS; nor is it the intention of this policy to define all inappropriate usage. Administrative regulations will further define general guidelines of appropriate staff conduct and use as well as prohibited behavior.

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SUBJECT: STAFF ACCEPTABLE USE POLICY (Cont'd)

BOCES staff shall also adhere to the laws, policies and rules that apply to computers and electronic information including, but not limited to, copyright laws, rights of software publishers, license agreements, and rights of privacy protected by federal and state law.

Staff members who engage in unacceptable use may lose access to the BCS and may be subject to further discipline under the law and in accordance with any applicable collective bargaining agreements. Legal action may be initiated against a staff member who willfully, maliciously or unlawfully damages or destroys property of the BOCES or its networks.

Social Media Use by Employees

The BOCES recognizes the value of the use of new technologies to enhance student learning experiences. The BOCES also realizes its obligations to teach and ensure responsible and safe use of these new technologies. Social media, including social networking sites, have great potential to connect people around the globe and enhance communication. Therefore, the Board of Education encourages the use of BOCES-approved social media tools and the use of new and emerging technologies to supplement the range of communication and educational services in the employee's role. The definition of BOCES-approved password-protected social media tools are those that are part of the BOCES electronic technology network and/or those Public Social Media Networks or Social Networking Sites (SNS) which the BOCES has approved for educational use, where the BOCES has greater authority and ability to protect minors from inappropriate content and can limit public access. For purposes of this policy, Public Social Media Networks or Social Networking Sites (SNS) are defined to include, but are not limited to: websites, blogs, wikis, social networks, online forums, virtual worlds, video sites and any other social media generally available to the public, including the BOCES community (e.g., Pinterest, Facebook, Twitter, LinkedIn, Flickr, Vine, Instagram, SnapChat, blog sites, etc.), which do not fall within the BOCES electronic technology network.

Generally, the BOCES takes no position on an employee's use of social media or SNS on their personal time. However, employees may be subject to discipline for inappropriate personal use of social media or SNS during their personal time where there is a nexus (i.e., connection) between such use and their position in the BOCES. Personal use of these media during BOCES time or on BOCES-owned equipment is ***allowed on a limited basis***. Personal use should be kept to a minimum, may not interfere with the performance of the employee's duties and responsibilities and may only occur during non-student contact times and/or during approved break times. In addition, employees are expected to maintain the highest levels of professionalism when communicating in their professional capacity, whether using BOCES devices or their own personal devices. Employees also have a responsibility to address inappropriate behavior or activity on these networks, including requirements for mandated reporting and compliance with all applicable BOCES Policies and Regulations. For more information please refer to the BOCES Social Media Regulation.

(Continued)

SUBJECT: STAFF ACCEPTABLE USE POLICY (Cont'd)**Confidentiality, Private Information and Privacy Rights**

Confidential and/or private data, including but not limited to, protected student records, employee personally identifiable information, and assessment data, shall only be loaded, stored or transferred to BOCES-owned devices which have encryption and/or password protection. This restriction, designed to ensure data security, encompasses all computers and devices within the BCS, any mobile devices, including flash or key drives, and any devices that access the BCS from remote locations, such as an employee's home. Staff may not use email to transmit confidential files to themselves or others in order to work at home or another location. Staff may not use personal email accounts to conduct BOCES business. Staff may not use cloud-based storage services (such as Dropbox, GoogleDrive, One Drive, etc.) for confidential files. Staff are responsible for complying with the requirements of the Family Educational Rights and Privacy Act, New York State Education Law Section 2-d and Part 121 of the Commissioner's Regulations when storing, accessing and transmitting confidential student information and data over the BCS.

Staff may not leave any devices unattended with confidential information visible. All devices are required to be locked down while the staff member steps away from the device, and settings enabled to freeze and lock after a set period of inactivity.

Staff data files and electronic storage areas shall remain BOCES property, subject to BOCES control and inspection. The BOCES may access and/or monitor all such files and communications without prior notice for any reason. Staff should **NOT** expect that information stored on the BCS will be private. Staff have no expectation of privacy in any files and/or information contained in the BCS, including but not limited to, any BOCES devices/equipment, computers, smart/mobile phones and/or tablets, the BOCES network/server and/or the BOCES' email system.

Rules of Conduct and Compliance

Employees who violate this policy and/or its accompanying regulations may have their access rights suspended or revoked by the BOCES. In addition, disciplinary action may be taken as permitted by applicable law and the terms of any applicable collective bargaining agreements. A list of non-exhaustive examples of prohibited uses of the BCS is provided in Regulation 6413R.

Implementation

Administrative regulations will be developed to implement the terms of this policy, addressing general parameters of acceptable staff conduct as well as prohibited activities so as to provide appropriate guidelines for employee use of the BCS.

This policy is subject to change. The BOCES reserves the right to restrict or terminate BCS access at any time for any reason. The BOCES further reserves the right to monitor network activity as it sees fit in order to maintain the integrity of the BCS and to monitor acceptable use.

(Continued)

SUBJECT: STAFF ACCEPTABLE USE POLICY (Cont'd)

Disciplinary penalties will be determined in accordance with applicable law and the terms of applicable collective bargaining agreements. However, revocation of access will be determined by the network administrator, acting in consultation with Building and BOCES-wide administrators.

Staff must sign off on an acknowledgment that they have read, understand and agree to this policy and its accompanying regulation as a condition of use of and access to the BCS.

NOTE: Refer also to Policies #5672 -- Information Security Breach and Notification
#6410R.1 Social Media Guidelines for Employees
#8271 -- Internet Safety/Internet Content Filtering Policy

SUBJECT: PRIVACY AND SECURITY FOR STUDENT DATA AND TEACHER AND PRINCIPAL DATA

Southern Westchester BOCES ("SWBOCES") is committed to maintaining the privacy and security of student data and teacher and principal data and will follow all applicable laws and regulations for the handling and storage of this data in SWBOCES and when disclosing or releasing it to others, including, but not limited to, third-party contractors. SWBOCES adopts this policy to implement the requirements of Education Law Section 2-d and its implementing regulations, as well as to align the data privacy and security practices of SWBOCES with the National Institute for Standards and Technology Framework for Improving Critical Infrastructure Cybersecurity (Version 1.1).

Definitions

As provided in Education Law Section 2-d and/or its implementing regulations, the following terms, as used in this policy, will mean:

- a) "Breach" means the unauthorized acquisition, access, use, or disclosure of student data and/or teacher or principal data by or to a person not authorized to acquire, access, use, or receive the student data and/or teacher or principal data.
- b) "Principal" means a building principal, or an Administrator in charge of an instructional program of SWBOCES subject to annual performance evaluation review under the provisions of Education Law Section 3012-c.
- c) "Teacher" means a classroom teacher subject to annual performance evaluation review under the provisions of Education Law Section 3012-c.
- d) "Commercial or marketing purpose" means the sale of student data; or its use or disclosure for purposes of receiving remuneration, whether directly or indirectly; the use of student data for advertising purposes, or to develop, improve, or market products or services to students.
- e) "Contract or other written agreement" means a binding agreement between an educational agency and a third-party, which includes, but is not limited to, an agreement created in electronic form and signed with an electronic or digital signature or a click-wrap agreement that is used with software licenses, downloaded, and/or online applications and transactions for educational technologies and other technologies in which a user must agree to terms and conditions prior to using the product or service.
- f) "Disclose" or "disclosure" means to permit access to, or the release, transfer, or other communication of personally identifiable information by any means, including oral, written, or electronic, whether intended or unintended.
- g) "Education records" means an education record as defined in the Family Educational Rights and Privacy Act and its implementing regulations, 20 USC Section 1232g and 34 CFR Part 99, respectively.

SUBJECT: PRIVACY AND SECURITY FOR STUDENT DATA AND TEACHER AND PRINCIPAL DATA (Continued)

- h) "Educational agency" means a school district, board of cooperative educational services (BOCES), school, or the New York State Education Department (NYSED).
- i) "Eligible student" means a student who is eighteen years or older.
- j) "Encryption" means methods of rendering personally identifiable information unusable, unreadable, or indecipherable to unauthorized persons through the use of a technology or methodology specified or permitted by the Secretary of the United States Department of Health and Human Services in guidance issued under 42 USC Section 17932(h)(2).
- k) "FERPA" means the Family Educational Rights and Privacy Act and its implementing regulations, 20 USC Section 1232g and 34 CFR Part 99, respectively.
- l) "NIST Cybersecurity Framework" means the U.S. Department of Commerce National Institute for Standards and Technology Framework for Improving Critical Infrastructure Cybersecurity (Version 1.1).
- m) "Parent" means a parent, legal guardian, or person in parental relation to a student.
- n) "Personally identifiable information (PII)," as applied to student data, means personally identifiable information as defined in 34 CFR Section 99.3 implementing FERPA and, as applied to teacher or principal data, means personally identifying information as this term is defined in Education Law Section 3012-c(10).
- o) "Release" has the same meaning as disclosure or disclose.
- p) "Student" means any person attending or seeking to enroll in an educational agency.
- q) "Student data" means personally identifiable information from the student records of an educational agency.
- r) "Teacher or principal data" means personally identifiable information from the records of an educational agency relating to the annual professional performance reviews of teachers or principals that is confidential and not subject to release under the provisions of Education Law Sections 3012-c and 3012-d.
- s) "Third-party contractor" means any person or entity, other than an educational agency, that receives student data or teacher or principal data from an educational agency pursuant to a contract or other written agreement for purposes of providing services to the educational

SUBJECT: PRIVACY AND SECURITY FOR STUDENT DATA AND TEACHER AND PRINCIPAL DATA (Continued)

agency, including but not limited to data management or storage services, conducting studies for or on behalf of the educational agency, or audit or evaluation of publicly funded programs. This term will include an educational partnership organization that receives student and/or teacher or principal data from a school district to carry out its responsibilities pursuant to Education Law Section 211-e and is not an educational agency, and a not-for-profit corporation or other nonprofit organization, other than an educational agency.

- t) "Unauthorized disclosure" or "unauthorized release" means any disclosure or release not permitted by federal or state statute or regulation, any lawful contract or written agreement, or that does not respond to a lawful order of a court or tribunal or other lawful order.

Data Collection Transparency and Restrictions

As part of its commitment to maintaining the privacy and security of student data and teacher and principal data, SWBOCES will take steps to minimize its collection, processing, and transmission of PII. Additionally, SWBOCES will:

- a) Not sell PII nor use or disclose it for any marketing or commercial purpose or facilitate its use or disclosure by any other party for any marketing or commercial purpose or permit another party to do so.
- b) Ensure that it has provisions in its contracts with third-party contractors or in separate data sharing and confidentiality agreements that require the confidentiality of shared student data or teacher or principal data be maintained in accordance with law, regulation, and SWBOCES policy.

Except as required by law or in the case of educational enrollment data, SWBOCES will not report to NYSED the following student data elements:

- a) Juvenile delinquency records;
- b) Criminal records;
- c) Medical and health records; and
- d) Student biometric information.

Nothing in Education Law Section 2-d or this policy should be construed as limiting the administrative use of student data or teacher or principal data by a person acting exclusively in the person's capacity as an employee of SWBOCES.

SUBJECT: PRIVACY AND SECURITY FOR STUDENT DATA AND TEACHER AND PRINCIPAL DATA (Continued)

Chief Privacy Officer

The Commissioner of Education has appointed a Chief Privacy Officer who will report to the Commissioner on matters affecting privacy and the security of student data and teacher and principal data.

SWBOCES will comply with its obligation to report breaches or unauthorized releases of student data or teacher or principal data to the Chief Privacy Officer in accordance with Education Law Section 2-d, its implementing regulations, and this policy.

The Chief Privacy Officer has the power, among others, to:

- a) Access all records, reports, audits, reviews, documents, papers, recommendations, and other materials maintained by SWBOCES that relate to student data or teacher or principal data, which includes, but is not limited to, records related to any technology product or service that will be utilized to store and/or process PII; and
- b) Based upon a review of these records, require SWBOCES to act to ensure that PII is protected in accordance with laws and regulations, including but not limited to requiring SWBOCES to perform a privacy impact and security risk assessment.

Data Protection Officer

The Director of Technology of SWBOCES shall serve as the Data Protection Officer of SWBOCES.

The Data Protection Officer is responsible for the implementation and oversight of this policy and any related procedures including those required by Education Law Section 2-d and its implementing regulations, as well as serving as the main point of contact for data privacy and security for SWBOCES.

SWBOCES will ensure that the Data Protection Officer has the appropriate knowledge, training, and experience to administer these functions. The Data Protection Officer may perform these functions in addition to other job responsibilities. Additionally, some aspects of this role may be outsourced to a provider, to the extent available and deemed appropriate by the Chief Operating Officer/Deputy District Superintendent of SWBOCES.

SUBJECT: PRIVACY AND SECURITY FOR STUDENT DATA AND TEACHER AND PRINCIPAL DATA (Continued)

Data Privacy and Security Standards

SWBOCES will use the National Institute for Standards and Technology Framework for Improving Critical Infrastructure Cybersecurity (Version 1.1) (Framework) as the standard for its data privacy and security program. The Framework is a risk-based approach to managing cybersecurity risk and is composed of three parts: the Framework Core, the Framework Implementation Tiers, and the Framework Profiles. The Framework provides a common taxonomy and mechanism for organizations to:

- a) Describe their current cybersecurity posture;
- b) Describe their target state for cybersecurity;
- c) Identify and prioritize opportunities for improvement within the context of a continuous and repeatable process;
- d) Assess progress toward the target state; and
- e) Communicate among internal and external stakeholders about cybersecurity risk.

SWBOCES will protect the privacy of PII by:

- a) Ensuring that every use and disclosure of PII by SWBOCES benefits students and SWBOCES by considering, among other criteria, whether the use and/or disclosure will:
 - 1. Improve academic achievement;
 - 2. Empower parents and students with information; and/or
 - 3. Advance efficient and effective school operations.
- b) Not including PII in public reports or other public documents.

SWBOCES affords all protections under FERPA and the Individuals with Disabilities Education Act and their implementing regulations to parents or eligible students, where applicable.

**SUBJECT: PRIVACY AND SECURITY FOR STUDENT DATA AND TEACHER AND
PRINCIPAL DATA (Continued)****Third-Party Contractors**SWBOCES Responsibilities

SWBOCES will ensure that whenever it enters into a contract or other written agreement with a third-party contractor under which the third-party contractor will receive student data or teacher or principal data from SWBOCES, the contract or written agreement will include provisions requiring that confidentiality of shared student data or teacher or principal data be maintained in accordance with law, regulation, and SWBOCES policy.

In addition, SWBOCES will ensure that the contract or written agreement includes the third-party contractor's data privacy and security plan that has been accepted by SWBOCES.

The third-party contractor's data privacy and security plan must, at a minimum:

- a) Outline how the third-party contractor will implement all state, federal, and local data privacy and security contract requirements over the life of the contract, consistent with SWBOCES policy;
- b) Specify the administrative, operational, and technical safeguards and practices the third-party contractor has in place to protect PII that it will receive under the contract;
- c) Demonstrate that the third-party contractor complies with the requirements of 8 NYCRR Section 121.3(c);
- d) Specify how officers or employees of the third-party contractor and its assignees who have access to student data or teacher, or principal data receive or will receive training on the laws governing confidentiality of this data prior to receiving access;
- e) Specify if the third-party contractor will utilize subcontractors and how it will manage those relationships and contracts to ensure PII is protected;
- f) Specify how the third-party contractor will manage data privacy and security incidents that implicate PII including specifying any plans to identify breaches and unauthorized disclosures, and to promptly notify SWBOCES;
- g) Describe whether, how, and when data will be returned to SWBOCES, transitioned to a successor contractor, at the option and direction of SWBOCES, deleted or destroyed by the third-party contractor when the contract is terminated or expires; and
- h) Include a signed copy of the Parents' Bill of Rights for Data Privacy and Security.

SUBJECT: PRIVACY AND SECURITY FOR STUDENT DATA AND TEACHER AND PRINCIPAL DATA (Continued)Third-Party Contractor Responsibilities

Each third-party contractor, that enters into a contract or other written agreement with SWBOCES under which the third-party contractor will receive student data or teacher or principal data from SWBOCES, is required to:

- a) Adopt technologies, safeguards, and practices that align with the NIST Cybersecurity Framework;
- b) Comply with SWBOCES policy and Education Law Section 2-d and its implementing regulations.
- c) Limit internal access to PII to only those employees or subcontractors that have legitimate educational interests (i.e., they need access to provide the contracted services);
- d) Not use the PII for any purpose not explicitly authorized in its contract;
- e) Not disclose any PII to any other party without the prior written consent of the parent or eligible student:
 - 1. Except for authorized representatives of the third-party contractor such as a subcontractor or assignee to the extent they are carrying out the contract and in compliance with law, regulation, and its contract with SWBOCES; or
 - 2. Unless required by law or court order and the third-party contractor provides a notice of the disclosure to NYSED, the Board, or the institution that provided the information no later than the time the information is disclosed, unless providing notice of the disclosure is expressly prohibited by law or court order;
- f) Maintain reasonable administrative, technical, and physical safeguards to protect the security, confidentiality, and integrity of PII in its custody;
- g) Use encryption to protect PII in its custody while in motion or at rest; and
- h) Not sell PII nor use or disclose it for any marketing or commercial purpose or facilitate its use or disclosure by any other party for any marketing or commercial purpose or permit another party to do so.

Where a third-party contractor engages a subcontractor to perform its contractual obligations, the data protection obligations imposed on the third-party contractor by law and contract apply to the subcontractor.

SUBJECT: PRIVACY AND SECURITY FOR STUDENT DATA AND TEACHER AND PRINCIPAL DATA (Continued)

Cooperative Educational Services through a BOCES

SWBOCES may not be required to enter into a separate contract or data sharing and confidentiality agreement with a third-party contractor that will receive student data or teacher or principal data from SWBOCES under all circumstances.

For example, SWBOCES may not need its own contract or agreement where:

- a) It has entered into a cooperative educational service agreement (CoSer) with another BOCES that includes use of a third-party contractor's product or service; and
- b) That other BOCES has entered into a contract or data sharing and confidentiality agreement with the third-party contractor, pursuant to Education Law Section 2-d and its implementing regulations, that is applicable to SWBOCES's use of the product or service under that CoSer.

To meet its obligations whenever student data or teacher or principal data from SWBOCES is received by a third-party contractor pursuant to a CoSer, the SWBOCES will consult with the BOCES offering the CoSer to, among other things:

- a) Ensure there is a contract or data sharing and confidentiality agreement pursuant to Education Law Section 2-d and its implementing regulations in place that would specifically govern the use by SWBOCES of a third-party contractor's product or service under a particular CoSer;
- b) Determine procedures for including supplemental information about any applicable contracts or data sharing and confidentiality agreements that the BOCES offering the CoSer has entered into with a third-party contractor in the Parents' Bill of Rights for Data Privacy and Security of SWBOCES;
- c) Ensure appropriate notification is provided to affected parents, eligible students, teachers, and/or principals about any breach or unauthorized release of PII that a third-party contractor has received from SWBOCES pursuant to another BOCES CoSer/contract; and
- d) Coordinate reporting to the Chief Privacy Officer to avoid duplication in the event SWBOCES receives information directly from a third-party contractor about a breach or unauthorized release of PII that the third-party contractor received from SWBOCES pursuant to another BOCES CoSer/contract.

SUBJECT: PRIVACY AND SECURITY FOR STUDENT DATA AND TEACHER AND PRINCIPAL DATA (Continued)Click-Wrap Agreements

Periodically, SWBOCES staff may wish to use software, applications, or other technologies in which the user must "click" a button or box to agree to certain online terms of service prior to using the software, application, or other technology. These are known as "click-wrap agreements" and are considered legally binding "contracts or other written agreements" under Education Law Section 2-d and its implementing regulations.

SWBOCES staff are prohibited from using software, applications, or other technologies pursuant to a click-wrap agreement in which the third-party contractor receives student data or teacher or principal data from SWBOCES unless they have received prior approval from SWBOCES's Data Protection Officer or designee.

SWBOCES will develop and implement procedures requiring prior review and approval for staff use of any software, applications, or other technologies pursuant to click-wrap agreements.

Parents' Bill of Rights for Data Privacy and Security

SWBOCES will publish its Parents' Bill of Rights for Data Privacy and Security (Bill of Rights) on its website. Additionally, SWBOCES will include the Bill of Rights with every contract or other written agreement it enters into with a third-party contractor under which the third-party contractor will receive student data or teacher or principal data from SWBOCES.

SWBOCES's Bill of Rights will state in clear and plain English terms that:

- a) A student's PII cannot be sold or released for any commercial purposes;
- b) Parents have the right to inspect and review the complete contents of their child's education record;
- c) State and federal laws protect the confidentiality of PII, and safeguards associated with industry standards and best practices, including but not limited to encryption, firewalls, and password protection, must be in place when data is stored or transferred;
- d) A complete list of all student data elements collected by the state is available for public review at the following website <http://www.nysed.gov/data-student-data-privacy/student-data-inventory> or by writing to the Office of Information and Reporting Services, New York State Education Department, Room 865 EBA, 89 Washington Avenue, Albany, New York 12234; and

SUBJECT: PRIVACY AND SECURITY FOR STUDENT DATA AND TEACHER AND PRINCIPAL DATA (Continued)

- e) Parents have the right to have complaints about possible breaches of student data addressed. Any such complaint should be submitted, in writing, to the Data Protection Officer of Southern Westchester BOCES at dpo@swboces.org or at 450 Mamaroneck Avenue, Harrison, New York 10528. Parents also can direct any complaints regarding possible breaches via the electronic form on the Southern Westchester BOCES home page, under Resources, and Student Privacy. The complaint form can also be found by going to <https://bit.ly/swbdatabreach>. Alternatively, complaints may be directed in writing to Privacy Complaint, Chief Privacy Officer, New York State Education Department, 89 Washington Avenue, Albany, New York 12234 or by using the form available at the following website <http://www.nysed.gov/student-data-privacy/form/report-improper-disclosure>.

The Bill of Rights will also include supplemental information for each contract SWBOCES enters into with a third-party contractor where the third-party contractor receives student data or teacher or principal data from SWBOCES. The supplemental information must be developed by SWBOCES and include the following information:

- a) The exclusive purposes for which the student data or teacher or principal data will be used by the third-party contractor;
- b) How the third-party contractor will ensure that the subcontractors, or other authorized persons or entities to whom the third-party contractor will disclose the student data or teacher or principal data, if any, will abide by all applicable data protection and security requirements, including but not limited to those outlined in applicable laws and regulations (e.g., FERPA; Education Law Section 2-d);
- c) The duration of the contract, including the contract's expiration date, and a description of what will happen to the student data or teacher or principal data upon expiration of the contract or other written agreement (e.g., whether, when, and in what format it will be returned to SWBOCES, and/or whether, when, and how the data will be destroyed);
- d) If and how a parent, student, eligible student, teacher, or principal may challenge the accuracy of the student data or teacher or principal data that is collected;
- e) Where the student data or teacher or principal data will be stored, described in a manner as to protect data security, and the security protections taken to ensure the data will be protected and data privacy and security risks mitigated; and
- f) Address how the data will be protected using encryption while in motion and at rest.

SUBJECT: PRIVACY AND SECURITY FOR STUDENT DATA AND TEACHER AND PRINCIPAL DATA (Continued)

SWBOCES will publish on its website the supplement to the Bill of Rights (i.e., the supplemental information described above) for any contract or other written agreement it has entered into with a third-party contractor that will receive PII from SWBOCES. The Bill of Rights and supplemental information may be redacted to the extent necessary to safeguard the privacy and/or security of the data and/or technology infrastructure of SWBOCES.

Right of Parents and Eligible Students to Inspect and Review Students' Education Records

Consistent with the obligations of SWBOCES under FERPA, parents and eligible students have the right to inspect and review a student's education record by making a request directly to SWBOCES in a manner prescribed by SWBOCES.

SWBOCES will ensure that only authorized individuals are able to inspect and review student data. To that end, SWBOCES will take steps to verify the identity of parents or eligible students who submit requests to inspect and review an education record and verify the individual's authority to do so.

Requests by a parent or eligible student for access to a student's education records must be directed to SWBOCES and not to a third-party contractor. SWBOCES may require that requests to inspect and review education records be made in writing.

SWBOCES will notify parents annually of their right to request to inspect and review their child's education record including any student data stored or maintained by SWBOCES through its annual FERPA notice. A notice separate from annual FERPA notice is not required.

SWBOCES will comply with a request for access to records within a reasonable period, but not more than 45 calendar days after receipt of a request.

SWBOCES may provide the records to a parent or eligible student electronically, if the parent consents. SWBOCES must transmit the PII in a way that complies with laws and regulations. Safeguards associated with industry standards and best practices, including but not limited to encryption and password protection, must be in place when education records requested by a parent or eligible student are electronically transmitted.

Complaints of Breach or Unauthorized Release of Student Data and/or Teacher or Principal Data

SWBOCES will inform parents, through its Parents' Bill of Rights for Data Privacy and Security, that they have the right to submit complaints about possible breaches of student data to the Data Protection Officer of SWBOCES as well as to the Chief Privacy Officer at NYSED. SWBOCES has established the following procedures for parents, eligible students, teachers, principals, and other SWBOCES staff to file complaints with SWBOCES about breaches or unauthorized releases of student data and/or teacher or principal data:

SUBJECT: PRIVACY AND SECURITY FOR STUDENT DATA AND TEACHER AND PRINCIPAL DATA (Continued)

- a) All complaints must be submitted in writing to the Data Protection Officer of SWBOCES at dpo@swboces.org or at 450 Mamaroneck Avenue, Harrison, New York 10528. Parents also can direct any complaints regarding possible breaches via the electronic form on the Southern Westchester BOCES home page, under Resources, and Student Privacy. The form can also be found by going to <https://bit.ly/swbdatabreach>.
- b) Upon receipt of a complaint, SWBOCES will promptly acknowledge receipt of the complaint, commence an investigation, and take the necessary precautions to protect PII.
- c) Following the investigation of a submitted complaint, SWBOCES will provide the individual who filed the complaint with its findings. This will be completed within a reasonable period of time, but no more than 60 calendar days from the receipt of the complaint by SWBOCES.
- d) If SWBOCES requires additional time, or where the response may compromise security or impede a law enforcement investigation, SWBOCES will provide the individual who filed the complaint with a written explanation that includes the approximate date when SWBOCES anticipates that it will respond to the complaint.

These procedures will be disseminated to parents, eligible students, teachers, principals, and other SWBOCES staff by the public posting of this policy on the website of SWBOCES.

SWBOCES will maintain a record of all complaints of breaches or unauthorized releases of student data and their disposition in accordance with applicable data retention policies, including the Records Retention and Disposition Schedule ED-1 (1988; rev. 2004).

Reporting a Breach or Unauthorized Release

SWBOCES will report every discovery or report of a breach or unauthorized release of student data or teacher or principal data within SWBOCES to the Chief Privacy Officer without unreasonable delay, but no more than ten calendar days after the discovery.

Each third-party contractor that receives student data or teacher or principal data pursuant to a contract or other written agreement entered into with SWBOCES will be required to promptly notify SWBOCES of any breach of security resulting in an unauthorized release of the data by the third-party contractor or its assignees in violation of applicable laws and regulations, the Parents' Bill of Rights for Student Data Privacy and Security, SWBOCES policy, and/or binding contractual obligations relating to data privacy and security, in the most expedient way possible and without unreasonable delay, but no more than seven calendar days after the discovery of the breach.

SUBJECT: PRIVACY AND SECURITY FOR STUDENT DATA AND TEACHER AND PRINCIPAL DATA (Cont'd.)

In the event of notification from a third-party contractor, SWBOCES will in turn notify the Chief Privacy Officer of the breach or unauthorized release of student data or teacher or principal data no more than ten calendar days after it receives the third-party contractor's notification using a form or format prescribed by NYSED.

Investigation of Reports of Breach or Unauthorized Release by the Chief Privacy Officer

The Chief Privacy Officer is required to investigate reports of breaches or unauthorized releases of student data or teacher or principal data by third-party contractors. As part of an investigation, the Chief Privacy Officer may require that the parties submit documentation, provide testimony, and may visit, examine, and/or inspect the third-party contractor's facilities and records.

Upon the belief that a breach or unauthorized release constitutes criminal conduct, the Chief Privacy Officer is required to report the breach and unauthorized release to law enforcement in the most expedient way possible and without unreasonable delay.

Third-party contractors are required to cooperate with SWBOCES and law enforcement to protect the integrity of investigations into the breach or unauthorized release of PII.

Upon conclusion of an investigation, if the Chief Privacy Officer determines that a third-party contractor has through its actions or omissions caused student data or teacher or principal data to be breached or released to any person or entity not authorized by law to receive this data in violation of applicable laws and regulations, SWBOCES policy, and/or any binding contractual obligations, the Chief Privacy Officer is required to notify the third-party contractor of the finding and give the third-party contractor no more than 30 days to submit a written response.

If after reviewing the third-party contractor's written response, the Chief Privacy Officer determines the incident to be a violation of Education Law Section 2-d, the Chief Privacy Officer is authorized to:

- a) Order the third-party contractor be precluded from accessing PII from the affected educational agency for a fixed period of up to five years;
- b) Order that a third-party contractor or assignee who knowingly or recklessly allowed for the breach or unauthorized release of student data or teacher or principal data be precluded from accessing student data or teacher or principal data from any educational agency in the state for a fixed period of up to five years;

SUBJECT: PRIVACY AND SECURITY FOR STUDENT DATA AND TEACHER AND PRINCIPAL DATA (Continued)

- c) Order that a third-party contractor who knowingly or recklessly allowed for the breach or unauthorized release of student data or teacher or principal data will not be deemed a responsible bidder or offeror on any contract with an educational agency that involves the sharing of student data or teacher or principal data, as applicable for purposes of General Municipal Law Section 103 or State Finance Law Section 163(10)(c), as applicable, for a fixed period of up to five years; and/or
- d) Require the third-party contractor to provide additional training governing confidentiality of student data and/or teacher or principal data to all its officers and employees with reasonable access to this data and certify that the training has been performed at the contractor's expense. This additional training is required to be performed immediately and include a review of laws, rules, and regulations, including Education Law Section 2-d and its implementing regulations.

If the Chief Privacy Officer determines that the breach or unauthorized release of student data or teacher or principal data on the part of the third-party contractor or assignee was inadvertent and done without intent, knowledge, recklessness, or gross negligence, the Chief Privacy Officer may make a recommendation to the Commissioner that no penalty be issued to the third-party contractor.

The Commissioner would then make a final determination as to whether the breach or unauthorized release was inadvertent and done without intent, knowledge, recklessness or gross negligence and whether or not a penalty should be issued.

Notification of a Breach or Unauthorized Release

SWBOCES will notify affected parents, eligible students, teachers, and/or principals in the most expedient way possible and without unreasonable delay, but no more than 60 calendar days after the discovery of a breach or unauthorized release of PII by SWBOCES or the receipt of a notification of a breach or unauthorized release of PII from a third-party contractor unless that notification would interfere with an ongoing investigation by law enforcement or cause further disclosure of PII by disclosing an unfixed security vulnerability. Where notification is delayed under these circumstances, SWBOCES will notify parents, eligible students, teachers, and/or principals within seven calendar days after the security vulnerability has been remedied or the risk of interference with the law enforcement investigation ends.

Notifications will be clear, concise, use language that is plain and easy to understand, and to the extent available, include:

- a) A brief description of the breach or unauthorized release, the dates of the incident and the date of discovery, if known;
- b) A description of the types of PII affected;

SUBJECT: PRIVACY AND SECURITY FOR STUDENT DATA AND TEACHER AND PRINCIPAL DATA (Continued)

- c) An estimate of the number of records affected;
- d) A brief description of SWBOCES's investigation or plan to investigate; and
- e) Contact information for representatives who can assist parents or eligible students that have additional questions.

Notification will be directly provided to the affected parent, eligible student, teacher, or principal by first-class mail to their last known address, by email, or by telephone.

Where a breach or unauthorized release is attributed to a third-party contractor, the third-party contractor is required to pay for or promptly reimburse SWBOCES for the full cost of this notification.

Annual Data Privacy and Security Training

SWBOCES will annually provide data privacy and security awareness training to its officers and staff with access to PII. This training will include, but not be limited to, training on the applicable laws and regulations that protect PII and how staff can comply with these laws and regulations. SWBOCES may deliver this training using online training tools. Additionally, this training may be included as part of the training that SWBOCES already offers to its workforce.

Notification of Policy

SWBOCES will publish this policy on its website and provide notice of the policy to all its officers and staff.

Education Law § 2-d
8 NYCRR Part 121

Adoption Date

5-13-2020