

PREVENTING DISCRIMINATION IN THE SCHOOL DISTRICT: COMPLAINT PROCEDURE

PURPOSE

Southern Westchester BOCES is committed to creating and maintaining a working and learning environment which is free of discrimination and intimidation. All complaints of discrimination, including harassment, will be thoroughly investigated to determine whether the totality of the alleged behavior and circumstances may constitute discrimination, harassment, sexual harassment, intimidation or a form of misconduct. This procedure outlines the steps a complainant should take in order to have their complaint investigated and resolved.

SCOPE

This procedure applies to all students, employees, prospective employees and stakeholders of Southern Westchester BOCES.

APPROVED FORMS

- Complaint Form: 1440F1
- Complaint Resolution Appeal Form: 1440F2

CONTACTS

Civil Rights Compliance Officer
17 Berkley Drive
Rye Brook, NY 10573
Complianceofficer@swboces.org

PROCEDURE

1. Any student, employee, prospective employee and/or BOCES stakeholder may file a complaint regarding discrimination, including harassment, by completing the complaint form in writing, if possible, by using the **Complaint Form 1440F1**.
 - The 1440F1 complaint form may be obtained by clicking on the words “Notice of Non-Discrimination” located at the middle right side of the Southern Westchester BOCES website (swboces.org) and also at the bottom of the website and is also available in every facility main office.

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If unable to make the complaint in writing, students may contact a teacher, counselor, administrator or the Compliance Officer; and employees / others may contact the Compliance Officer, to assist with putting the complaint in writing. The written complaint must be signed by the complainant, dated, and include at a minimum, the following information:

- Date(s), time(s), place(s) of alleged incident(s)
 - Description of the complaint (including names, identifiers, etc.)
 - Description of each incident, by date, if several incidents
 - Persons with additional information, including witnesses, if any (names and identifying information)
 - Other relevant information
 - Desired resolution – what you'd like to see change as a result of the investigation
2. The completed and signed complaint (form 1440F1) should be forwarded to the Compliance Officer either by the complainant or the principal or administrator to whom the form was given. The Compliance Officer will then establish an initial meeting with complainant to verify complaint and ensure that the complaint form is signed.
3. The Compliance Officer or designee will:
- *Begin a fact-finding investigation that will be prompt and equitable to all parties.* The investigation may include interviews of others with knowledge regarding the issue, including witnesses if any. If a complaint of harassment, the complainant, the alleged harasser(s), and any witnesses will be directed to refrain from talking about the investigation while it is pending.

All parties will be assured that complaints and discussions will remain as confidential as possible, and will be disclosed only on a “need to know” basis in order to effectively investigate the complaint and/or as mandated by law or court order. However, a written record of the investigation and any action taken will be established.

Additionally, parents of students subjected to possible harassment and/or students filing a harassment complaint, as well as parents of accused students, may be notified by the appropriate administrator of such occurrence and/or allegations as warranted and in accordance with legal guidelines.

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If the complainant attempts to withdraw a complaint, the compliance officer will determine that the withdrawal is not caused by retaliation and then document the complainant's reasons and ask the complainant to sign the documentation. A copy of all written material pertaining to the case/investigation will be retained in a separate confidential file.

If this is a complaint of harassment, and the accused has been identified as having a disability (or is suspected of having a disability) pursuant to Section 504/Individuals with Disabilities Education Act, referral will be made to the Section 504 Team/Committee on Special Education for evaluation/assessment and/or a manifestation determination, as may be applicable in accordance with state and federal law and regulations, to determine whether the conduct is caused or affected by his/her disability.

- *Render a decision within twenty (20) school days of receiving the complaint, and notify the complainant, Chief Operating Officer / Deputy District Superintendent, and others who need to be advised of the decision in writing. In the case of extenuating circumstances whereby it becomes necessary to extend the timeline for completion of the investigation, all material parties will be so notified in writing, including the estimated decision date.*
- *Within fifteen (15) school days of the decision, begin the enactment or implement the changes/recommendations, if any, based on the decision and any appeal.*

FIRST LEVEL APPEAL: CHIEF OPERATING OFFICER / DEPUTY DISTRICT SUPERINTENDENT

All complaints, if not satisfactorily resolved at the initial stage of investigation, may be appealed, in writing, by any material party to the Chief Operating Officer/Deputy District Superintendent.

Complainant, and/or a material party, has ten (10) school days to accept or appeal the decision.

- a. Accept the decision: By notifying the Compliance Officer in writing;
- b. Disagree with the decision: Appeal the decision. Notify the Compliance Officer in writing (use Complaint Resolution Appeal Form 1440F2 – see below).
- c. If within ten (10) school days a material party fails to notify the Compliance Officer of their acceptance or disagreement with the decision, it will be assumed that the resolution is acceptable, and the Compliance Officer will ensure the changes/recommendations are implemented appropriately.

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The Chief Operating Officer/Deputy District Superintendent / designee, will conduct a prompt, impartial, equitable and thorough review of the materials. The Chief Operating Officer/Deputy District Superintendent / designee has the right to re-interview persons, e.g., if testimony is unclear or new evidence has been brought to light, or to interview additional persons if needed to ensure an equitable decision

The Chief Operating Officer/Deputy District Superintendent / designee will make a decision within twenty (20) school days from the date of a letter from a material party requesting further review is received. If a decision cannot be made within twenty (20) school days for good cause, material parties will be so be notified and provided with an estimated date for the decision to be made.

The decision of the Chief Operating Officer/Deputy District Superintendent / designee will be sent, in writing, to all material parties, including the Compliance Officer.

SECOND LEVEL APPEAL: BOARD OF EDUCATION

1. Should a material party not be satisfied with the Chief Operating Officer/Deputy District Superintendent-level decision and wish to pursue the matter further, the party will compose a letter stating reasons for disagreement with the Chief Operating Officer/Deputy District Superintendent's decision and request an appeal. The letter of appeal should be sent to the School Board in addition to the Chief Operating Officer/Deputy District Superintendent's office.
2. The School Board will hire or appoint persons who are impartial and who have not been otherwise involved in the investigation of this complaint to conduct a prompt, fair, equitable, and thorough investigation. The person(s) hired or appointed to conduct this investigation will be knowledgeable in the civil rights laws pertaining to the alleged violation by the complainant, and be knowledgeable in conducting investigations of alleged violations of said law(s).
3. A decision will be made by the School Board based on the recommendation and findings of the investigator(s) appointed by the School Board within twenty (20) school days from the date the complainant's letter requesting further review is received. If a decision cannot be made within twenty (20) school days for good cause, material parties will be notified and provided with an estimated date for the decision to be made.
4. The decision of the Board of Education will be sent, in writing, to all material parties, including the Chief Operating Officer/Deputy District Superintendent Office.
5. If a material party is dissatisfied with the School Board-level decision, the material party may request a review by the Office for Civil Rights (OCR) within sixty (60) school days of the School Board's decision.

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CONCURRENT APPEALS OR APPEAL OF THE SCHOOL BOARD-LEVEL APPEAL

A material party may, while the investigation is happening at the school level, also contact either of the below agencies and request that an independent investigation be conducted.

New York State Office for Enforcement (for civil rights discrimination based on race, color, national origin, sex, and/or disability)	
Office for Civil Rights U.S. Department of Education 32 Old Slip, 26th floor New York, NY 10005-2500 http://www2.ed.gov/about/offices/list/ocr/docs/howto.html	Phone: 646-428-3900 / 800-421-3481 Fax: 646-428-3843 TDD: 877-521-2172 Email: OCR.NewYork@ed.gov
New York Civil Liberties Union 125 Broad Street, 19th Floor New York, NY 10004 http://www.nyclu.org	Phone: 212-607-3300 Fax: 212-607-3318

DISCIPLINE AND PENALTIES

Based upon the result of the district's investigation, persons who have been found to violate the terms of the anti-discrimination policy and/or regulations by engaging in prohibited conduct, will be subject to appropriate sanctions:

- Students: appropriate disciplinary measures, if warranted, will be applied, up to and including suspension, in accordance with applicable law, regulation, and the District's Code of Conduct.
- Employees: appropriate disciplinary measures, if warranted, will be applied, up to and including termination of employment in accordance with contractual and legal guidelines.
- Vendors / contractors and other individuals who do business with BOCES: sanctions up to and including loss of district business.
- School volunteers who are found to have violated district policy and regulation may face loss of volunteer status.

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- Visitors, guests or other third parties: sanctions, including, but not limited to, expulsion from the district premises and/or school activities/events under the control and supervision of Southern Westchester BOCES.

The application of such disciplinary measures by the district does not preclude the appropriate filing of civil and/or criminal charges as may be warranted.