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SUPPORT SERVICES GOALS

Support services, which include safety and maintenance programs, transportation, food services, insurance management, business office, human resources, and tech support, are essential to the successful functioning of the Otsego Northern Catskills BOCES. Education is the district's central function, and all support services shall be provided, guided, and evaluated by this function.

In order to provide services that are truly supportive of the educational program, the Board of Education establishes these goals:

1. providing a physical environment for teaching and learning that is safe and pleasant for students, staff, and the public;
2. providing safe transportation and nutritious meals for students who use these services; and
3. providing timely, accurate, and efficient support services that meet district needs and promote district goals.

Adoption date: January 23, 2008

8110

SCHOOL BUILDING SAFETY

The Board of Education recognizes that a safe, secure and healthy school environment is necessary to promote effective learning. The Board is committed to ensuring that all school buildings are properly maintained and preserved to provide a suitable educational setting.

Consistent with the requirements of state law and regulations, the Board will:

1. Appoint a Health and Safety Committee for each building composed of representation from BOCES administration, including the Deputy Superintendent, Building Maintenance Mechanic, the Building Principal and the Health and Safety Officer, school staff, bargaining units and parents that shall participate in monitoring the condition of school buildings to assure that they are safe and maintained in a state of good repair.
2. Review and approve all building condition surveys, and, when required by the State or the Commissioner of Education, visual inspections.
3. Take immediate action to remedy serious conditions in school buildings affecting health and safety and report such conditions to the Commissioner of Education.

The District Superintendent shall be responsible for the development of procedures for investigating and resolving complaints related to the health and safety issues in the BOCES' buildings consistent with requirements of state law and regulations.

Cross-ref:

7100, Facilities Planning

7365, Construction Safety

8112, Health and Safety Committee

8220, Buildings and Grounds Maintenance and Inspection

Ref:

Education Law §§ 409-d (Comprehensive Public School Building Safety Program); 409-e (Uniform Code of Public School Buildings Inspection, Safety Rating and Monitoring)

8 NYCRR Part 155 (Educational Facilities)

9 NYCRR Parts 600-1250 (Uniform Fire Prevention and Building Code)

Adoption date: January 23, 2008

Revised date: November 17, 2015; October 20, 2021

8110-R

SCHOOL BUILDING SAFETY REGULATION

Safety and security policies will be implemented through the office of the Deputy Superintendent and the BOCES – wide safety committee.

The BOCES – wide safety committee shall consist of the Deputy Superintendent, the Superintendent of Buildings and Grounds, the Safety Officer, one non-teaching staff member from each location, two teaching staff members from each location who are members of the building safety/security committee.

The committee will be comprised of staff members from each BOCES operated program and will meet at the beginning and end of each school year and at other times, as needed, to maintain a safe and secure working environment.

The committee will review loss data and make recommendations of the administration to correct safety and security problem areas.

Building-level Safety Teams

Building principals will form their own safety committee each year. The committee is under the principal's direction. The committee will be made up of the following: Principal, building maintenance worker, at least two teachers and a student.

The building level committee will inspect its facility three times per year during the school day at the following times:

1. by the end of the first quarter of the school year
2. by the end of the second quarter of the school year
3. by the end of the third quarter of the school year.

All staff members will be made aware of the need to assist in making our environment a safe place to learn and work.

Adoption date: January 23, 2008

8111

REPORTING OF HAZARDS

The Board of Education recognizes its responsibility to provide an environment which is reasonably secure from known hazards. The Board therefore directs the District Superintendent and all professional and support staff members to comply with occupational safety and health regulations, including the Hazard Communication Standard and “Right-to-Know” legislation.

The District Superintendent will direct appropriate personnel to develop and oversee a written hazard communication program. Such program will include the following:

1. the acquisition, maintenance and review of Material Safety Data Sheets (MSDS's) for all known hazardous materials on district property;
2. the compilation of a hazardous materials inventory;
3. employee training in hazardous materials management and protection; and
4. the recording of all incidents involving exposure to known hazardous materials. Records of employees who have been exposed to substances with enforceable exposure standards shall be kept for forty years.

The district will comply with the requirements for the visual notification of pesticide spraying as set forth in the Environmental Conservation Law.

It is the responsibility of the entire school community to report any unsafe building or equipment conditions to the Deputy Superintendent and/or Building Principal, as appropriate, as soon as possible. In addition, designated administrators will provide notice of hazardous materials to current and former employees within 72 hours of a request.

If students observe other students acting in an unsafe manner, this behavior should be reported to the nearest available staff member.

Cross-ref: 1120, School District Records
8115, Pesticides and Pest Management

Ref: 29 CFR §1910.1200 and 12 NYCRR Part 800 (Hazard Communication Standard)

40 CFR §763.95

Public Health Law, Article 48 and Labor Law, Article 28 ("Right-to-Know" Law)

Environmental Conservation Law §33-0101

State v. GTE Valeron Corp, 155 AD2d 166 (1990)

12 NYCRR §801.3

Adoption date: January 23, 2008

8111-R

REPORTING OF HAZARDS REGULATION

The Hazard Communication Program is intended to address the issue of evaluating and communicating hazard information to district employees. The following summarizes the responsibilities of those persons most directly involved with the successful implementation of this program.

Safety and Health Coordinator

1. Develops and oversees the implementation of a written hazard communication program in accordance with the Federal Hazards Communication standard.
2. Provides employees with training on hazardous materials and the measures required to maintain optimum protection while working with these agents.
3. Reviews Material Safety Data Sheets for all products currently in use or being considered for use.
4. Maintains an inventory of Material Safety Data Sheets for all hazardous materials.
5. Requests specific chemical information when such material has been designated as a trade secret by a manufacturer or supplier.
6. Establishes procedures to maintain the confidentiality of trade secret information.

Superintendent of Buildings and Grounds

1. Implements the Hazard Communication Program.
2. Generates and maintains inventory listings of all hazardous materials present and provides updates where and when necessary.
3. Acts as employee contact for obtaining Material Safety Data Sheets from the State Health Department and/or manufacturers/suppliers of materials currently in use or being considered for use.
4. Compiles Material Safety Data Sheets for each hazardous material used and obtains updates when necessary.
5. Ensures that Material Safety Data Sheets are readily accessible to employees,

- and will provide such information within 72 hours of an employee request.
6. Ensures that each container identified as holding a hazardous material is properly labeled as to the identity of its contents and appropriate hazard warnings, including building materials containing asbestos.

Staff Members

1. Actively participate in mandated training programs and comply with training provisions.
2. Familiarize themselves with the Material Safety Data Sheets of those hazardous materials with which they work.
3. Utilize those measures that have been distributed to protect themselves from adverse exposure to hazardous materials.

Adoption date: January 23, 2008

EXTREME HEAT CONDITION DAYS

As required by Education Law section 409-n, the Board of Education adopts this policy to address the health and safety of students and employees on extreme heat condition days.

“Extreme heat condition days” are defined by law as when occupiable educational and support services spaces are eighty-two degrees Fahrenheit or higher. Under the law, “support services spaces” do not include kitchen areas used in the preparation of food for consumption by students. The law requires room temperature to be measured at a shaded location, three feet above the floor near the center of the room.

Air conditioners, where available, may also be used to keep temperatures from reaching eighty-two degrees, or to lower the temperature once it does. Evaporative cooling techniques may be feasible in some situations.

Actions to be Taken at Eighty-Two Degrees

When the temperature of an occupiable educational or support service space reaches eighty-two degrees Fahrenheit, the BOCES will take actions to relieve heat-related discomfort (consistent with fire and building codes, and other district policies regarding safety and security), including but not limited to the following:

1. Turning off the overhead lights;
2. Opening classroom doors and windows to increase circulation;
3. Pulling down shades or blinds;
4. Turning on fans;
5. Turning off unused electronics that produce heat and not utilizing electronic equipment to the extent practicable]; and
6. Providing water breaks.

The Superintendent of Schools, Director of Facilities, and Building Principals will determine which actions to take, when to take them and in what order, and who will take them (consistent with applicable collective bargaining agreements).

On days when the outside temperature is expected to reach eighty-two degrees, the BOCES may take the actions listed above earlier in the day or before school starts, when the temperature is lower. The Safety & Risk Management Coordinator and Director of Facilities will develop strategies to cool the BOCES occupiable educational and support services spaces during the day. The BOCES will also remind students and their families to dress appropriately for the weather.

This policy does not preclude air conditioning from being used pursuant to an Individualized

Education Program, Section 504 Plan, or documented medical needs.

Actions to be Taken at Eighty-Eight Degrees

Students and staff will be removed from educational and support services spaces when the temperature reaches eighty-eight degrees Fahrenheit, when practicable. The Superintendent will direct Building Principals to evacuate the space, including but not limited to the following:

1. Move students and staff to cooler locations; or
2. Close school early and send students and staff home according to the BOCES early closing protocols.

On days when the outside temperature is expected to be high enough that temperatures in occupiable educational or support service spaces are likely to reach eighty-eight degrees, even with the heat mitigation measures taken, the BOCES may hold classes remotely (in accordance with the board-approved emergency remote instruction plan) or close school entirely (in accordance with required minimum instructional time). The Superintendent is authorized to make this decision. Remote learning may be BOCES-wide, building-level, or for groups of students and staff affected by the extreme heat conditions.

During exams, if the temperature reaches eighty-eight degrees in spaces where exams are being administered, students and staff may be evacuated from the exam room, and have testing resume at a time and place when it is safe to do so. On exam days when the outside temperature is expected to be high enough that the temperatures in spaces where exams are being administered are likely to reach eighty-eight degrees, even with the heat mitigation measures taken, the BOCES will attempt to find alternate locations to administer exams.

Other Adjustments

The Board will consider actions such as planting trees, installing “green” roofs or reflective roof surfaces, installing reflective window films, purchasing shade structures, and installing air conditioning, within available resources and building capability.

The Board will consider the anticipated number of extreme heat condition days when adopting or adjusting the school calendar, consistent with collective bargaining obligations.

Cross-ref:

4765, Online, Distance and Remote Learning

Ref:

Education Law §§409-n; 2801-a

Adoption date: May 14, 2025

PESTICIDES AND PEST MANAGEMENT

It is the goal of the Board of Education to maintain the integrity of school buildings and grounds, protect the health and safety of students and staff and maintain a productive learning environment.

The Board recognizes that pests can pose a significant risk to health and property and there may be significant risks inherent in using chemical pesticides in the school environment. Generally, pesticides will not be used on BOCES playgrounds, turf, athletic or playing fields, unless there is an emergency. Emergencies will be handled in accordance with applicable law and regulation.

Provisions will be made for a least toxic approach to integrated pest management (IPM) for all school buildings and grounds in accordance with the Commissioner's regulations. Integrated pest management is a systematic approach to managing pests focusing on long term prevention or suppression with minimal impact on human health, the environment and non-targeted organisms.

Notification of Pesticide Application

All BOCES staff and parents/guardians will be notified of pesticide applications performed at any school facility. A notice will be sent at the beginning of the school year which will include:

1. Notification of periodic pesticide applications throughout school year.
2. The availability of 48-hour prior written notification of pesticide applications to parents and staff who request such notice.
3. Instructions on how to register with the school to receive this prior written notification.
4. The name and number of the school representative who can provide further information.

The District Superintendent shall disseminate this policy and conduct any training necessary to ensure that all staff are fully informed about pesticides and pest management.

Cross-ref: 8110, School Building Safety
8220, Building and Grounds Maintenance and Inspection

Ref: Environmental Conservation Law, Art.33 (Pesticides)
Education Law § 409-h (Requirements for Notification of Pesticide Applications)
6 NYCRR Part 325 (Application of Pesticides)
8 NYCRR 155.4 (Uniform Code of Public School Building Inspections, Safety Rating and Monitoring)

Desmond Americana v. Jorling, 153 AD2d 4 (3rd Dept. 1989)
IPM Workbook for New York State Schools, Cornell Cooperative Extension Community IPM Program with support from New York State Dept. of Environmental Conservation, August 1998

Adoption date: January 23, 2008
Revision date: April 27, 2011

8121.1

OPIOID OVERDOSE PREVENTION

The Board of Education recognizes that many factors, including the use and misuse of prescription painkillers, can lead to the dependence on and addiction to opiates, and that such dependence and addiction can lead to overdose and death among the general public, including district students and staff. The Board wishes to minimize these deaths by the use of opioid overdose prevention measures

The Board directs the school physician/medical director to issue a non-patient specific order to school nurses to administer intranasal naloxone (also known as Narcan, among other names). The non-patient specific order shall include a written protocol containing the elements required by the regulations of the Commissioner of Education. The Board permits school nurses to administer naloxone to any person at school or a school event displaying symptoms of an opioid overdose. The district shall purchase and provide the naloxone kits to be stored in the nurse's office. Naloxone shall be accessible during school hours and during on-site school-sponsored activities.

Ref: Education Law §§922 (volunteer naloxone responder); 6527 (emergency treatment of anaphylaxis and opioid overdose); 3023 (liability coverage); 6909 (administration of naloxone by nurses)

Public Health Law §3309 (volunteer naloxone responder)

8 NYCRR §§ 64.7 (administration of naloxone); Part 136 (school health services program, including naloxone)

10 NYCRR §80.138 (volunteer naloxone responder)

Guidance for Implementing Opioid Overdose Prevention Measures in Schools, New York State Education Department, 8/11/15,

www.schoolhealthservicesny.com/files/filesystem/guidance_on_opioid_overdose_prevention_in_the_schools_final.pdf

Opioid Overdose Prevention: Guidelines for Policies and Procedures, New York State Department of Health, March 2014,

www.health.ny.gov/diseases/aids/general/opioid_overdose_prevention/docs/policies_and_procedures.pdf

Adoption date: September 14, 2016

8121.1-R

OPIOID OVERDOSE PREVENTION REGULATION

The appointed school physician shall develop procedures for the placement, storage, inventory, re-ordering, administration documentation, reporting, and training of the school nurse, regarding the use of naloxone.

The BOCES shall ensure that there is always one backup naloxone kit for each kit that is ready to be used. When a naloxone kit is used, another backup kit will be ordered. Naloxone that is nearing its expiration date will be replaced. The school nurse shall maintain a log of naloxone supplies containing the following information: lot number, date of receipt, expiration date, and location. The school nurse shall perform an inventory check of naloxone supplies monthly.

School nurses shall follow the non-patient specific order and written protocol for administration of naloxone, which includes criteria for assessment and directions for administration.

Adoption date: September 14, 2016

SCHOOL SAFETY PLANS & TEAMS

Emergencies and violent incidents in schools are critical issues that must be addressed in an expeditious and effective manner. The Board of Education recognizes its responsibility to adopt and keep current a comprehensive ONC BOCES school safety plan and building-level emergency response plan(s) which address violence prevention, crisis intervention, emergency response and management.

Taken together, the ONC BOCES and building level plans shall provide a comprehensive approach to addressing school safety and violence prevention, and provide the structure where all individuals can fully understand their roles and responsibilities for promoting the safety of the entire school community. The plans shall be designed to prevent or minimize the effects of serious violent incidents and emergencies, declared state disaster emergencies involving a communicable disease or local public health emergency declaration and other emergencies and to facilitate the BOCES' coordination with local and county resources. The plans ~~shall~~ will also address risk reduction/prevention, response and recovery with respect to a variety of types of emergencies and violent incidents in BOCES schools.

In accordance with state law and regulation, the BOCES shall have the following safety teams and plans to deal with violence prevention, crisis intervention and emergency response and management:

Comprehensive District-Wide School Safety Team and Plan

The Board shall annually appoint a school safety team that includes, but is not be limited to, a representative from the following constituencies: teachers, administrators, parents, school safety personnel and other school personnel. This team shall be responsible for the development and annual review of the comprehensive district-wide school safety plan. The plan shall cover all BOCES school buildings and shall address violence prevention, crisis intervention, emergency response and management including communication protocols. It shall include all those elements required by law and regulation, including protocols for responding to declared state disaster emergencies involving a communicable disease that are substantially consistent with the provisions of Labor Law §27-c.

The Deputy Superintendent or his/her designee shall be the BOCES' Chief Emergency Officer, and shall coordinate communication between school staff and law enforcement and first responders. The Chief Emergency Officer shall ensure that all staff understand the BOCES' safety plan, and shall also ensure that building-level emergency response plans are completed, reviewed annually, and updated as needed.

When the Chief Emergency Officer has been notified that an emergency exists, he/she will activate the Plan and direct the operation.

All members of the Safety Team will implement the Emergency response plans as directed by the Chief Emergency Officer. The Safety Team will assign such other personnel as deemed necessary to meet the needs of the situation.

To maintain security and in accordance with law, the building-level emergency response plan(s) shall be confidential and shall not be subject to disclosure under the Freedom of Information Law or any other law.

Building-Level Emergency Response Plans and Safety Teams

Each Building Principal shall be responsible for annually appointing a building-level safety team that includes representation from teachers, administrators, school safety personnel, other school personnel, law enforcement officials, fire officials and other emergency response agencies. The safety team shall be responsible for the development and review of a building-level emergency response plan for each BOCES building. The plan(s) shall address response to emergency situations, such as those requiring evacuation, sheltering and lock-down at the building level and shall include all components required by law and regulation, including measures necessary to comply with Labor Law § 27-c to respond to public health emergencies involving a communicable disease.

Building-level emergency response plans shall include protocols in response to carbon monoxide alarms or detection. Alarm or detection of carbon monoxide will result in the appropriate actions as described by the emergency response plan.

Building-level emergency response plans shall designate:

- an emergency response team for incidents that includes appropriate school personnel, law enforcement officials, fire officials, and representatives from local,

regional and/or state emergency response agencies to assist the school community in responding to a serious violent incident or emergency; and

- a post-incident response team that includes appropriate school personnel, medical personnel, mental health counselors and other related personnel to assist the community in coping with the aftermath of a serious violent incident or emergency.

During emergencies, staff are authorized to temporarily cover classroom door vision panels when it is likely to protect staff and students. For example, covering vision panels may prevent an intruder from determining if a classroom is occupied, thereby discouraging attempts to gain access. During emergencies, staff are also authorized to temporarily block doors to slow the access of intruders. Building-level emergency response plans must address the temporary covering of door vision panels and the temporary blocking of doors during emergencies.

Students shall be encouraged to bring their concerns to any BOCES employee. If a BOCES employee becomes aware of a threat to the school community, the Building Principal shall be informed and he/she may request the participation of the following individuals who may have specific knowledge of the potential perpetrator: supervisors, teachers, students and parents. The Building Principal is responsible for keeping the District Superintendent informed about the activities of the threat assessment team.

The Building Principal shall be responsible for conducting at least one test every school year of the emergency response procedures under this plan including procedures for sheltering and early dismissal.

To maintain security and in accordance with law, the building level emergency response plan(s) are confidential and not subject to disclosure under the Freedom of Information Law or any other law.

Annual Review and Report

All plans shall be annually reviewed and updated, if necessary, by the appropriate team according to a date designated by New York State. In conducting the review, the teams shall consider any changes in organization, local conditions and other factors including an evaluation of the results of the annual test of the emergency response procedures which may necessitate updating of plans. If the plan requires no changes, then it shall remain in effect.

The District Superintendent shall be responsible for filing the school safety plan and any amendments to the plan with the Commissioner within 30 days after their adoption. The district-wide plan will be posted on the BOCES' website. Each Building Principal shall be responsible for filing the building-level emergency response plan for his or her building and any amendments to the plan with the appropriate local law enforcement agency and the state police within 30 days after their adoption.

Cross-ref: 0115, Bullying and Harassment Prevention and Intervention
5300, Code of Conduct
9700, Staff Development

Ref: Education Law §2801-a (school safety plans)
Executive Law §2B (state and local natural and manmade disaster preparedness)
8 NYCRR Part 155 (Educational Facilities)
19 NYCRR §1228.4 (carbon monoxide detection)
School Safety Plans Guidance, New York State Education Department, June 2010

Adoption date: July 6, 2016; June 16, 2021

WORKPLACE VIOLENCE PREVENTION

The BOCES is committed to establishing and maintaining a safe and secure workplace for employees. Workplace violence is a safety hazard to the BOCES, its employees, and everyone in the workplace, and will not be tolerated. All employees are expected to work together to create and maintain a safe and respectful work environment for everyone.

Workplace violence is defined as any physical assault or act of aggressive behavior occurring where employees perform any work-related duty in the course of their employment including but not limited to an attempt or threat, whether verbal or physical, to inflict physical injury upon an employee; any intentional display of force which would give an employee reason to fear or expect bodily harm; intentional and wrongful physical contact with a person without their consent that entails some injury; or stalking an employee with the intent of causing fear of material harm to the physical safety and health of such employee when such stalking has arisen through and in the course of employment.

All employees are responsible for notifying their supervisor or other designated contact person of any violent incidents, threatening behavior, including threats they have witnessed, received, or have been told that another person has witnessed or received. All acts of workplace violence will be promptly and thoroughly investigated, and appropriate action will be taken, including contacting law enforcement where necessary.

Designated Contact Person: Tara Nolet

Title: Coordinator of Human Resources

Department: Human Resources

Phone: 607-588-6291 x2177

E-mail: tnolet@oncbores.org

As required by Labor Law §27-b, the BOCES will develop and implement a Workplace Violence Prevention Program to comply with the law and its implementing regulations. The Program will include elements required by law and regulation, including:

- a. the risk factors present in the workplace;
- b. the methods the BOCES will use to prevent incidents of violence in the workplace;
- c. the methods and means by which the BOCES will address specific identified hazards;
- d. a system to report workplace violence incidents in writing;
- e. a written outline for employee training; and
- f. a plan for annual program review and update.

In developing the Workplace Violence Prevention Program, the BOCES will conduct an evaluation to identify likely potential risks of violence in the workplace. Authorized employee representative(s) will be involved in:

- a. evaluating the physical environment;
- b. developing the Workplace Violence Prevention Program; and
- c. reviewing workplace violence incident reports at least annually to identify trends in the types of incidents reported, if any, and reviewing the effectiveness of the mitigating actions taken.

Employee Notice and Training

As required by law, all employees will participate in Workplace Violence Prevention Training at the time of initial assignment and annually thereafter. Employees must be trained on:

- a. the details of the workplace violence prevention program;
- b. the measures they can take to protect themselves from risks of violence; and
- c. the specific procedures the BOCES has implemented to protect employees (such as appropriate work practices, emergency procedures, and the use of security alarms).

Additionally, at the time of initial assignment and at least annually, employees will be informed of the requirements of Labor Law §27-b, the risk factors identified in the workplace, and the location of the BOCES' Workplace Violence Prevention Program.

This policy must be posted where notices to employees are normally posted.

Allegations of Violations and Non-Retaliation

The process for employees to allege violations of the workplace violence prevention program to the state Commissioner of Labor, and the employment protections for doing so, is set forth in Labor Law §27-b and 12 NYCRR §800.6 and includes the following:

A “serious violation” of the workplace violence prevention program is the failure to develop and implement a program or address situations which could result in serious physical harm.

“Imminent danger” is any condition or practice in the workplace where a danger exists which could reasonably be expected to cause death or serious physical harm immediately, or before the imminence of the danger can be eliminated through these complaint procedures.

Employees or their representatives who believe that a serious violation of the workplace violence prevention program exists or that an imminent danger exists (as defined above), must bring the matter to their supervisor's attention in writing, and must give the BOCES a reasonable opportunity to correct the activity, policy or practice, before notifying the Commissioner of Labor. However, such prior written notice and opportunity for correction is not

required if there is an imminent danger or threat to the safety of a specific employee, and the employee reasonably believes in good faith that reporting to a supervisor would not result in corrective action.

If, after the matter has been brought to a supervisor's attention and a reasonable opportunity to correct the issue has passed, the issue has not been resolved and the employee still believes that a violation of the workplace violence prevention program remains or that an imminent danger exists, employees or their representatives may request an inspection from the Commissioner of Labor in writing. The Commissioner will provide a copy of the request to the BOCES, but the employee may request that their name be withheld.

A BOCES representative and authorized employee representative may accompany the Commissioner of Labor during the inspection to assist in the inspection. If there is no authorized employee representative, the Commissioner will consult with BOCES employees concerning workplace safety.

The BOCES will not take retaliatory action (terminate, suspend, demote, penalize, discriminate, or other adverse employment action in the terms and conditions of employment) against any employee because they have alleged a serious violation of the workplace violence prevention program, or imminent danger exists, requested an inspection by the Commissioner of Labor, or accompanied the Commissioner on the inspection, as prescribed by state law and regulation.

Cross-ref:

5300, Code of Conduct

8130, School Safety Plans and Teams

Ref:

Labor Law §27-b

12 NYCRR §800.6

Adoption date: January 17, 2024

PANDEMIC PLANNING

The Board of Education recognizes the public's concern over the possibility of a contagious disease outbreak and acknowledges that it is in the best interests of its students, employees and the community to prepare for such a scenario. To this end, the Board directs the District Superintendent to:

1. Implement infection prevention control procedures that could help limit the spread of contagious diseases at schools in the BOCES, including but not limited to:
 - encouraging, through classroom instruction at every grade level and posters, good hygiene habits recommended by public health experts to help protect the school community from contagious diseases (e.g., washing hands frequently with soap and water, coughing/sneezing into tissues or the crook of the elbow instead of one's hand, utilizing alcohol-based/waterless hygiene products and avoiding shaking hands).
 - providing a description of warning signs and symptoms of contagious diseases infections and instruct parents and employees that students and staff displaying such symptoms should not report to school.
 - providing sufficient and accessible infection prevention supplies including soap, alcohol-based/waterless hygiene products, tissues and receptacles for their disposal.
 - following the recommendations of federal, state and local authorities regarding properly cleaning and sanitizing the schools.
 - observing required or recommended social distancing measures (keeping adequate physical space between people as much as possible), utilizing physical barriers, screening people before or during entry to school, and following required or recommended wearing of face coverings.
2. Work with school administrators, BOCES medical personnel, local county health representatives, teachers, guidance counselors, and other staff and parent representatives as appropriate, to prepare, as part of the BOCES' existing emergency/safety plan, a contagious disease preparedness plan. Such plan will include, but not be limited to:
 - Protocols that are substantially consistent with section 27-c of the Labor Law, including: designating essential positions needed to work on-site; telecommuting for non-essential employees; staggered shifts of essential employees; procuring, storing, and accessing personal protective equipment; preventing the spread in the BOCES by those who are exposed to, show symptoms of, or test positive for the disease (including leave available to employees for testing, treatment, isolation, or quarantine); documenting hours and locations of individuals in order to track the disease and identify those who may have been exposed to the disease; identifying emergency housing

for essential employees; and other requirements of the state Department of Health.

- Describing the potential impact of an outbreak on student learning (such as student and staff absences), school closing, school trips, and extracurricular activities based on having various levels of illness among students and staff and the alternative means of delivering education (e.g., educating students through the Internet, long-distance learning, sending assignments home, telephone conference calls, etc.), along with plans to assess student progress once school resumes.
 - Supporting continuity of meal programs during school closure in component school districts, which may involve utilizing school vehicles or satellite pickup points, as necessary.
 - Establishing procedures for caring for, isolating, and/or transporting students and staff who become ill with contagious diseases while in school, and their return to school after illness.
 - Establishing liberal, non-punitive attendance policies for students unique to an outbreak of contagious diseases.
 - Developing a process for gathering and analyzing the latest information and recommendations from health experts (for example, from the Centers for Disease Control, the New York State Health Department, the County Health Department, etc.) which will inform district policymakers' decisions.
 - Developing a process for communicating information concerning the outbreak of contagious diseases to the school community on a continuing basis. Such efforts may include preparing an information letter for distribution to parents and guardians of students advising them of the dangers of contagious diseases and the steps that may be taken to reduce the risk of infection, and/or establishing a section on the BOCES website to communicate information about the BOCES' policy concerning contagious diseases and links to relevant governmental websites.
 - Coordinating the BOCES' plan with the local and state health departments as well as the State Education Department and other area BOCES.
 - Assigning responsibility for the activities listed above to appropriate staff.
3. Facilitate discussions with all negotiating units representing employees of the BOCES to determine whether it is appropriate to consider opening up negotiations for the limited purpose of bargaining over the inclusion in collective bargaining agreements of provisions related to sick time and absences on the part of employees, who have been either diagnosed as having contracted contagious diseases that has caused the outbreak or who have family members who have contracted the contagious diseases that has caused the outbreak.

In the event that the district implements its emergency plan in response to a pandemic, the District Superintendent will keep the Board regularly informed regarding any actions taken and information gathered. The Board may temporarily suspend other policies to the extent

ONC BOCES BOARD POLICY MANUAL

necessary to comply with executive orders and other governmental guidance during the pandemic.

Adopted: July 7, 2021

BUILDINGS AND GROUNDS MAINTENANCE AND INSPECTION

To accommodate the BOCES' educational program, the Board of Education is committed to providing suitable and adequate facilities. To this end, proper maintenance and inspection procedures are essential. The Board directs the District Superintendent to ensure that proper maintenance and inspection procedures are developed for every school building.

Consistent with federal and state law and regulations, the following items will be included in the BOCES' buildings and grounds maintenance and inspection procedures:

Comprehensive Maintenance Plan

A comprehensive maintenance plan for all major building systems will be instituted to ensure the building is maintained in a state of good repair. Such plan will include provisions for a least toxic approach to integrated pest management and establish maintenance procedures and guidelines which will contribute to acceptable indoor air quality. The plan shall be available for public inspection.

Procedures will also be established to ensure the safety of building occupants during maintenance activities including standards for exiting and ventilation, asbestos and lead protocols, noise abatement and control of chemical fumes, gases and other contaminants.

Building Condition Surveys

Each occupied BOCES building will be assessed every five years by a building condition survey on a schedule established by the State Education Department (SED). This survey will be conducted by a team that includes at least one licensed architect or engineer and will include a list of all program spaces and inspection of building system components for evidence of movement, deterioration, structural failure, probable useful life, need for repair and maintenance and need for replacement. Building condition survey reports will be completed and submitted to the Commissioner of Education by the deadlines established by SED.

Visual Inspections

A visual inspection of building system components in each occupied BOCES building will take place when required by the State of Commissioner of Education. The inspection will be conducted by a team including a local code enforcement official, the Facilities Director or his/her designee and a member of the Health and Safety Committee. The inspection report will be made available to the public.

A corrective action plan will be developed by a licensed architect or engineer if a deficiency exists in the building.

Fire Safety Inspections

An annual inspection for fire and safety hazards will be conducted in accordance with a schedule established by the Commissioner of Education. The inspection will be conducted by a qualified fire inspector and the report will be kept in the BOCES office. Any violation of the State Uniform Fire Prevention and Building Code shall be corrected immediately or within a time frame approved by the Commissioner.

Safety Rating System

A safety rating keyed to the structural integrity and overall safety of each occupied school building will be provided on an annual basis in consultation with the Health and Safety Committee. Safety ratings will be based on the safety rating system developed by the Commissioner and will comply with all statutory and regulatory requirements.

Building Principals shall, on an on-going basis, undertake their own inspections of school buildings and grounds, searching for any dangerous or hazardous conditions and take immediate steps to remedy the problem

Cross-Ref.: 6200, Annual Budget

7100, Facilities Planning
7365, Construction Safety
8110, School Building Safety
8115, Pesticides and Pest Management

Ref: 29 CFR 1910 et seq (OSHA Hazard Communication)
40 CFR Part 763 (Asbestos Hazard Emergency Response Act)
Education Law 409-d (Comprehensive Public School Safety Program); 409-e (Uniform Code of Public School Buildings Inspections, Safety Rating and Monitoring); 807-a (Fire Inspections)
Labor Law 875-883(toxic substances)
Public Health Law 4800-4808 (Right to Know, toxic substances)
Environmental Conservation Law 33-0725 (Pesticides)
6 NYCRR Part 325 (Pesticides)
8 NYCRR 155.1(Educational Facilities); 155.4 (Uniform Code of Public School Buildings Inspection, Safety Rating and Monitoring); 155.8 (Fire and Building Safety Inspections)
9 NYCRR Parts 600-1250 (Uniform Fire Prevention & Building Code)
12 NYCRR Part 56 (Industrial Code Rule concerning asbestos)
Appeal of Anibaldi, 33 Educ. Dep't Rep. 166 (1993) (district required to monitor student's physical symptoms when air quality caused health problems)

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Guidelines for the Evaluation and Control of Lead-Based point Hazards in Housing, U.S. Department of Housing and Urban Development, Washington D.C., June 1995)

IPM Workbook for New York State Schools, Cornell Cooperative Extension Community IPM Program with support from New York State Dept. of Environmental Conservation, August 1998

Adoption date: January 23, 2008

Revised date: November 17, 2015; October 20, 2021

PROVISION OF UNIFORMS

The Board of Education recognizes that there is, in certain circumstances, the need for employees to wear uniforms due to the nature of their jobs. The Board of Education also recognizes that there is, for certain programs, the need for students to wear uniforms, due to the nature of the activities within their programs. It is the policy of the ONC BOCES to provide those uniforms based upon the recommendation of the Program Leader and subsequent approval by the District Superintendent.

When uniforms are issued to employees, the employee is responsible for the maintenance of the uniform. However, the uniforms remain the property of the ONC BOCES and must be returned upon the employee's separation from employment. If new uniforms are required, the employee will return the old uniform prior to the issuance of a new uniform.

Student uniforms are maintained at the occupational centers. The student uniforms remain the property of the ONC BOCES and must be returned by the students to the program administrator after each use.

Adoption date: March 26, 2008

AUTHORIZED USE OF BOCES-OWNED MATERIALS AND EQUIPMENT

The Board of Education permits the use of BOCES-owned materials and equipment (e.g., laptop computers, cell phones, audio-visual equipment, etc.) by Board members, officers, and employees of the district when such material and equipment is needed for BOCES-related purposes.

The District Superintendent, in consultation with the Deputy Superintendent, shall establish regulations governing the loan and use of such equipment. Such regulations must address:

- the individuals who may properly authorize the use of such material and/or equipment;
- the lack of authority of the borrower to use such material or equipment for private, non-business purposes;
- the responsibilities of the borrower for proper use, care and maintenance;
- that, regardless of condition or other factors, all loaned equipment must be returned to the district. No item may be sold to or purchased by the borrower unless such equipment has been returned to the district for evaluation and, if necessary, disposal in accordance with district policy and procedures.

All equipment shall be inventoried and a list shall be maintained of the date such equipment was loaned, to whom it was loaned, and the date of expected and actual return.

Individuals borrowing district-owned equipment shall be fully liable for any damage or loss occurring to the equipment during the period of its use, and shall be responsible for its safe return. In addition, since Board members, officers and employees are issued district owned equipment in connection with their work responsibilities, the individual using the district owned equipment should not have an expectation of privacy with respect to information contained on the device (e.g. computer files, images, messages).

The Program Leader shall maintain records of all equipment that is loaned for long-term use (e.g, school year, term of office, etc.) and shall review such list yearly.

Adoption date: January 23, 2008

Revised date: October 19, 2010

USE OF CELL PHONES

The Board of Education recognizes that certain BOCES employees will need to carry cell phones in order to meet their job responsibilities. The BOCES shall establish the appropriate level of service contract for each specific employee. Once the appropriate level of service is established, the employee can either choose to be given a BOCES owned cell phone with this level of service, or the employee can choose to use their personal cell phone for BOCES business and be reimbursed in an amount up to the state contract pricing for the approved plan type. In either case, substantive business communications cannot be conducted by text message.

A list of job titles and the authorized level of service for covered cell phones costs shall be maintained in the Deputy Superintendent's Office and reported to the Board of Education for its approval each year at its reorganizational meeting in July or as changes are needed.

For employees using BOCES owned cell phones, the following rules apply:

- All cellular telephone contracts shall be secured through the appropriate purchasing process (e.g., competitive bid, RFP process).
- The employee shall make every attempt to use his/her cellular phone for business purposes only; however, in the event an employee uses a cellular phone for other than business purposes, he/she shall reimburse the BOCES for such non-business calls at the per minute charge.
- Individuals authorized to use BOCES cellular telephones shall agree in writing to accept financial responsibility for any inappropriate usage by that individual. In addition, since employees are issued district owned cell phones in connection with their work responsibilities, employees should not have an expectation of privacy with respect to information contained on the device (e.g. text messages, records of phone calls).
- Employees must take proper care of cell phones and take all reasonable precautions against damage, loss, or theft. Any damage, loss, or theft must be reported immediately to the Deputy Superintendent. Since employees are responsible for the safe return of BOCES-owned cell phones, employees who use BOCES-owned cell phones may be liable for damages or losses which occur during the period of its use.
- Employees must choose a plan available on state contract with pricing up to the plan type approved by their Supervisor and the Board of Education.

For employees using personal cell phones for BOCES business, the following rules apply:

- An ONC BOCES Cell Phone Authorization form must be completed and filed with the Business Office and the Deputy Superintendent's office.
- Reimbursements for cell phone coverage will be made quarterly upon receipt of the reimbursement request form and a copy of the first page, indicating the type of service plan, of the personal cell phone bill.
- Employees, who chose to receive reimbursement from the BOCES, will not also receive a data plan purchased by the BOCES.

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- Employees that work less than full time will be reimbursed a prorated amount equal to their FTE with the BOCES.

Adoption date: January 23, 2008

Revised dates: April 30, 2008, July 8, 2008; July 7, 2009; July 7, 2010; October 19, 2010, November 14, 2012; July 11, 2018; July 9, 2019; July 8, 2020; July 7, 2021; July 12, 2022; July 6, 2023

AUTHORIZED PERSONNEL CELL PHONE USE

- Plan A – 400 mins of voice, unlimited text and data
 - District Superintendent (1)
 - Deputy Superintendent (1)
 - Assistant Superintendents (2)
 - Program Leaders (15)
 - Principals (2)
 - Student Programs Supervisor/Deans (3)
 - Staff Developers (3)
 - Regional Partnership Center (6)
 - Computer Technicians (7)
 - Director of Facilities (1)
 - Building Maintenance Supervisor (2)
 - Executive Secretary/Office Specialist/Legal Secretary (3)
- Plan B – 400 mins of voice and 250 text messages
- Plan C – Charge per min, flat rate base service
 - Principal-owned phones for trips (2) @ OAOC
 - BOCES Courier (1)

Adoption Date: January 23, 2008

Revised Date: April 30, 2008; May 20, 2008; June 24, 2008; July 8, 2008; July 7, 2009; August 25, 2009; April 28, 2010; April 27, 2011; July 11, 2012; November 14, 2012; July 10, 2013; September 11, 2013; July 15, 2014; November 12, 2014; November 17, 2015; August 24, 2016; October 12, 2016; July 12, 2017; October 11, 2017; November 8, 2017; March 14, 2018; July 11, 2018; August 22, 2018; April 10, 2019; September 11, 2019; June 10, 2020; September 2, 2020; December 10, 2020; September 21, 2022; October 19, 2022; July 6, 2023; August 10, 2023, July 10, 2025

USE OF DISTRICT CREDIT CARDS

It is recognized that specific BOCES employees will be issued a BOCES credit card to assist with their job responsibilities. The use of a BOCES credit card is not to circumvent purchasing policy but to be used as an option when paying a vendor. Credit cards may only be used for legitimate BOCES business expenditures supported by an approved purchase order or pre-approved expense reimbursement request on file.

The BOCES shall establish a credit line not to exceed 750,000. Credit cards will be issued to BOCES employees by the Director of Management Services in consultation with the Deputy Superintendent, who will establish specific card limits in accordance with approved purchase orders. The remaining credit line will be applied to one credit card issued to the Treasurer, which will be kept in the Business Office safe to be used for eligible payments to vendors.

BOCES issued credit cards shall be used prudently and only for official school business. Individuals authorized to use BOCES credit cards shall agree in writing to accept financial responsibility for any inappropriate usage by that individual. Users must submit detailed documentation, including itemized receipts for commodities, services, travel and or other actual and necessary expenses which have been incurred in connection with school-related business for which the credit card has been used.

The Board shall ensure that the credit card will be secured through an RFP process, or State contract and the relationship between the district and the credit card company is such that the district preserves its right to refuse to pay any claim or portion thereof that is not expressly authorized, does not constitute a proper district charge, or supersedes any laws, rules, regulations, or policies otherwise applicable. In addition, the Board will ensure that no claim shall be paid unless an itemized voucher approved by the officer whose action gave rise or origin to the claim, shall have been presented to the Board and shall have been audited and allowed.

Users must take proper care of these credit cards and take all reasonable precautions against damage, loss, or theft. Any damage, loss, or theft must be reported immediately to the Director of Management Services and to the appropriate financial institution. Purchases that are unauthorized, illegal, represent a conflict of interest, are personal in nature or violate the intent of this policy will result in credit card revocation and discipline of the employee.

The Deputy Superintendent shall periodically, but no less than twice a year, monitor the use of each credit card and report any serious problems and/or discrepancies directly to the District Superintendent and the Board.

Cross-ref: 6700, Purchasing
6830, Expense Reimbursement

Ref: Education Law §§1724(1); 2524(1) (itemized, audited, and approved vouchers required)

Opns. St. Compt. No. 79-202 (use of multi-purpose credit cards by municipal employees)

Opns. St. Compt. No. 79-494

Opns. St. Compt. No. 78-897 (gas credit cards)

Adoption date: January 23, 2008

Revised date: July 8, 2008; July 7, 2009; July 7, 2010; August 31, 2010; May 14, 2014; April 13, 2016; June 12, 2019; July 8, 2020; July 7, 2021

ADMINISTRATOR ACCEPTANCE OF RESPONSIBILITY

CREDIT CARD USAGE POLICY

Administrator: _____

I have been issued an Otsego Northern Catskills BOCES Corporate Credit Card and, in accordance with Board Policy # 8334, agree to use the card prudently and only for official school business. I also accept financial responsibility for any inappropriate usage.

I agree to provide itemized receipts or a bonafide purchase order for all purchases.

Employee Signature:

Date:

VEHICLE USAGE POLICY

Vehicles are provided by BOCES for use of Administrative and Supervisory personnel and also may be used, when appropriate, by Board members and other employees, as available, for BOCES business obligations.

No BOCES provided vehicle will be driven home unless specified by contract. Exceptions require prior approval of the District Superintendent.

Personal use of a BOCES vehicle is not permitted. Exceptions require prior approval of the District Superintendent.

If it becomes necessary to use a personal vehicle for BOCES business due to the unavailability of a vehicle, reimbursement for mileage at the effective approved rate will be made for transportation on BOCES business. Employees must keep adequate records of such miles and submit a written request for reimbursement to BOCES within a reasonable period of time, in accordance with the procedures established by BOCES. In the event of any excess reimbursement, employees must return any excess reimbursement within a reasonable period of time. Since vehicles are provided for business use, regular usage of a privately owned vehicle in lieu of a BOCES vehicle will require approval of the District Superintendent.

No BOCES vehicle is the exclusive property of an individual employee; sharing is essential. BOCES owned or leased vehicles will be parked in the designated area at Center Street School, the Instructional Support Services Center, OAOC or NCOC unless permission of the District Superintendent has been received to do otherwise.

All employees who are authorized to drive BOCES vehicles must maintain a current and valid driver's license and must be insurable under the BOCES insurance policy. If this status changes in any way, employees must notify BOCES immediately. Persons driving BOCES vehicles are expected to observe all applicable laws, reasonable safe driving standards, and BOCES policies.

Adoption date: January 23, 2008

Revised date: November 18, 2020

8414.5

ALCOHOL AND DRUG TESTING OF DRIVERS

ALCOHOL AND DRUG TESTING OF DRIVERS

The Board of Education recognizes the dangers inherent in alcohol and controlled substance use by employees especially those in safety-sensitive positions. To ensure the safety of its students the Board requires alcohol and controlled substance testing of certain “drivers,” operators of “other school buses,” and any other employee who is subject to such testing, in accordance with and as set forth in the applicable federal and state requirements.

1. A “driver” includes any person who operates a commercial motor vehicle. This includes, but is not limited to: Full time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent owner-operator contractors.
2. “Other school buses” include those covered by applicable federal regulations (see list below) and any other motor vehicles owned by the BOCES or by a private company, operated to transport students, children of students, teachers and other supervisory persons to or from school or school activities.

Consistent with Federal Regulations, the BOCES ~~shall~~ **will** directly, by contract, or through a consortium, implement and conduct a program to provide alcohol and controlled substance testing of drivers who operate a commercial motor vehicle, perform in a safety-sensitive position, and are required to hold a commercial driver’s license. Employees holding such positions include:

1. drivers of vehicles designed to transport 16 or more passengers, including the driver;
2. drivers of commercial motor vehicles whose manufacturer’s rating is 26,001 lbs. or more; or
3. any other employee who may drive or service a listed vehicle (e.g. a mechanic who performs test drives, repairs, inspects, or loads or unloads a listed vehicle).
4. Drivers of “other school buses” transporting students in Department of Transportation (DOT) inspected vehicles designed to transport less than 16 passengers.

Controlled substance and alcohol tests will be conducted for operators of all “other school buses” consistent with the procedures applicable to the implementation of federal regulations. Volunteers who drive a bus with passengers fewer than 30 days per year are not subject to such testing.

Generally, the required testing will be conducted at or prior to the time of employment and randomly throughout the school year. However, drivers are subject to additional testing under federal regulations when a supervisor has a reasonable suspicion that a driver has engaged in prohibited alcohol or controlled substance use; after certain accidents; prior to return to duty when the driver has been found to violate BOCES policy and federal regulations; and after the driver's return to duty.

In accordance with federal and state law, a driver ~~s~~ may not drive if ~~he or she~~ **they**:

1. ~~possesses, consumes or is~~ **possess, consume or are** reasonably believed to possess or have consumed alcohol or a controlled substance, while on duty;
2. ~~uses or is~~ **use or are** under the influence of alcohol or a controlled substance that is not lawfully prescribed within six hours or less before duty;
3. ~~has~~ **have** an alcohol concentration of 0.02 or higher, or tests positive for a controlled substance; or
4. ~~refuses~~ to take a required alcohol or controlled substance test.

Also, no driver ~~shall~~ **is permitted to** use alcohol after being involved in an accident in which there was a fatality or in which the driver was cited for a moving violation and a vehicle was towed from the scene or an injury was treated away from the scene until ~~he/she has~~ **they have** been tested or 8 hours have passed, whichever occurs first.

The BOCES will not require or permit drivers of vehicles listed above, as well as operators of all "other school buses" defined above, to be on duty or operate a listed vehicle or other school bus, if it appears that they have consumed a drug/controlled substance (except those lawfully prescribed) or alcohol within the preceding eight hours. This ~~shall~~ **will** be based on the person's general appearance, conduct, or other substantiating evidence. Those who maintain, repair, or garage listed vehicles or school buses that involve incidental driving without passengers, are exempt from this requirement, but are still prohibited from consuming controlled substances and alcohol within six hours of going on duty.

Any driver who is tested and found to have an alcohol concentration of at least 0.02, but less than 0.04, ~~shall~~ **will** be removed from the position until ~~his or her~~ **their** next regularly scheduled duty period, but not less than 24 hours following administration of the test. Any driver found to have violated this requirement may be disciplined in accordance with the provisions of the applicable collective bargaining agreement, BOCES policy, and/or law. Operators of "other school buses" subject to random testing pursuant to New York Law will be subject to the same consequences based upon and alcohol concentration of at least 0.02 but less than 0.04 as drivers listed above.

If a driver has an alcohol concentration of 0.04 or greater, or has engaged in prohibited alcohol or controlled substance use, ~~he or she~~ **they** will be removed from driving duties, and referred to

a substance abuse professional. The driver may be required to complete a treatment program and/or be disciplined pursuant to BOCES policy and/or collective bargaining agreement. No driver who has abused controlled substances and/or alcohol may return to duty unless ~~he/she~~ **they have** successfully passed a required return to duty test. Thereafter, the driver will be subject to follow-up testing. Operators of "other school buses" subject to random testing pursuant to New York Law will be subject to the same consequences based upon an alcohol concentration of 0.04 or greater or a positive drug test as drivers listed above.

Should the BOCES receive a dilute test result in which the creatinine concentration is greater than 5mg/dL in the case of any pre-employment, return-to-duty, follow-up, reasonable suspicion, or random test, it is the policy of the BOCES that the individual ~~shall~~ **will** be re-tested and that re-test will become the test of record.

The District Superintendent ~~shall~~ **will** ensure that a copy of this policy, the BOCES' policy on misuse of alcohol and use of controlled substances, information on alcohol and drug abuse and treatment resources and any other information prescribed by federal regulations is provided to all drivers and "operators of "other school buses" prior to the initiation of the testing program and to each driver or "operator of "other school buses" subsequently hired or transferred to a position subject to testing.

Cross-ref: 8414.1, Bus Driver Qualifications and Training
9320, Drug-Free Workplace
9610, Staff Substance Abuse

Ref: Omnibus Transportation Employee Testing Act of 1991, 49 U.S.C. §§31136; 31306
49 U.S.C. §521(b)
49 CFR Part 391 (Qualifications/Disqualifications)
49 CFR Part 382 (Drug Testing Requirements)
49 CFR Part 40 (Testing Procedures)
49 CFR §395.2 (On-duty time defined)
Vehicle and Traffic Law §§509-1; 1192; 1193
Will v. Frontier CSD Bd. of Educ., 97 N.Y.2d 690 (2002)

Adoption date: February 8, 2017

Revised Date: April 10, 2019

ALCOHOL AND DRUG TESTING OF DRIVERS REGULATION

Any employee who operates a commercial motor vehicle, or other “school bus,” or is in a related safety-sensitive function described below is subject to alcohol and controlled substance testing in accordance with this regulation and applicable federal regulations and state law. An employee having any questions concerning the BOCES’ policy or regulation, state law or applicable federal regulations are to contact the District Superintendent.

Any treatment, rehabilitation program or discipline will be provided in accordance with BOCES policy and/or collective bargaining agreements.

I. Definitions

A. Employees Covered Under Federal Law

Employees covered under federal law include BOCES employees who operate a commercial motor vehicle, perform in a related safety-sensitive position, and are required to obtain a commercial driver’s license. Such employees include:

1. drivers of vehicles designed to transport 16 or more passengers, including the driver;
2. drivers of commercial motor vehicles whose manufacturer’s rating is 26,001 lbs. or more; or
3. any other employee who may drive or service a vehicle listed in 1 or 2 above (e.g., a mechanic who performs test drives, repairs, inspects or loads or unloads a listed vehicle).

Such employees include, but are not limited to full-time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent, owner-operator contractors who are either directly employed or under lease to an employer or who operate a commercial motor vehicle at the direction or with the consent of the BOCES.

B. Employees Covered Under State Law

Operators of “other school buses” are subject to testing as described in section III below. “Other school buses” include both those covered by applicable federal regulations as stated above, and any other motor vehicle either owned by the BOCES or by a private company, operated to transport students, children of students, teachers, and other supervisory persons to or from school or school activities.

Certain specified employees will not be considered operators of “other school buses.” They include:

1. Volunteers who drive a school bus with passengers fewer than 30 days per year; and
2. Employees engaged in the maintenance, repair or garaging of buses, who in the course of their duties must incidentally drive a vehicle not covered under federal law without passengers.

C. Safety Sensitive Function

An employee is performing a safety-sensitive function that is covered by federal regulations when:

1. waiting to be dispatched, unless the driver has been relieved from duty;
2. inspecting, servicing or conditioning any commercial motor vehicle;
3. driving a commercial motor vehicle;
4. attending a vehicle being loaded or unloaded;
5. performing the driver requirements of the federal regulations pertaining to accidents; and
6. attending to a disabled vehicle.

II. Driver Prohibitions and Consequences

Employees covered under federal law are required to be in compliance with BOCES policy and regulation at the following times:

1. when performing any on-duty safety-sensitive functions, including all time from the time a driver begins to work or is required to be in readiness to work until the time the driver is relieved from work and all responsibility; and
2. during all time spent providing a breath sample, saliva/oral fluid sample or urine specimen and travel time to and from the collection site in order to comply with random, reasonable suspicion, post-accident, return-to-duty or follow-up testing.

Employees covered under both federal and state law are prohibited from driving a listed vehicle or performing other safety-sensitive duties if the employee:

1. possesses, consumes or is reasonably believed to possess or have consumed alcohol or a controlled substance, while on duty;
2. has consumed or is under the influence of alcohol or a controlled substance that is not lawfully prescribed within six hours before duty;

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3. has an alcohol concentration of 0.02 or higher, or tests positive for controlled substances; or
4. refuses to take a required alcohol or controlled substance test. Refusal to submit will mean the failure to provide adequate breath, saliva/oral fluid or urine without a valid medical explanation, receipt of verified adulterated or substituted drug test result, or to engage in conduct that clearly obstructs the testing process, such as a failure to arrive for the drug testing or failure to sign the alcohol testing form prior to specimen collection.

In addition, an employee covered under federal law is prohibited from consuming alcohol within eight hours after being involved in an accident, or before undergoing a post-accident test, if such a test is required. Illegal drug use by drivers is prohibited on or off duty.

Drivers who violated the above prohibitions will be subject to the following enforcement actions:

1. Employees covered under federal law will be removed from their safety-sensitive functions if they violate the BOCES policy or federal regulations pertaining to the possession or consumption of alcohol or controlled substances.
2. The Deputy Superintendent or designee will not require or permit employees covered under state law to be on duty or operate a listed vehicle or other school bus, if it appears that they have consumed a drug/controlled substance (except those lawfully prescribed) or alcohol within the preceding eight hours. This will be based on the person's general appearance, conduct, or other substantiating evidence. Those who maintain, repair, or garage listed vehicles or school buses that involves incidental driving without passengers, are exempt from this requirement, but are still prohibited from consuming controlled substances and alcohol within six hours of going on duty.
3. Covered employees who test 0.02 or greater but less than 0.04 will be removed from driving and other safety-sensitive duties until the start of their next regularly scheduled duty period, but not less than 24 hours following administration of the test.
4. In the event that any covered employee has a breath alcohol concentration of 0.04 or greater, has tested positive for a controlled substance or has refused to take a test, they will, in addition to immediate removal from driving and any other safety-related duties, not be returned to duty until they have:
 - been evaluated by a substance abuse professional;
 - complied with any treatment recommendations; and
 - received a satisfactory result from a return to duty test.

5. Upon return to duty, the employee will be subject to follow-up testing.

While New York Law permits the use of medical and adult-use cannabis, marijuana is still a controlled substance under federal law and its use is still prohibited and tested for in covered employees. Any driver tested under the federal regulations, who tests positive for marijuana, even if such use is based upon a lawful certification or lawful use under state law, will be found to have violated the federal regulations (DOT Office of Drug and Alcohol Policy and Compliance, Medical Marijuana Notice (Oct. 2009) at: <https://www.transportation.gov/odapc/medical-marijuana-notice>).

Additionally, employees are cautioned that while cannabidiol (CBD) is not tested for under federal regulations, CBD products may contain tetrahydrocannabinol (THC), and CBD use may result in a positive test for marijuana if it contains more than 0.3% of THC. There is no FDA oversight to ensure that CBD products are accurately labeled. CBD use is not recognized as a legitimate medical explanation for a positive THC result.

III. Types of Testing

The District Superintendent will ensure that the following alcohol and drug tests are conducted and that any employee who is required to take such a test is notified prior to the test that it is required pursuant to federal regulations. Notice will also be given in the case of pre-employment alcohol testing, that such test is required by state law.

1. Pre-employment: Controlled substance and alcohol tests will be conducted before all applicants are hired or after an offer to hire, but before actually performing safety-sensitive functions for the first time. These tests will also be given when employees covered under federal or state law transfer to a safety-sensitive function.
2. Post-accident: Alcohol and controlled substance tests will be conducted if a driver covered under federal law is involved in an accident in which:
 - a. there has been a fatality; OR
 - b. the driver has received a citation for a moving violation in connection with the accident pursuant to the time limitations specified in the regulation and either
 1. there is an injury treated away from the scene of the accident; or
 2. there is a disabled vehicle towed from the scene.

3. Reasonable Suspicion: Alcohol and controlled substance tests will be conducted when the Deputy Superintendent who has completed the minimum two hours of training has a reasonable suspicion that the driver covered under federal law has violated BOCES policy and regulation. A “reasonable suspicion” must be based on specific, contemporaneous, articulable observations concerning the driver’s behavior, appearance, speech or body odors that are characteristic of controlled substance or alcohol misuse. Alcohol tests can only be done just before, during or just after the employee covered under federal law drives a listed vehicle or performs other safety-sensitive duties. The supervisor who makes the determination of reasonable suspicion cannot do the testing.
4. Random Testing: For employees covered under federal law, random alcohol tests will be conducted annually at a minimum rate established annually by the Federal Motor Carrier Safety Administration. Random alcohol tests must be conducted just before, during or just after the employee drives a listed vehicle or performs other safety-sensitive duties. For employees covered under federal law, random controlled substance tests will be conducted annually at a minimum rate established annually by the Federal Motor Carrier Safety Administration. Random controlled substance tests may be conducted at any time. Random alcohol and controlled substance tests must be unannounced and spread reasonably throughout the calendar year.

New York law requires employees covered by state law to be tested in conformance with federal regulations 49 CFR Part 382. Although federal regulations permit employers to perform random testing beyond what they require, a separate pool must be maintained for those employees covered by state law who do not meet federal requirements. The separate pool for these employees will be subject to testing at the same minimum rate annually established for drivers subject to the Federal Motor Carrier Safety Administration regulations.

5. Return-to-Duty Testing: Any covered employee who refused to take a test or has engaged in prohibited alcohol and controlled substance use, except for alcohol concentration of between 0.02 and 0.04, is required to take an alcohol or controlled substance test and achieve a satisfactory result before returning to duty in the safety-sensitive position. If removal was due to alcohol use, a satisfactory result will be less than 0.02 alcohol concentration. If removal was due to controlled substance use, a satisfactory result will be one that it is verified as negative. The test will not be administered until the employee has been evaluated by a substance abuse professional and has complied with any treatment recommendations.

6. Follow-Up Testing: After any covered employee who was found to violate the BOCES' policy against alcohol and controlled substance use returns to duty, they will be subject to at least six unannounced tests in the first 12 months following the employee's return to duty. Follow-up testing may be extended for up to 60 months from the date of the employee's return to duty. Follow-up alcohol testing may only be conducted before, during or after the driver has performed driving duties.

IV. Testing Procedures

A. Alcohol Testing Procedures

Alcohol testing will be conducted with evidential breath testing (EBT) devices approved by the National Highway Traffic Safety Administration. An approved non-evidential screening device (on breath, blood or saliva) may be used to perform screening tests but not for confirmation alcohol tests. The employee and the Breath Alcohol Technician conducting the test must complete the alcohol testing form to ensure that the results are properly recorded.

1. Two breath tests are required to determine if a person has a prohibited alcohol concentration. A screening test is conducted first. Any result less than 0.02 alcohol concentration is considered a "negative" test.
2. If the alcohol concentration is 0.02 or greater, a second or confirmation test must be conducted. The confirmation test must be conducted using an EBT that meets the requirements of federal regulations.
3. If the confirmation test results indicate an alcohol concentration from 0.02 to 0.03999, the employee will be restricted from duty for at least 24 hours from the time of the test.
4. If the confirmation test results indicate an alcohol concentration equal to or greater than 0.04, the employee will be removed from all safety-sensitive duties and no return to duty will be permitted until the employee has successfully passed required return-to-duty tests. The employee must also be reviewed by a Substance Abuse Professional and comply with their recommendations. Follow-up tests will also be required.
5. For post-accident testing, the results of breath or blood tests conducted by law enforcement officials will be accepted as long as the testing conforms with federal and state requirements for alcohol testing and the results are made available to the BOCES.

All testing procedures will conform to the requirements outlined in federal regulations (49 CFR Part 40) for ensuring the accuracy, reliability and

confidentiality of test results. These procedures include training and proficiency requirements for Breath Alcohol Technicians, quality assurance plans for the EBT devices including calibration, requirements for suitable test location, and protection of employee test records.

B. Drug Testing Procedures

The employee must provide a urine or oral fluid specimen at a collection site that meets federal requirements which will be analyzed at a laboratory certified and monitored by the U.S. Dept. of Health and Human Services. Oral fluid will be used for direct observation if a person of the same gender is not available to do the observation, or for nonbinary or transgender individuals.

1. Regulations require that each specimen be divided into one “primary” specimen and one “split” specimen.
2. All specimens are analyzed for the following drugs or drug metabolites (by-products of the body metabolizing a drug):
 - a. Marijuana (metabolites)
 - b. Cocaine metabolites
 - c. Amphetamines (including methamphetamines, MDA and MDMA)
 - d. Opioids (including natural opiates such as codeine, morphine, heroin, and semi-synthetic opioids such as hydrocodone, hydromorphone, oxycodone, and oxymorphone)
 - e. Phencyclidine (PCP)
3. If the primary specimen confirms the presence of one or more of these drugs, the employee has 72 hours to request that the split specimen be sent to another certified lab for analysis.
4. All drug test results will be reviewed and interpreted by a physician (also called a Medical Review Officer) before they are reported to the BOCES.
5. If the laboratory reports a positive result to the Medical Review Officer (MRO), the MRO will interview the employee to determine if there is an alternative medical explanation for the drugs found in the employee’s specimen. If the employee provides appropriate documentation and the MRO determines that it is legitimate medical use of a prohibited drug, the drug test result is reported as negative.
6. If the MRO reports a positive drug result, the employee must be evaluated by a substance abuse professional and follow their recommendations prior to taking a return-to-duty test. Follow-up testing is also required.

7. For post-accident testing, the results of drug tests conducted by law enforcement officials will be accepted as long as the testing conforms with federal and state requirements for controlled substance testing and the results are made available to the BOCES.

All controlled substance testing will comply with the requirements of the federal regulations (49 CFR Part 40) including procedures for the proper identification, security and custody of the sample, use of certified laboratories, that all drug test results are reviewed and interpreted by a physician, and ensuring confidentiality of employee test records.

V. Dilute Specimen Testing

If the BOCES receives a drug test result that is negative but dilute and the creatinine concentration is greater than 5mg/dl, the BOCES will require a re-test to be conducted in each of the following cases:

- Pre-employment tests
- Return-to-duty tests
- Follow-up tests
- Reasonable suspicion tests
- Random tests

The result of the re-test will become the test of record. If the employee refuses to take the re-test it will be considered the same as a positive test result.

VI. Training

The Deputy Superintendent and every other person designated to determine whether reasonable suspicion exists to require an employee covered by federal law to undergo reasonable suspicion testing must receive at least one hour of training on alcohol misuse and at least one additional hour of training on controlled substance use which they will use in making their determinations.

VII. Federal Drug and Alcohol Clearinghouse Queries

The BOCES will conduct queries of the Department of Transportation's Federal Motor Carrier Safety Administration Drug and Alcohol Clearinghouse for all employees covered under federal law: (1) full queries to check if prospective employees are prohibited from performing safety-sensitive functions, such as operating school buses, due to unresolved drug and alcohol program violations, and (2) limited queries annually (once in a 365-day period), for all employees subject to state and federal drug and alcohol testing. The BOCES may conduct queries at other times as needed.

All queries require driver consent. The BOCES will request employee consent to conduct limited queries of the Clearinghouse. If a limited query result shows that a record is found in the Clearinghouse, the BOCES will request the driver's consent for a full query.

Full query results will show if a driver is prohibited or not prohibited from performing safety-sensitive functions. If a query shows a violation, the BOCES must verify that the driver has completed the Substance Abuse Professional's return to duty process before allowing the employee to perform any safety-sensitive function. In some cases, when hiring, the BOCES may inherit an ongoing follow-up testing process.

VIII. Recordkeeping and Reporting

The Deputy Superintendent will ensure that alcohol and drug testing records are maintained pursuant to applicable regulation and are available, if requested, for submission to the federal government or any State or local officials with regulatory authority over the employer or any of its drivers.

The following personal information must be reported to the Department of Transportation (DOT) Federal Motor Carrier Safety Administration Drug and Alcohol Clearinghouse for employees subject to DOT testing:

- a verified positive, adulterated or substituted drug test result;
- an alcohol confirmation tests with a concentration of 0.04 or higher;
- a refusal to submit to any test required by the regulations;
- An employer's report of actual knowledge of on duty alcohol use, pre-duty alcohol use, alcohol use following an accident, and controlled substance use;
- A substance abuse professional's report of the successful completion of the return-to-duty process;
- A negative return-to-duty test; and
- An employer report of completion of follow-up testing.

X. Required Notification

Every covered employee will receive information about the signs, symptoms, and effects of alcohol misuse and controlled substance use as well as a copy of the BOCES' policy and procedures, the consequences of testing positive and who to contact within the BOCES to seek further information and/or assistance.

Each covered employee is required to sign a statement certifying that they received this information. The BOCES will maintain the original signed certification until the

employee's employment is discontinued. The BOCES will provide a copy of the certification to the covered employee upon request.

XI. Penalties

Any treatment, rehabilitation program or discipline will be provided in accordance with applicable law and regulations, BOCES policy and/or collective bargaining agreements.

Any employer or driver who violates the requirements of the federal regulations of the Omnibus Transportation Employee Testing Act of 1991 may be subject to civil penalties.

In addition, in accordance with New York State law, a driver convicted of driving a listed vehicle with one or more student passengers while impaired by the use of drugs or alcohol will have their license revoked for one year and is subject to fines ranging from \$500 to \$5,000 and/or imprisonment. Any driver convicted more than once in 10 years for such crimes will have their license revoked for three years and is subject to a fine of \$1,000 to \$5,000 and/or imprisonment.

COMPUTER RESOURCES AND DATA MANAGEMENT

The Board of Education recognizes that computers are a powerful and valuable educational and research tool and as such are an important part of the instructional program. In addition, the BOCES depends upon computers as an integral part of administering and managing BOCES resources, including the compilation of data and recordkeeping for personnel, students, finances, supplies and materials. This policy outlines the Board's expectations in regard to these different aspects of the BOCES computer resources.

General Provisions

The District Superintendent shall be responsible for designating a Network/System Coordinator who will oversee the use of BOCES computer resources. The Instruction Support Services Department will prepare in-service programs for the training and development of staff in computer skills, appropriate use of computers and for the incorporation of computer use in subject areas.

The District Superintendent, working in conjunction with the designated purchasing agent for the BOCES, and the Network/System Coordinator (NSC), will be responsible for the purchase and distribution of computer software and hardware throughout the BOCES. They, in conjunction with the Director of Instructional Support Services, shall prepare and submit for the Board's approval a comprehensive multi-year technology plan which shall be revised as necessary to reflect changing technology and/or BOCES needs.

The District Superintendent, working with the NSC, shall establish regulations governing the use and security of the BOCES computer resources. The security and integrity of the district computer network and data is a serious concern to the Board and the district will make every reasonable effort to maintain the security of the system. All users of the district's computer resources shall comply with this policy and regulation, as well as the district's Computer Use policy (4526) and Internet Safety policy (4526.1). Failure to comply may result in disciplinary action, as well as suspension and/or revocation of computer access privileges.

All users of the BOCES' computer resources must understand that use is a privilege, not a right, and that use entails responsibility. Users of the BOCES' computer network

must not expect, nor does the district guarantee, privacy for electronic mail (e-mail) or any use of the BOCES' computer network. Since material produced on BOCES-owned computers is the property of the BOCES, the ONC BOCES reserves the right to access and view any material stored on its equipment or any material used in conjunction with BOCES' computer network.

Management of Computer Records

The Board recognizes that since district data is managed by computer, it is critical to exercise appropriate control over computer records, including financial, personnel and student information. The District Superintendent, working with the NSC and the Deputy Superintendent, shall establish regulations and procedures governing management of computer records taking into account whether the records are stored onsite on district servers or on remote servers in the "cloud." The procedures will address:

The regulations will address:

- passwords,
- system administration
- separation of duties,
- remote access,
- possible encryption
- user access and permissions appropriate to job titles and duties, disposal of computer equipment and resources (including deleting district data or destroying the equipment),
- inventory of computer resources (including hardware and software),
- data backup (including archiving of email),
- record retention, and
- disaster recovery plans and notification plans.

If the district contracts with a third-party vendor for computing services, the Superintendent, in consultation with the Network Systems Coordinator, will ensure that all agreements address the procedures listed above, as applicable.

Review and Dissemination

Since computer technology is a rapidly changing area, it is important that this policy be reviewed periodically by the Board and the BOCES external auditor. The regulation governing appropriate computer use will be distributed annually to staff and students and will be included in both employee and student handbooks.

Cross-ref: 1120, School District Records

4526, Computer Use for Instruction

4526.1, Internet Safety

5500, Student Records

6600, Fiscal Accounting and Reporting

6700, Purchasing

6900, Disposal of District Property

8635, Information Security Breach and Notification

Adoption date: January 23, 2008

Revised date: June 8, 2016

COMPUTER RESOURCES AND DATA MANAGEMENT REGULATION

The following rules and regulations govern the use of the BOCES' computer network system, employee access to the Internet, and management of computerized records.

I. Administration

- § The District Superintendent shall designate the Network Systems Coordinator to oversee the BOCES' computer network.
- § The Network Systems Coordinator shall monitor and examine all network activities, as appropriate, to ensure proper use of the system and maintain an updated inventory of all computer hardware and software resources.
- § The Network Systems Coordinator shall develop and implement procedures for data backup and storage. These procedures will facilitate the disaster recovery and notification plan and will comply with the requirements for records retention in compliance with the district's policy on School District Records (1120), taking into account the use of onsite storage or storage in the cloud.
- § The Network Systems Coordinator, along with the Human Resources Coordinator, shall be responsible for disseminating and interpreting district policy and regulations governing use of the BOCES' network at the building level with all network users.
- § The Director of Instructional Support Services, along with the Director of Student Programs, shall provide employee training for proper use of the network and will ensure that staff supervising students using the network provide similar training to their students, including providing copies of district policy and regulations (including policy 4526, Access to Electronic Telecommunications) governing use of the BOCES network.
- § The Network Systems Coordinator shall take reasonable steps to protect the network from viruses, other software, and network security risks that would compromise the network or district information.
- § All student and employee agreements to abide by BOCES policy and regulations and parental consent forms shall be kept on file in the BOCES central office.
- § Consistent with applicable internal controls, the District Superintendent in conjunction with the Deputy Superintendent and the Network Systems Coordinator, will ensure the proper segregation of duties in assigning responsibilities for computer resources and data management.

II. Internet Access

Student Internet access is addressed in policy and regulation 4526, Access to Electronic Telecommunication. BOCES employees are governed by the following regulations:

- Employees will be issued an email account through the BOCES computer network.
- Employees are expected to review their email daily.
- Communications with parents and/or students should be saved and the district will archive the e-mail records according to procedures developed by Records Management.
- Employees may access the internet for education-related and/or work-related activities.
- Employees shall refrain from using computer resources for personal use.
- Employees are advised that they must not have an expectation of privacy in the use of the BOCES computers.
- Use of computer resources in ways that violate the acceptable use and conduct regulation, outlined below, will be subject to discipline.

III. Acceptable Use and Conduct

The following regulations apply to **all users** of the BOCES computer system:

- § Access to the BOCES computer network is provided solely for educational and/or research purposes and management of operations consistent with the BOCES mission and goals.
- § Use of the BOCES computer network is a privilege, not a right. Inappropriate use may result in the suspension or revocation of that privilege.
- § Each individual in whose name an access account is issued is responsible at all times for its proper use.
- § All network users will be issued a login name and password. Passwords must be changed periodically and must be of sufficient complexity as determined by the BOCES.
- § All network users are expected to take reasonable precaution to secure district information stored on devices they use, including maintaining responsible custody over computer resources, ensuring no unauthorized use of district devices, and exercising prudent judgement when browsing the internet and opening email.

- § Abusive language, vulgarities and swear words are all inappropriate, and should not be used.
- § Network users identifying a security problem on the network must notify appropriate staff. Any network user identified as a security risk or having a history of violations of district computer use guidelines may be denied access to the BOCES network.

IV. Prohibited Activity and Uses

The following is a list of prohibited activity for **all users** concerning use of the BOCES computer network. Any violation of these prohibitions may result in discipline or other appropriate penalty, including suspension or revocation of a user's access to the network.

- § Using the network for commercial activity, including advertising.
- § Infringing on any copyrights or other intellectual property rights, including copying, installing, receiving, transmitting or making available any copyrighted software on the district computer network.
- § Using the network to receive, transmit or make available to others obscene, offensive, or sexually explicit material.
- § Using the network to receive, transmit or make available to others messages that are racist, sexist, abusive or harassing to others.
- § Use of another's account or password without permission.
- § Forging or attempting to forge e-mail messages.
- § Engaging in vandalism. Vandalism is defined as any malicious attempt to harm or destroy district equipment or materials, data of another user of the district's network or of any of the entities or other networks that are connected to the Internet. This includes, but is not limited to, creating and/or placing a computer virus on the network.
- § Using the network to send anonymous messages or files.
- § Intentionally disrupting network traffic or crashing the network and connected systems.
- § Installing personal software or using personal disks on the district's computers and/or network without the permission of the appropriate district official or employee.
- § Using district computing resources for fraudulent purposes or financial gain.
- § Stealing data, equipment or intellectual property.
- § Gaining or seeking to gain unauthorized access to any files, resources, or computer or phone systems, or vandalize the data of another user.

- § Changing or exceeding resource quotas as set by the district without the permission of the appropriate district official or employee.
 - § Using the network while your access privileges are suspended or revoked.
 - § Using the network in a fashion inconsistent with directions from teachers and other staff and generally accepted network etiquette.
 - § Exhibiting careless behavior with regard to information security (e.g., sharing or displaying passwords, leaving computer equipment unsecured or unattended, etc.).
- V. No Privacy Guarantee

]Users of the BOCES computer network should not expect, nor does the BOCES guarantee privacy for electronic mail (e-mail) or any use of the computer network. The BOCES reserves the right to access and view any material stored on BOCES equipment or any material used in conjunction with the BOCES computer network.

ONC BOCES retains all email messages that pass through our servers in a separate archive.

Contents of this Archive are indexed and searchable. Like other forms of records, messages in the archive may be made public as part of internal audits, judicial or other public disclosure proceedings.

We retain these archives for a period of 7 (seven) years. Regardless of compliance requirements, they will be retained for longer periods at our sole discretion.

VI. Sanctions

All users of the BOCES computer network and equipment are required to comply with the BOCES policy and regulations governing the computer network. Failure to comply with the policy or regulation may result in disciplinary action as well as suspension and/or revocation of computer access privileges.

Any information pertaining to or implicating illegal activity will be reported to the proper authorities. Transmission of any material in violation of any federal, state and/or local law or regulation is prohibited. This includes, but is not limited to materials protected by copyright, threatening or obscene material or material protected by trade secret. Users must respect all intellectual and property rights and laws.

VII. BOCES Responsibilities

The BOCES makes no warranties of any kind, either expressed or implied, for the access being provided. Further, the BOCES assumes no responsibility for the quality, availability, accuracy, nature or reliability of the service and/or information provided. Users of the BOCES computer network and the Internet use information at their own risk. Each user is responsible for verifying the integrity and authenticity of the information.

The BOCES will not be responsible for any damages suffered by any user, including, but not limited to, loss of data resulting from delays, non-deliveries, misdeliveries, or service interruptions caused by its own negligence or any other errors or omissions. The BOCES also will not be responsible for unauthorized financial obligations resulting from the use of or access to the BOCES computer network or the Internet.

The BOCES will take reasonable steps to protect the information on the network and provide a secure network for data storage and use, including ensuring that contracts with vendors address data security issues and that district officials provide appropriate oversight. Disposal of district computer resources shall ensure the complete removal of district information, or the secure destruction of the resource. Even though the BOCES may use technical or manual means to regulate access and information, these methods do not provide a foolproof means of enforcing the provisions of the policy and regulation.

Adoption date: January 23, 2008

Revised date: June 8, 2016; February 8, 2017

INFORMATION SECURITY BREACH AND NOTIFICATION

The Board of Education acknowledges the concern regarding the rise in identity theft and the need for secure networks prompt notification when security breaches occur.

The Board adopts the National Institute for Standards and Technology Cybersecurity Framework Version 1.1 (NIST CSF) for data security and protection. The Network Administrator is responsible for ensuring the BOCES' systems follow NIST CSF and adopt technologies, safeguards and practices which align with it. This will include an assessment of the BOCES' current cybersecurity state, their target future cybersecurity state, opportunities for improvement, progress toward the target state, and communication about cyber security risk.

The Board will designate a Data Protection Officer to be responsible for the implementation of the policies and procedures required in Education Law §2-d and its accompanying regulations, and to serve as the point of contact for data security and privacy BOCES. This appointment will be made at the annual organizational meeting.

To this end, the Board directs the District Superintendent, in accordance with appropriate business and technology personnel, and the Data Protection Officer to establish regulations which address:

- the protections of “personally identifiable information” of student and teachers/principal under Education Law §2-d and Part 121 of the Commissioner of Education;
- the protections of “private information” under State Technology Law §208 and the NY SHIELD Act; and
- procedures to notify persons affected by breaches or unauthorized access of protected information.

I. Student and Teacher/Principal “Personally Identifiable Information” under Education Law §2-d

A. General Provisions

PII as applied to student data is as defined in Family Educational Rights and Privacy Act (Policy 5500), which includes certain types of information that could identify a student, and is listed in the accompanying regulation 8635-R. PII as applied to teacher and principal data, means results of Annual Professional Performance Reviews that identify the individual teachers and principals, which are confidential under Education Law §§3012-c and 3012-d, except where required to be disclosed under state law and regulations.

The Data Protection Officer will see that every use and disclosure of personally identifiable information (PII) by the BOCES benefits students and the BOCES (e.g., improve academic

achievement, empower parents and students with information, and/or advance efficient and effective school operations). However, PII will not be included in public reports or other documents.

The BOCES will protect the confidentiality of student and teacher/principal PII while stored or transferred using industry standard safeguards and best practices, such as encryption, firewalls, and passwords. The BOCES will monitor its data systems, develop incident response plans, limit access to PII to BOCES employees and third-party contractors who need such access to fulfill their professional responsibilities or contractual obligations, and destroy PII when it is no longer needed.

Certain federal laws and regulations provide additional rights regarding confidentiality of and access to student records, as well as permitted disclosures without consent, which are addressed in policy and regulation 5500, Student Records.

Under no circumstances will the BOCES sell PII. It will not disclose PII for any marketing or commercial purpose, facilitate its use or disclosure by any other party for any marketing or commercial purpose, or permit another party to do so. Further, the BOCES will take steps to minimize the collection, processing, and transmission of PII.

Except as required by law or in the case of enrollment data, the BOCES will not report the following student data to the State Education Department:

1. juvenile delinquency records;
2. criminal records;
3. medical and health records; and
4. student biometric information.

The BOCES has created and adopted a Parent's Bill of Rights for Data Privacy and Security (see Exhibit 8635-E). It has been published on the BOCES' website at www.oncboces.org and can be requested from the BOCES clerk.

B. Third-party Contractors

The BOCES will ensure that contracts with third-party contractors reflect that confidentiality of any student and/or teacher or principal PII be maintained in accordance with federal and state law and the BOCES data security and privacy policy.

Each third-party contractor that will receive student data or teacher or principal data must:

1. adopt technologies, safeguards and practices that align with the NIST CSF;
2. comply with the BOCES' data security and privacy policy and applicable laws impacting the BOCES;
3. limit internal access to PII to only those employees or sub-contractors that need access to provide the contracted services;
4. not use the PII for any purpose not explicitly authorized in its contract;

5. not disclose any PII to any other party without the prior written consent of the parent or eligible student (i.e., students who are eighteen years old or older):
 - a. except for authorized representatives of the third-party contractor to the extent they are carrying out the contract; or
 - b. unless required by statute or court order and the third party contractor provides notice of disclosure to the BOCES, unless expressly prohibited.
6. maintain reasonable administrative, technical and physical safeguards to protect the security, confidentiality and integrity of PII in its custody;
7. use encryption to protect PII in its custody; and
8. not sell, use, or disclose PII for any marketing or commercial purpose, facilitate its use or disclosure by others for marketing or commercial purpose, or permit another party to do so. Third party contractors may release PII to subcontractors engaged to perform the contractor's obligations, but such subcontractors must abide by data protection obligations of state and federal law, and the contract with the BOCES.

If the third-party contractor has a breach or unauthorized release of PII, it will promptly notify the BOCES in the most expedient way possible without unreasonable delay but no more than seven calendar days after the breach's discovery.

C. Third-Party Contractors' Data Security and Privacy Plan

The BOCES will ensure that contracts with all third-party contractors include the third-party contractor's data security and privacy plan. This plan must be accepted by the BOCES.

At a minimum, each plan will:

1. outline how all state, federal, and local data security and privacy contract requirements over the life of the contract will be met, consistent with this policy;
2. specify the safeguards and practices it has in place to protect PII;
3. demonstrate that it complies with the requirements of Section 121.3(c) of this Part;
4. specify how those who have access to student and/or teacher or principal data receive or will receive training on the federal and state laws governing confidentiality of such data prior to receiving access;
5. specify if the third-party contractor will utilize sub-contractors and how it will manage those relationships and contracts to ensure personally identifiable information is protected;
6. specify how the third-party contractor will manage data security and privacy incidents that implicate personally identifiable information including specifying any plans to identify breaches and unauthorized disclosures, and to promptly notify the BOCES;
7. describe if, how and when data will be returned to the BOCES, transitioned

to a successor contractor, at the BOCES' direction, deleted or destroyed by the third-party contractor when the contract is terminated or expires.

D. Training

The BOCES will provide annual training on data privacy and security awareness to all employees who have access to student and teacher/principal PII.

E. Reporting

Any breach of the BOCES' information storage or computerized data which compromises the security, confidentiality, or integrity of student or teacher/principal PII maintained by the BOCES will be promptly reported to the Data Protection Officer, the District Superintendent and the Board of Education.

F. Notifications

The Data Privacy Officer will report every discovery or report of a breach or unauthorized release of student, teacher or principal PII to the State's Chief Privacy Officer without unreasonable delay, but no more than 10 calendar days after such discovery.

The BOCES 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 or third-party contractor notification.

However, if notification would interfere with an ongoing law enforcement investigation, or cause further disclosure of PII by disclosing an unfixed security vulnerability, the BOCES 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.

The District Superintendent, in consultation with the Data Protection Officer, will establish procedures to provide notification of a breach or unauthorized release of student, teacher or principal PII, and establish and communicate to parents, eligible students, and BOCES staff a process for filing complaints about breaches or unauthorized releases of student and teacher/principal PII.

II. "Private Information" under State Technology Law §208

"Private information" is defined in State Technology Law §208, and includes certain types of information, outlined in the accompanying regulation, which would put an individual at risk for identity theft or permit access to private accounts. "Private information" does not include

information that can lawfully be made available to the general public pursuant to federal or state law or regulation.

Any breach of the BOCES' information storage or computerized data which compromises the security, confidentiality, or integrity of "private information" maintained by the BOCES must be promptly reported to the District Superintendent and the Board of Education.

The Board directs the District Superintendent, in accordance with appropriate business and technology personnel, to establish regulations which:

- Identify and/or define the types of private information that is to be kept secure. For purposes of this policy, "private information" does not include information that can lawfully be made available to the general public pursuant to federal or state law or regulation;
- Include procedures to identify any breaches of security that result in the release of private information; and
- Include procedures to notify persons affected by the security breach as required by law.

III. Employee "Personal Identifying Information" under Labor Law § 203-d

Additionally, pursuant to Labor Law §203-d, the BOCES will not communicate employee "personal identifying information" to the general public. This includes social security number, personal electronic email address, Internet identification name or password, parent's surname prior to marriage, or driver's license number. In addition, the BOCES will protect employee social security numbers in that such numbers shall not: be publicly posted or displayed, be printed on any ID badge, card or time card, be placed in files with unrestricted access, or be used for occupational licensing purposes. Employees with access to such information shall be notified of these prohibitions and their obligations.

Any breach of the BOCES' information storage or computerized data which compromises the security, confidentiality, or integrity of personal information maintained by the BOCES shall be promptly reported to the District Superintendent and the Board of Education.

Cross-ref:

1120, District Records

5500, Student Records

8630, Computer Resources and Data Management

Ref:

State Technology Law §§201-208

Labor Law §203-d

Education Law §2-d

8 NYCRR Part 121

ONC BOCES BOARD POLICY MANUAL

Adoption date: January 23, 2008

Revised date: October 14, 2015; May 13, 2020

PARENTS' BILL OF RIGHTS FOR DATA PRIVACY AND SECURITY

The District, in compliance with Education Law §2-d, provides the following:

DEFINITIONS:

As used in this policy, the following terms are defined:

Student Data means personally identifiable information from the student records of a District Student. Teacher or Principal Data means personally identifiable information from District records relating to the annual professional performance reviews of classroom teachers or Principals that is confidential and not subject to release under the provisions of Education Law §§3012-c and 3012-d. Third-Party Contractor means any person or entity, other than a District, that receives student data or teacher or Principal data from the District pursuant to a contract or other written agreement for purposes of providing services to the District, including, but not limited to, data management or storage services, conducting studies for or on behalf of the District, or audit or evaluation of publicly funded programs. Such term shall include an educational partnership organization that receives student or teacher or Principal data from a school district to carry out its responsibilities pursuant to Education Law §211-e and is not a District, and a not-for-profit corporation or other nonprofit organization, other than a District.

1. Neither student data, nor teacher or Principal data will be sold or released for any commercial purpose;
2. Parents have the right to inspect and review the complete contents of their child's education records. Procedures for reviewing student records can be found in the Board Policy entitled Information Security Breach and Notification;
3. Security protocols regarding confidentiality of personally identifiable information are currently in place and the safeguards necessary to protect the confidentiality of student data are maintained at industry standards and best practices. The safeguards include, but are not limited to, encryption, firewalls, and password protection. As required by Education Law §2-d (5), the National Institute for Standards and Technology Framework for Improving Critical Infrastructure Cybersecurity Version 1.1 (NIST Cybersecurity Framework or NIST CSF) is adopted as the standard for data security and privacy;
4. New York State maintains a complete list of all student data collected by the State and the data is available for public review at <http://www.p12.nysed.gov/irs/sirs/NYSEDDataElements2018.xlsx>, or by writing to the Office of Information & Reporting Services, New York State Education Department, Room 863 EBA, 89 Washington Avenue, Albany, New York 12234;

5. Parents have the right to have complaints about possible breaches of student data addressed. Complaints should be directed to Dr. Jennifer Avery, Deputy Superintendent and Data Privacy Officer at (607) 286-78715 ext. 3325, javery@oncboces.org or at 1914 County Route 35, Milford, NY 13807.

6. The District will promptly acknowledge receipt of complaints, commence an investigation, and take the necessary precautions to protect personally identifiable information;

- Following its investigation of a submitted complaint, the District shall provide the parent or eligible student with its findings within a reasonable period but no more than 60 calendar days from receipt of the complaint;
- Where the District requires additional time, or where the response may compromise security or impede a law enforcement investigation, the District shall provide the parent or eligible student with a written explanation that includes the approximate date when the District anticipates that it will respond to the complaint;
- The District will require complaints to be submitted in writing;
- The District 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 LGS-1;

7. This policy will be regularly updated with supplemental information for each contract the District enters into with a third-party contractor where the third-party contractor receives student data or teacher or Principal data. The supplemental information must be developed by the District and include the following information:

- the exclusive purposes for which the student data or teacher or Principal data will be used by the third-party contractor, as defined in the contract;
- 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 State and federal laws and regulations (e.g., FERPA; Education Law §2-d);
- 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 the District, and whether, when and how the data will be destroyed);
- 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;
- where the student data or teacher or Principal data will be stored, it will be described in such a manner as to protect data security and the security protections taken to ensure that such data will be protected and data security and privacy risks mitigated; and how the data will be protected using encryption while in motion and at rest will be addressed.

8. This policy shall be published on the District's website. This policy shall also be included with every contract the District enters with a third party contractor where the third party contractor receives student data or teacher or Principal data.

Data Privacy Rider for All Contracts Involving Protected Data Pursuant to New York State Education Law §2-C and §2-D

ONC BOCES and the Third-Party Contractor agree as follows:

1. Definitions:
 - a. Protected Information means personally identifiable information of students from student education records as defined by FERPA, as well as teacher and Principal data regarding annual professional performance reviews made confidential under New York Education Law §3012-c and §3012-d;
 - b. Personally Identifiable Information (PII) means the same as defined by the regulations implementing FERPA (20 USC §1232-g);
2. Confidentiality of all Protected Information shall be maintained in accordance with State and Federal Law and the BOCES Data Security and Privacy Policy;
3. The Parties agree that the BOCES Parents' Bill of Rights for Data Security and Privacy are incorporated as part of this agreement, and the Third-Party Contractor shall comply with its terms;
4. The Third-Party Contractor agrees to comply with New York State Education Law §2-d and its implementing regulations;
5. The Third-Party Contractor agrees that any officers or employees of the Third-Party Contractor, and its assignees who have access to Protected Information, have received or will receive training on Federal and State law governing confidentiality of such information prior to receiving access;
6. The Third-Party Contractor shall:
 - a. limit internal access to education records to those individuals that are determined to have legitimate educational interests;
 - b. not use the education records for any other purposes than those explicitly authorized in its contract or written agreement. Unauthorized use specifically includes, but is not limited to, selling or disclosing personally identifiable information for marketing or commercial purposes or permitting, facilitating, or disclosing such information to another Third-Party for marketing or commercial purposes;

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- c. except for authorized representatives of the Third-Party Contractor to the extent they are carrying out the contract or written agreement, not disclose any personally identifiable information to any other party;
 - i. without the prior written consent of the parent or eligible student; or
 - ii. unless required by statute or court order and the party provides notice of the disclosure to the New York State Education Department, Board of Education, or institution that provided the information no later than the time the information is disclosed, unless providing notice of the disclosure is expressly prohibited by statute or court order;
- d. maintain reasonable administrative, technical, and physical safeguards to protect the security, confidentiality and integrity of personally identifiable information in its custody;
- e. use encryption technology to protect data while in motion or in its custody from unauthorized disclosure using a technology or methodology specified by the Secretary of the United States Department of Health and Human Services in guidance issued under Section 13402(H)(2) of Public Law §111-5;
- f. adopt technology, safeguards and practices that align with the NIST Cybersecurity Framework;
- g. impose all the terms of this rider in writing where the Third-Party Contractor engages a subcontractor or other party to perform any of its contractual obligations which provides access to Protected Information.

Agreement and Signature

By signing below, you agree to the Terms and Conditions in this Rider:

Company Name _____

Product Name _____

Printed Name _____ Signature _____

Date _____

INFORMATION SECURITY BREACH AND NOTIFICATION REGULATION

This regulation addresses information and data privacy, security, breach and notification requirements for student and teacher/principal personally identifiable information under Education Law §2-d, as well as private information under State Technology Law §208.

The BOCES will inventory its computer programs and electronic files to determine the types of information that is maintained or used by the BOCES, and review the safeguards in effect to secure and protect that information.

I. Student and Teacher/Principal “Personally Identifiable Information” under Education Law §2-d

A. Definitions

“Biometric record,” as applied to student PII, means one or more measurable biological or behavioral characteristics that can be used for automated recognition of person, which includes fingerprints, retina and iris patterns, voiceprints, DNA sequence, facial characteristics, and handwriting.

“Breach” means the unauthorized acquisition, access, use, or disclosure of student PII and/or teacher or principal PII by or to a person not authorized to acquire, access, use, or receive the student and/or teacher or principal PII.

“Disclose” or Disclosure means to permit access to, or the release, transfer, or other communication of PII by any means, including oral, written, or electronic, whether intended or unintended.

“Personally Identifiable Information” (PII) as applied to students means the following information for BOCES students:

1. the student's name;
2. the name of the student's parent or other family members;
3. the address of the student or student's family;
4. a personal identifier, such as the student's social security number, student number, or biometric record;
5. other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name;
6. other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have

personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or

7. information requested by a person who the BOCES reasonably believes knows the identity of the student to whom the education record relates.

“Personally Identifiable Information” (PII) as applied to teachers and principals means results of Annual Professional Performance Reviews that identify the individual teachers and principals, which are confidential under Education Law §§3012-c and 3012-d, except where required to be disclosed under state law and regulations.

“Third-Party Contractor” means any person or entity, other than an educational agency (i.e., a school, school district, BOCES or State Education Department), that receives student or teacher/principal PII from the educational agency pursuant to a contract or other written agreement for purposes of providing services to such educational 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 includes an educational partnership organization that sends and receives student and/or teacher/principal PII from a school district to carry out its responsibilities pursuant to Education Law §211-e (for persistently lowest-achieving schools or schools under registration review) and is not an educational agency. This also includes a not-for-profit corporation or other nonprofit organization, other than an educational agency.

B. Complaints of Breaches or Unauthorized Releases of PII

If a parent/guardian, student, teacher, principal or other BOCES employee believes or has evidence that student or teacher/principal PII has been breached or released without authorization, they must submit this complaint in writing to the BOCES. Complaints may be received by the Data Privacy Officer or District Superintendent, but may also be received by any BOCES employee, who must immediately notify the Data Privacy Officer. This complaint process will be communicated to parents, eligible students, teachers, principals, and other BOCES employees.

The BOCES will acknowledge receipt of complaints promptly, commence an investigation, and take the necessary precautions to protect personally identifiable information.

Following its investigation of the complaint, the BOCES will provide the individual who filed a complaint with its findings within a reasonable period of time. This period of time will be no more than 90 calendar days from the receipt of the complaint.

If the BOCES requires additional time, or if the response may compromise security or impede a law enforcement investigation, the BOCES will provide the individual who filed a complaint with a written explanation that includes the approximate date when the BOCES will respond to the complaint.

The BOCES 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.

C. Notification of Student and Teacher/Principal PII Breaches

If a third-party contractor has a breach or unauthorized release of PII, it will promptly notify the Data Privacy Officer in the most expedient way possible, without unreasonable delay, but no more than seven calendar days after the breach's discovery.

The Data Privacy Officer will then notify the State Chief Privacy Officer of the breach or unauthorized release no more than 10 calendar days after it receives the third-party contractor's notification using a form or format prescribed by the State Education Department.

The Data Privacy Officer will report every discovery or report of a breach or unauthorized release of student, teacher or principal data to the Chief Privacy Officer without unreasonable delay, but no more than 10 calendar days after such discovery.

The BOCES will notify affected parents, eligible students, teachers and/or principals in the most expedient way possible and without unreasonable delay, but no more than 90 calendar days after the discovery of a breach or unauthorized release or third-party contractor notification.

However, if notification would interfere with an ongoing law enforcement investigation or cause further disclosure of PII by disclosing an unfixed security vulnerability, the BOCES 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 brief description of the breach or unauthorized release,
- the dates of the incident and the date of discovery, if known;
- a description of the types of PII affected;
- an estimate of the number of records affected;
- a brief description of the BOCES' investigation or plan to investigate; and
- contact information for representatives who can assist parents or eligible students with additional questions.

Notification must be directly provided to the affected parent, 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 will pay for or promptly reimburse the BOCES for the full cost of such notification.

The unauthorized acquisition of student social security numbers, student ID numbers, or biometric records, when in combination with personal information such as names or other identifiers, may also constitute a breach under State Technology Law §208 if the information is not encrypted, and the acquisition compromises the security, confidentiality, or integrity of personal information maintained by the BOCES. In that event, the BOCES is not required to notify affected people twice, but must follow the procedures to notify state agencies under State Technology Law §208 outlined in section II of this regulation.

II. “Private Information” under State Technology Law §208

Definitions

“Private information” consisting of any personal information (i.e., information such as name, number symbol, mark or other identifier which can be used to identify a person) in combination with any one or more of the following data elements, when either the data element or the personal information plus the data element is not encrypted or encrypted with an encryption key that has also been accessed or acquired:

- Social security number;
 - Driver’s license number or non-driver identification card number or;
 - Account number, credit or debit card number, in combination with any required security code, access code, password or other information which would permit access to an individual’s financial account.
 - account number or credit or debit card number, if that number could be used to access a person’s financial account without other information such as a password or code; or
 - biometric information (data generated by electronic measurements of a person’s physical characteristics, such as fingerprint, voice print, or retina or iris image) used to authenticate or ascertain a person’s identity; or
2. a username or email address, along with a password, or security question and answer, that would permit access to an online account.

Note: “Private information” does not include publicly available information that is lawfully made available to the general public pursuant to state or federal law or regulation.

“Breach of the security of the system” shall mean unauthorized acquisition or acquisition without valid authorization of physical or computerized data which compromises the security, confidentiality, or integrity of personal information maintained by the BOCES. Good faith acquisition of personal information by an officer or employee or agent of the BOCES for the purposes of the BOCES is not a breach of the security of the system, provided that the private information is not used or subject to unauthorized disclosure.

Procedure for Identifying Security Breaches

In determining whether information has been acquired, or is reasonably believed to have been acquired, by an unauthorized person or a person without valid authorization, the BOCES shall consider:

1. indications that the information is in the physical possession and control of an unauthorized person, such as removal of hard copies, lost or stolen computer, or other device containing information;
2. indications that the information has been downloaded, removed or copied;
3. indications that the information was used by an unauthorized person, such as fraudulent accounts, opened or instances of identity theft reported; and/or
4. any other factors which the BOCES shall deem appropriate and relevant to such determination.

Security Breaches – Procedures and Methods for Notification

Once it has been determined that a security breach has occurred, the following steps shall be taken:

1. If the breach involved hard copy or computerized data owned or licensed by the BOCES, the BOCES shall notify those New York State residents whose private information was, or is reasonably believed to have been accessed or acquired by a person without valid authorization. The disclosure to affected individuals shall be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement, or any measures necessary to determine the scope of the breach and to restore the reasonable integrity of the system. The BOCES shall consult with the New York State Office of Cyber Security and Critical Infrastructure Coordination (CSCIC) to determine the scope of the breach and restoration measures.
2. If the breach involved hard copy or computer data maintained by the BOCES, the BOCES shall notify the owner or licensee of the information of the breach immediately following discovery, if the private information was or is reasonably believed to have been accessed or acquired by a person without valid authorization.

The required notice shall include (a) BOCES contact information, (b) a description of the categories of information that were or are reasonably believed to have been accessed or acquired without authorization and (c) which specific elements of personal or private information were or are reasonably believed to have been acquired and (d) the telephone number and website of relevant state and federal agencies that provide information on security breach

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response and identity theft protection and prevention. This notice shall be directly provided to the affected individuals by either:

1. Written notice
2. Electronic notice, provided that the person to whom notice is required has expressly consented to receiving the notice in electronic form; and that the BOCES keeps a log of each such electronic notification. In no case, however, shall the BOCES require a person to consent to accepting such notice in electronic form as a condition of establishing a business relationship or engaging in any transaction.
3. Telephone notification, provided that the BOCES keeps a log of each such telephone notification.

However, if the BOCES can demonstrate to the State Attorney General that (a) the cost of providing notice would exceed \$250,000; or (b) that the number of persons to be notified exceeds 500,000; or (c) that the BOCES does not have sufficient contact information, substitute notice may be provided. Substitute notice would consist of all of the following steps:

1. Email notice when the BOCES has such address for the affected individual;
2. Conspicuous posting on the BOCES website, and
3. Notification to major media

However, the BOCES is not required to notify individuals if the breach was inadvertently made by individuals authorized to access the information, and the BOCES reasonably determines the breach will not result in misuse of the information, or financial or emotional harm to the affected persons. The BOCES will document its determination in writing and maintain it for at least five years, and will send it to the State Attorney General within ten days of making the determination.

Additionally, if the BOCES has already notified affected persons under any other federal or state laws or regulations regarding data breaches, including the federal Health Insurance Portability and Accountability Act, the federal Health Information Technology for Economic and Clinical Health (HI TECH) Act, or New York State Education Law §2-d, it is not required to notify them again. Notification to state and other agencies is still required.

Notification of State Agencies and Other Entities

Once notice has been made to affected New York State residents, the BOCES shall notify the State Attorney General, the State Department of State, and the State Office of Information Technology Services as to the timing, content, and distribution of the notices and approximate number of affected persons.

If more than 5,000 New York State residents are to be notified at one time, the BOCES shall also notify consumer reporting agencies as to the timing, content and distribution of the notices

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and the approximate number of affected individuals. A list of consumer reporting agencies will be furnished, upon request, by the Office of the State Attorney General.

If the BOCES is required to notify the U.S. Secretary of Health and Human Services of a breach of unsecured protected health information under the federal Health Insurance Portability and Accountability Act (HIPAA) or the federal Health Information Technology for Economic and Clinical Health (HIT) Act, it will also notify the State Attorney General within five business days of notifying the Secretary.

Adoption date: January 23, 2008

Revised date: October 14, 2015; May 13, 2020

INSURANCE

The ONC BOCES shall purchase insurance coverage necessary to protect the district to an optimum extent from loss of property and judgments and awards arising out of liability claims. Records of all insurance policies shall be kept in the Office of Management Services safe. The Board of Education shall select a broker who shall advise it in the administration of the insurance program. All actions involving the purchase of insurance shall be subject to Board approval.

The District Superintendent shall have general knowledge of the provisions of all insurance policies carried by the district. At time of accident or loss, he/she shall see that action is taken necessary to protect the interests of the school district.

The Board shall purchase with BOCES funds the type and amount of insurance appropriate to protect itself as a corporate body, its individual members, its appointed officers, and its employees from financial loss arising out of any claim, demand, suit or judgment by reason of alleged negligence or other act resulting in accidental bodily injury to any person or accidental damage to the property of any person within or without the school buildings while the above-named insured are acting in the discharge of their duties within the scope of their employment and/or under the direction of the Board. Such purchase will take into account the price of insurance, appropriate deductibles, and other relevant factors.

The District Superintendent shall annually review the insurance program for the purpose of recommending to the Board adjustments in coverage resulting from, but not limited to, expansion of the district's risks, relevant new laws, and superseding conditions which make changes in coverage appropriate.

Ref: Education Law §§1709(8)(8-a)(8-b); 3023; 3028; 3811
General Municipal Law §§6-n; 50-c and 50-e
Lynd v. Heffernan, 286 AD 597 (3d Dept. 1955)
Surdell v. City of Oswego, 91 Misc.2d 1041 (1977)

Adoption date: January 23, 2008