

# **POLICY ON THE PREVENTION OF HARASSMENT, HAZING AND BULLYING OF STUDENTS\***

**[C10]**

## **I. STATEMENT OF POLICY**

Thetford Academy (TA) is committed to providing all of its students with a safe and supportive school environment in which all members of the school community are treated with respect.

It is the policy of TA to prohibit the unlawful harassment of students based on race, color, religion, creed, national origin, marital status, sex, sexual orientation, gender identity or disability. Harassment may also constitute a violation of Vermont's Public Accommodations Act, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, and/or Title IX of the federal Education Amendments Act of 1972.

It is also the policy of TA to prohibit the unlawful hazing and bullying of students. Conduct which constitutes hazing may be subject to civil penalties.

TA shall address all complaints of harassment, hazing and bullying according to the procedures accompanying this policy, and shall take appropriate action against any person – subject to the jurisdiction of the Board of Trustees – who violates this policy. Nothing herein shall be construed to prohibit punishment of a student for conduct which, although it does not rise to the level of harassment, hazing, or bullying as defined herein, otherwise violates one or more of the Board's disciplinary policies or the school's code of conduct.

The procedures are expressly incorporated by reference as though fully included within this policy. The procedures are separated from the policy for ease of use as may be required.

## **II. IMPLEMENTATION**

The Head of School or his/her designee shall:

1. Adopt a procedure directing employees, students, parents and guardians how to report violations of this policy and file complaints under this policy. (See Procedures on the Prevention of Harassment, Hazing and Bullying of Students.)
2. Annually, select two or more designated employees to receive complaints of harassment, hazing and/or bullying at the school and publicize their availability in any publication of

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\* Note: In order to ensure that TA's policy is consistent with all federal and state laws regarding harassment, hazing, and bullying, this policy is a nearly-exact copy of the model policy provided by the Vermont School Board Association. Therefore, this policy does not follow the same format as other TA policies, and by necessity it retains the language and syntax of the VSBA model policy.

TA that sets forth the comprehensive rules, procedures, and standards of conduct for the school.

3. Designate an Equity Coordinator to oversee all aspects of the implementation of this policy as it relates to obligations imposed by federal law regarding discrimination. This role also may be assigned to one or both of the Designated Employees.
4. Respond to notifications of possible violations of this policy in order to promptly and effectively address all complaints of harassment, hazing and/or bullying.
5. Take action on substantiated complaints. In cases where harassment, hazing and/or bullying is substantiated, TA shall take prompt and appropriate remedial action reasonably calculated to stop the harassment, hazing and/or bullying; to prevent its recurrence; and to remedy the impact of the offending conduct on the victim(s), where appropriate. Such action may include a wide range of responses from education to serious discipline.

Serious discipline may include termination for employees and, for students, expulsion or removal from school property. It may also involve penalties or sanctions for both organizations and individuals who engage in hazing. Revocation or suspension of an organization's permission to operate or exist within TA's purview may also be considered if that organization knowingly permits, authorizes or condones hazing.

### **III. CONSTITUTIONALLY PROTECTED SPEECH**

It is the intent of TA to apply and enforce this policy in a manner that is consistent with student rights to free expression under the First Amendment of the U.S. Constitution. The purpose of this policy is to (1) prohibit conduct or communication that is directed at a person's protected characteristics as defined below and that has the purpose or effect of substantially disrupting the educational learning process and/or access to educational resources or creates a hostile learning environment; (2) prohibit conduct intended to ridicule, humiliate or intimidate students in a manner as defined under this policy.

### **IV. DEFINITIONS**

For the purposes of this policy and the accompanying procedures, the following definitions apply:

- A. **"Bullying"** means any overt act or combination of acts, including an act conducted by electronic means, directed against a student by another student or group of students and which:
  1. Is repeated over time; and
  2. Is intended to ridicule, humiliate, or intimidate the student; and

3. (a) occurs during the school day on school property, on a school bus, or at a school-sponsored activity, or before or after the school day on a school bus or at a school-sponsored activity; or  
(b) does not occur during the school day on school property, on a school bus or at a school-sponsored activity and can be shown to pose a clear and substantial interference with the student's right to access educational programs.
- B. **"Complaint"** means oral or written information provided by a student or any person to an employee alleging that a student has been subjected to conduct that may rise to the level of harassment, hazing or bullying.
- C. **"Complainant"** means a student who has provided oral or written information about conduct that may rise to the level of harassment, hazing or bullying, or a student who is the target of alleged harassment, hazing or bullying.
- D. **"Designated employee"** means an employee who has been designated by the school to receive complaints of harassment, hazing and bullying pursuant to subdivision 16 V.S.A. 570a(a)(7). The designated employees for the school are identified in Appendix A of this policy.
- E. **"Employee"** includes any person employed directly by or retained through a contract with the school, an agent of the school, a Board of Trustees member, a student teacher, an intern or a school volunteer.
- F. **"Equity Coordinator"** is the person responsible for implementation of Title IX (regarding sex-based discrimination) and Title VI (regarding race-based discrimination) for the school and for coordinating the school's compliance with Title IX and Title VI in all areas covered by the implementing regulations. The Equity Coordinator is also responsible for overseeing implementation of the school's policies on Prevention of Harassment, Hazing and Bullying of Students and Prevention of Employee Harassment. This role also may be assigned to Designated Employees.
- G. **"Harassment"** means an incident or incidents of verbal, written, visual, or physical conduct, including any incident conducted by electronic means, based on or motivated by a student's or a student's family member's actual or perceived race, religion, creed, color, national origin, marital status, disability, sex, sexual orientation, or gender identity, that has the purpose or effect of objectively and substantially undermining and detracting from or interfering with a student's educational performance or access to school resources or creating an objectively intimidating, hostile or offensive environment.

Harassment includes conduct as defined above and may also constitute one or more of the following:

1. Sexual harassment, which means unwelcome conduct of a sexual nature, that includes sexual violence/sexual assault, sexual advances, requests for sexual favors, and other

verbal, written, visual or physical conduct of a sexual nature, and includes situations when one or both of the following occur:

- (a) Submission to that conduct is made either explicitly or implicitly a term or condition of a student's education, academic status, or progress; or
- (b) Submission to or rejection of such conduct by a student is used as a component of the basis for decisions affecting that student.

Sexual harassment may also include student-on-student conduct or conduct of a non-employee third party that creates a hostile environment. A hostile environment exists where the harassing conduct is severe, persistent or pervasive so as to deny or limit the student's ability to participate in or benefit from the educational program on the basis of sex.

2. Racial harassment, which means conduct directed at the characteristics of a student's or a student's family member's actual or perceived race or color, and includes the use of epithets, stereotypes, racial slurs, comments, insults, derogatory remarks, gestures, threats, graffiti, display or circulation of written or visual material, taunts on manner of speech, and negative references to cultural customs.
3. Harassment of members of other protected categories, which means conduct directed at the characteristics of a student's or a student's family member's actual or perceived religion, creed, national origin, marital status, disability, sex, sexual orientation, or gender identity, and includes the use of epithets, stereotypes, slurs, comments, insults, derogatory remarks, gestures, threats, graffiti, display or circulation of written or visual material, taunts on manner of speech, and negative references to customs related to any of these protected categories.

H. **"Hazing"** means any intentional, knowing or reckless act committed by a student, whether individually or in concert with others, against another student:

1. In connection with pledging, being initiated into, affiliating with, holding office in, or maintaining membership in any organization which is affiliated with the educational institution; and
2. Which is intended to have the effect of, or should reasonably be expected to have the effect of, endangering the mental or physical health of the student.

Hazing shall not include any activity or conduct that furthers legitimate curricular, extra-curricular, or military training program goals, provided that:

1. The goals are approved by the educational institution; and
2. The activity or conduct furthers the goals in a manner that is appropriate, contemplated by the educational institution, and normal and customary for similar programs at other educational institutions.

With respect to Hazing, **"Student"** means any person who:

1. is registered in or in attendance at an educational institution;
2. has been accepted for admission at the educational institution where the hazing incident occurs; or

3. intends to attend an educational institution during any of its regular sessions after an official academic break.
- I. **“Notice”** means a written complaint or oral information that harassment, hazing or bullying may have occurred which has been provided to a designated employee from another employee, the student allegedly subjected to the harassment, hazing or bullying, another student, a parent or guardian, or any other individual who has reasonable cause to believe the alleged conduct may have occurred. If the school learns of possible harassment, hazing or bullying through other means, for example, if information about harassment, hazing or bullying is received from a third party (such as from a witness to an incident or an anonymous letter or telephone call), different factors will affect the school’s response. These factors include the source and nature of the information; the seriousness of the alleged incident; the specificity of the information; the objectivity and credibility of the source of the report; whether any individuals can be identified who were subjected to the alleged harassment, hazing or bullying; and whether those individuals want to pursue the matter. In addition, for purposes of violations of federal anti-discrimination laws, notice may occur when an employee of the school, including any individual who a student could reasonably believe has this authority or responsibility, knows or in the exercise of reasonable care should have known about potential unlawful harassment or bullying.
  - J. **“Organization”** means a fraternity, sorority, athletic team, association, corporation, order, society, corps, cooperative, club, or other similar group, whose members primarily are students at an educational institution, and which is affiliated with the educational institution.
  - K. **“Pledging”** means any action or activity related to becoming a member of an organization.
  - L. **“Retaliation”** is any adverse action by any person against a person who has filed a complaint of harassment, hazing or bullying or against a person who assists or participates in an investigation, proceeding or hearing related to the complaint of harassment, hazing or bullying. Such adverse action may include conduct by a school employee directed at a student in the form of intimidation or reprisal such as diminishment of grades, suspension, expulsion, change in educational conditions, loss of privileges or benefits, or other unwarranted disciplinary action. Retaliation may also include conduct by a student directed at another student in the form of further harassment, intimidation, and reprisal.
  - M. **“School administrator”** means the Head of School or his/her designee and/or the school’s Equity Coordinator.
  - N. **“Student Conduct Form”** is a form used by students, employees, parents or guardians to provide, in written form, information about inappropriate student behaviors that may constitute harassment, hazing and/or bullying.

## **APPENDIX A**

### Designated Employees:

Thetford Academy annually designates at least two employees to receive complaints of harassment, hazing and/or bullying pursuant to this policy and 16 V.S.A. § 570a(a)(7) and 16 V.S.A. § 570c(7) and under federal anti-discrimination laws.

The names, titles, and contact information for the current year's Designated Employees are published annually in the school's Student and Family Handbook.

# PROCEDURES ON THE PREVENTION OF HARASSMENT, HAZING AND BULLYING OF STUDENTS\*

[C10-P]

## I. REPORTING COMPLAINTS OF HARASSMENT, HAZING AND/OR BULLYING

A. Student Reporting: Any student who believes that s/he has been harassed, hazed and/or bullied under this policy, or who witnesses or has knowledge of conduct that s/he reasonably believes might constitute harassment, hazing and or/bullying, should promptly report the conduct to a designated employee or any other school employee.

B. School employee reporting: Any school employee who **witnesses conduct** that s/he reasonably believes might constitute harassment, hazing and/or bullying shall take reasonable action to stop the conduct and to prevent its recurrence and immediately report it to a designated employee and immediately complete a Student Conduct Form.

Any school employee who **overhears or directly receives information** about conduct that might constitute harassment, hazing and/or bullying shall immediately report the information to a designated employee and immediately complete a Student Conduct Form. If one of the designated employees is a person alleged to be engaged in the conduct complained of, the incident shall be immediately reported to the other designated employee or the school administrator.

C. Other reporting: Any other person who witnesses conduct that s/he reasonably believes might constitute harassment, hazing and/or bullying under this policy should promptly report the conduct to a designated employee.

D. Documentation of the report: If the complaint is oral, the designated employee shall promptly reduce the complaint to writing in a Student Conduct Form, including the time, place, and nature of the alleged conduct, and the identities of the complainant, alleged perpetrator, and any witnesses. Both the complainant and the alleged perpetrator will have the right to present witnesses and other evidence in support of their position.

E. False complaint: Any person who knowingly makes a false accusation regarding harassment, hazing and/or bullying may be subject to disciplinary action up to and including suspension and expulsion with regard to students, or up to and including discharge with regard to employees. There shall be no adverse action taken against a person for reporting a complaint of harassment, hazing and/or bullying when the person has a good faith belief that harassment, hazing and/or bullying occurred or is occurring.

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- F. Rights to Alternative Complaint Process: In addition to or as an alternative to filing a harassment complaint pursuant to this policy, a person may file a harassment complaint with the Vermont Human Rights Commission or the Office for Civil Rights of the U.S. Department of Education at the addresses noted below:

Vermont Human Rights Commission  
14-16 Baldwin Street  
Montpelier, VT 05633-6301  
800-416-2010 or 802-828-2480 (voice)  
877-294-9200 (tty)  
802-828-2481 (fax)  
Email: [human.rights@state.vt.us](mailto:human.rights@state.vt.us)

Office for Civil Rights, Boston Office  
U.S. Department of Education  
8<sup>th</sup> Floor  
5 Post Office Square  
Boston, MA 02109-3921  
617-289-0111 (voice)  
877-521-2172 (tdd)  
617-289-0150 (fax)  
Email: [OCR.Boston@ed.gov](mailto:OCR.Boston@ed.gov)

## II. RESPONDING TO NOTICE OF POSSIBLE POLICY VIOLATION(S)

- A. Upon **notice of information** that harassment, hazing and/or bullying may have occurred the designated employee shall:
1. Promptly reduce any oral information to writing, including the time, place, and nature of the conduct, and the identities of the participants and complainant;
  2. Promptly inform the school administrator(s) of the information;
  3. If, in the judgment of the school administrator, the information alleges conduct which may constitute harassment, hazing or bullying, the school administrator shall, as soon as reasonably possible, provide a copy of the policy on harassment, hazing and bullying and these procedures to the complainant and the accused individual, or, if either is a minor, cause a copy to be provided or delivered to their respective parent or guardian.
- B. Upon **initiation of an investigation**, the designated employee shall notify in writing both the complainant and the accused individual (or if either is a minor inform their respective parent or guardian) that:
1. an investigation has been initiated;
  2. retaliation is prohibited;
  3. all parties have certain confidentiality rights; and
  4. they will be informed in writing of the outcome of the investigation.

- C. All notifications shall be subject to state and/or federal laws protecting the confidentiality of personally identifiable student information. Pursuant to 34 CFR Part 99.30, a school administrator may seek the consent of the parent/guardian of the accused student, or the accused eligible student (if 18 or older, the accused student has the ability to consent), in order to inform the complainant of any disciplinary action taken in cases where the school determined that an act(s) of harassment, hazing, and/or bullying or other misconduct occurred. The parent/guardian or eligible student shall provide a signed and dated written consent before an educational agency or institution discloses personally identifiable information from the student's education records.

### **III. INVESTIGATING HARASSMENT, HAZING AND/OR BULLYING COMPLAINTS**

- A. Initiation of Investigation – Timing: Unless special circumstances are present and documented, such as reports to the Department for Children and Families (“DCF”) or the police, the school administrator shall, no later than one school day after Notice to a designated employee, initiate or cause to be initiated an investigation of the allegations which the school administrator reasonably believes may constitute harassment, hazing or bullying.
- B. Investigator Assignment: The school administrator shall assign a person to conduct the investigation; nothing herein shall be construed to preclude the school administrator from assigning him/herself or a designated employee as the investigator. No person who is the subject of a complaint shall conduct such an investigation.
- C. Interim Measures: It may be appropriate for the school to take interim measures during the investigation of a complaint. For instance, if a student alleges that he or she has been sexually assaulted by another student, the school may decide to place the students immediately in separate classes and/or transportation pending the results of the school’s investigation. Similarly, if the alleged harasser is a teacher, allowing the student to transfer to a different class may be appropriate. In all cases, the school will make every effort to prevent disclosure of the names of all parties involved – the complainant, the witnesses, and the accused – except to the extent necessary to carry out the investigation. In all cases where physical harm has resulted and/or where the targeted student is known to be expressing suicidal ideation or experiencing serious emotional harm, a safety plan will be put in place. Safety plans must also be considered in cases where the targeted student is known to have difficulty accessing the educational programs at the school as a result of the inappropriate behavior. No-contact orders, or their enforcement, may also be appropriate interim measures.
- D. Due Process: The United States Constitution guarantees due process to students and school employees who are accused of certain types of infractions, including but not limited to sexual harassment under Federal Title IX. The rights established under Title IX must be interpreted consistent with any federally guaranteed due process rights involved in a complaint proceeding, including but not limited to the ability of the complainant and the accused to present witnesses and other evidence during an

investigation. The school will ensure that steps to accord due process rights do not restrict or unnecessarily delay the protections provided by Title IX to the complainant.

- E. Standard Used to Assess Conduct: In determining whether the conduct constitutes a violation of this policy, the investigator shall consider the surrounding circumstances, the nature of the behavior, past incidents or past or continuing patterns of behavior, the relationships between the parties involved, and the context in which the alleged incidents occurred. The complainant and the accused will be provided the opportunity to present witnesses and other evidence during an investigation. The school will also consider the impact of relevant off-campus conduct on the school environment where direct harm to the welfare of the school can be demonstrated or the conduct can be shown to pose a clear and substantial interference with another student's equal access to educational programs. Whether a particular action constitutes a violation of this policy requires determination based on all the facts and surrounding circumstances.
- F. Completion of Investigation – Timing: No later than five school days from the filing of the complaint with the designated employee, unless special circumstances are present and documented, the investigator shall submit a written initial determination to the school administrator.
- G. Investigation Report: The investigator shall prepare a written report to include a statement of the findings of the investigator as to whether the allegations have been substantiated, and as to whether the alleged conduct constitutes harassment, hazing and/or bullying. The report, when referencing student conduct, is a student record and therefore confidential. It will be made available to investigators in the context of either a review conducted by Vermont AOE or investigations of harassment conducted by the Vermont Human Rights Commission or U.S. Department of Education Office of Civil Rights.
- H. Notice to Students/Parents/Guardians: Within five school days of the conclusion of the investigation, the designated employee shall:
  - 1. Notify in writing both the complainant and the accused individual (or if either is a minor inform their respective parent or guardian):
    - a. that the investigation has been completed;
    - b. whether or not the investigation concluded that a policy violation occurred (and which policy term was violated – i.e. harassment, hazing and/or bullying);
    - c. that federal privacy law prevents disclosure of any discipline imposed as a result of the investigation unless the parent/guardian of the accused student and/or the accused eligible student consents to such disclosure, pursuant to 34 CFR Part 99.30, as set forth in Section II, Part C, above.
  - 2. Notify the complainant student – or, if a minor, their parent or guardian – in writing of their rights to:
    - a. an internal review by the school of its initial determination as a result of its investigation as to whether harassment occurred;
    - b. request, within thirty (30) days of the “final” determination, an Independent Review of (i) the school’s “final” determination as to whether harassment

- occurred, or (ii) although a “final” determination was made that harassment indeed occurred, whether the school’s response to that harassment was inadequate to correct the problem; and that the review will be conducted by an investigator to be selected by the Head of School from a list developed by the Agency of Education;
- c. file complaints of harassment with either the Vermont Human Rights Commission and/or the federal Department of Education’s Office for Civil Rights.
3. Notify the accused student – or, if a minor, their parent or guardian – in writing of their right to appeal as set forth in Section V of these procedures.
- I. Violations of Other Policies: In cases where the investigation has identified other conduct that may constitute a violation of other school disciplinary policies or codes of conduct, the designated employee shall report such conduct to the school administrator for action in accordance with relevant school policies or codes of conduct.

#### **IV. RESPONDING TO SUBSTANTIATED CLAIMS**

- A. Scope of Response: After a final determination that an act(s) of harassment, hazing and/or bullying has been committed, the school shall take prompt and appropriate disciplinary and/or remedial action reasonably calculated to stop the harassment, hazing and/or bullying, to prevent any recurrence of harassment, hazing and/or bullying, and to remedy its effects on the victim(s). In so doing, the following should be considered:
1. Potential Remedial Actions: Remedial action may include but not be limited to an age-appropriate warning, reprimand, education, training and counseling, transfer, suspension, and/or expulsion of a student, and warning, reprimand, education, training and counseling, transfer, suspension and/or termination of an employee. A series of escalating consequences may be necessary if the initial steps are ineffective in stopping the harassment, hazing and/or bullying. To prevent recurrences, counseling for the offender may be appropriate to ensure that he or she understands what constitutes harassment, hazing and/or bullying and the effects it can have. Depending on how widespread the harassment, hazing and/or bullying was and whether there have been any prior incidents, the school may need to provide training for the larger school community to ensure that students, parents/guardians and teachers can recognize harassment, hazing and/or bullying if it recurs and know how to respond.
  2. School Access/Environment Considerations: The school will also take efforts to support victims’ access to the school’s programs, services and activities and consider and implement school-wide remedies, where appropriate. Accordingly, steps will be taken to eliminate any hostile and/or threatening environment that has been created. For example, if a student has been subjected to harassment/bullying by a group of other students in a class, the school may need to deliver special training or other interventions for that class to repair the educational environment. If the school offers the student the option of withdrawing from a class in which a hostile

environment/bullying occurred, the school will assist the student in making program or schedule changes and ensure that none of the changes adversely affect the student's academic record. Other measures may include, if appropriate, directing a bully/harasser to apologize to the affected student. If a hostile environment has affected the entire school or campus, an effective response may need to include dissemination of information, the issuance of new policy statements or other steps that are designed to clearly communicate the message that the school does not tolerate harassment, hazing and/or bullying and will be responsive to any student who reports that conduct.

3. Hazing Case Considerations: The school may impose appropriate penalties or sanctions or both for organizations that or individuals who engage in hazing, and may revoke or suspend an organization's permission to operate or exist within the school's purview if that organization knowingly permits, authorizes, or condones hazing.
4. Other Remedies: Other remedies may include providing counseling to the victim(s) and/or the perpetrator(s), and additional safety planning measures for the victim(s).

- B. Retaliation Prevention: It is unlawful for any person to retaliate against a person who has filed a complaint of harassment or against a person who assists or participates in an investigation, proceeding or hearing related to the harassment complaint. A person may violate this anti-retaliation provision regardless of whether the underlying complaint of harassment is substantiated.

The school will take reasonable steps to prevent any retaliation against the student who made the complaint (or was the subject of the harassment), against the person who filed a complaint on behalf of a student, or against those who provided information as witnesses. At a minimum, this includes making sure that the students, their parents or guardians, and those witnesses involved in the school's investigation know how to report any subsequent problems, and making follow-up inquiries to see if there are have been any new incidents or any retaliation.

- C. Alternative Dispute Resolution: At all stages of the investigation and determination process, school officials are encouraged to make available to complainants alternative dispute resolution methods, such as mediation, for resolving complaints. Certain considerations should be made before pursuing alternative dispute resolution methods, including but not limited to: (1) the nature of the accusations (for example, face-to-face mediation is not appropriate for sexual violence cases), (2) the age of the complainant and the accused individual, (3) the agreement of the complainant, and (4) other relevant factors such as any disability of the target or the accused individual, safety issues, the relationship and relative power differential between the target and the accused individual, or any history of repeated misconduct/harassment by the accused individual.

## **V. POST-INVESTIGATIVE REVIEWS**

## Rights of Complainants

- A. Internal Review of Initial Harassment Determinations By Complainant: A complainant or parent/guardian of a complainant may request an internal review by the school of a designee's initial determination (following investigation) that harassment has not occurred via written request submitted to the Head of School. All levels of the internal review of the investigator's initial determination, and the issuance of a final decision, shall, unless special circumstances are present and documented by the school, be completed within 30 calendar days after the review is requested.
- B. Independent Reviews of Final Harassment Determinations By Complainant: A complainant may request an independent review within thirty (30) days of a final determination if s/he: (1) is dissatisfied with the final determination as to whether harassment occurred, or (2) believes that although a final determination was made that harassment occurred, the school's response was inadequate to correct the problem.

The complainant shall make such a request in writing to the Head of School within thirty (30) days of a final determination. Upon such request, the Head of School shall promptly initiate an independent review by a neutral person as described under 16 V.S.A. § 570a.(b)(1) and shall cooperate with the independent reviewer so that s/he may proceed expeditiously. The review shall consist of an interview of the complainant and relevant school officials and a review of the written materials from the school's investigation.

Upon completion of the independent review, the reviewer shall advise the complainant and school officials in writing: (1) as to the sufficiency of the school's investigation, its determination, and/or the steps taken by the school to correct any harassment found to have occurred, and (2) of recommendations of any steps the school might take to prevent further harassment from occurring. A copy of the independent review report shall be sent to the Secretary of Education.

The reviewer shall advise the student of other remedies that may be available if the student remains dissatisfied and, if appropriate, may recommend mediation or other alternative dispute resolution. The independent reviewer shall be considered an agent of the school for the purpose of being able to review confidential student records. The costs of the independent review shall be borne by the school. The school may request an independent review at any stage of the process.

- C. Rights to Alternative Harassment Complaint Process: In addition to or as an alternative to filing a harassment complaint pursuant to this policy, a person may file a harassment complaint with the Vermont Human Rights Commission or the Office for Civil Rights of the U.S. Department of Education at the addresses noted below:

Vermont Human Rights Commission  
14-16 Baldwin Street  
Montpelier, VT 05633-6301

800-416-2010 or 802-828-2480 (voice)  
877-294-9200 (tty)  
802-828-2481 (fax)  
Email: [human.rights@state.vt.us](mailto:human.rights@state.vt.us)

Office for Civil Rights, Boston Office  
U.S. Department of Education  
8<sup>th</sup> Floor  
5 Post Office Square  
Boston, MA 02109-3921  
617-289-0111 (voice)  
877-521-2172 (tdd)  
617-289-0150 (fax)  
Email: [OCR.Boston@ed.gov](mailto:OCR.Boston@ed.gov)

### Rights of Accused Students

- A. Appeal: Any person determined to have engaged in an act(s) of harassment, hazing and/or bullying may appeal the determination and/or any related disciplinary action(s) taken, directly to the school's Board of Trustees. The Board shall conduct a review on the record. The standard of review by the Board shall be whether the finding that an act(s) of harassment, hazing and/or bullying has been committed constitutes an abuse of discretion by the school-level fact finder. Appeals should be made to the Board of Trustees within ten (10) calendar days of receiving the determination that an act(s) of harassment, hazing and/or bullying has occurred and/or any announced discipline. The Board shall set the matter for a review hearing at the next scheduled Board meeting to the extent practicable, but not later than 30 days from receipt of the appeal filing.
- B. Accused Student/Appellant Access to Investigative Reports/Findings: The school shall make available upon request of the accused student/appellant, any relevant information, documents, materials, etc. related to the investigation and related finding on appeal that can be redacted and de-identified in compliance with the requirements set forth at 34 CFR Part 99. For those documents that cannot be provided due to the requirements set forth at 34 CFR Part 99, when an accused student/appellant seeks a review on the record before the school's Board of Trustees, a school administrator may seek the consent of the parent/guardian of the targeted student, or the accused eligible targeted student (if 18 or older, the targeted student has the ability to consent), in order to inform the accused student of the findings which gave rise to the school's determination that an act(s) of harassment, hazing and/or bullying occurred. The parent/guardian or eligible student shall provide a signed and dated written consent before an educational agency or institution discloses personally identifiable information from the student's education records.

## **VI. CONFIDENTIALITY AND RECORD KEEPING**

- A. Privacy Concerns: The privacy of the complainant, the accused individual, and the witnesses shall be maintained consistent with the school's obligations to investigate, to take appropriate action, and to comply with laws governing the disclosure of student records or other applicable discovery or disclosure obligations.
1. Concerns Related to Harassment Complaints: The scope of appropriate response to a harassment complaint may depend upon whether a student or parent/guardian of a minor student reporting the harassment asks that the student's name not be disclosed to the harasser or that nothing be done about the alleged harassment. In all cases, school officials will discuss confidentiality standards and concerns with the complainant initially. The school will inform the student that a confidentiality request may limit the school's ability to respond. The school will remind the student that both federal Title IX and Vermont Title 9 prevent retaliation and that, if he or she is afraid of reprisals from the alleged harasser, the school will take steps to prevent retaliation and will take strong action if retaliation occurs. If the student continues to ask that his or her name not be revealed, the school should take all reasonable steps to investigate and respond to the complaint consistent with the student's request as long as doing so does not prevent the school from responding effectively to the harassment and preventing harassment of other students.

The school will evaluate the confidentiality request in the context of its responsibility to provide a safe and nondiscriminatory environment for all students. The factors the school might consider in this regard include the seriousness of the alleged harassment, the age of the student harassed, whether there have been other complaints or reports of harassment against the alleged harasser, and the rights of the accused individual to receive information about the accuser and the allegations if a formal proceeding with sanctions may result. If information about the incident is contained in an "education record" of the student alleging the harassment, as defined by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g, the school will consider whether FERPA prohibits it from disclosing information without the student's consent.

- B. Document Maintenance: The Head of School or other school administrator shall assure that a record of any complaint, its investigation and disposition, as well as any disciplinary or remedial action taken following the completion of the investigation, is maintained by the school in a confidential file accessible only to authorized persons. All investigation records created in conformance with this policy and procedures, including but not limited to the complaint form, interview notes, additional evidence, and the investigative report, shall be kept by the Equity Coordinator, Designated Employees and/or the Head of School for at least six years after the investigation is completed.

## **VII. REPORTING TO OTHER AGENCIES**

- A. Reports to Department of Children and Families: When a complaint made pursuant to this policy includes allegations of child abuse, any person responsible for reporting suspected child abuse under 33 V.S.A. § 4911 et seq. must report the allegation to the

Commissioner of DCF. If the victim is over the age of 18 and a report of abuse is warranted, the report shall be made to Adult Protective Services in accordance with 33 V.S.A. § 6901 et seq.

B. Reports to Vermont Agency of Education: If a harassment complaint is made in Thetford Academy about conduct by a licensed educator that might be grounds under Vermont law for licensing action, the Head of School shall report the alleged conduct to the Secretary of Education.

C. Reporting Incidents to Police

1. FERPA Rights: Information obtained and documented by the school administration regarding the school's response to notice of student conduct that may constitute harassment, hazing and/or bullying may constitute an "educational record" regarding the student or student(s) involved as defined by the Family Education Rights and Privacy Act. Accordingly, such information may not be disclosed without prior parent/guardian approval to local law enforcement except in response to a lawfully issued subpoena, or in connection with an emergency if disclosure is necessary to protect the health or safety of the student or other individuals.

2. First-Hand Reports: Nothing in this policy shall preclude persons from reporting incidents and/or conduct witnessed first-hand that may be considered to be a criminal act to law enforcement officials.

3. Hazing Incidents: It is unlawful to (a) engage in hazing; (b) solicit, direct, aid or attempt to aid, or abet another person engaged in hazing; or (c) knowingly fail to take reasonable measures within the scope of the person's authority to prevent hazing. It is not a defense in an action under this section that the person against whom the hazing was directed consented to or acquiesced in the hazing activity. Hazing incidents will be reported to the police in a manner consistent with the confidentiality rights set forth above in this section.

D. Continuing Obligation to Investigate: Reports made to either DCF or law enforcement shall not be considered to absolve the school administrators of their obligations under this policy to pursue and complete an investigation upon receipt of notice of conduct which may constitute harassment, hazing and/or bullying.

## **VIII. DISSEMINATING INFORMATION, TRAINING, AND DATA REPORTING**

A. Disseminating Information: Annually, prior to the commencement of curricular and co-curricular activities, the school shall provide notice of this policy and procedures to students, custodial parents or guardians of students, and employees, including references to the consequences of misbehavior contained in the plan required by 16 V.S.A. 1161a. Notice to students shall be in age-appropriate language and include examples of harassment, hazing and bullying. At a minimum, this notice shall appear in any

publication of the school that sets forth the comprehensive rules, procedures and standards of conduct for the school.

- B. Student Training: The school administrator shall use his/her discretion in developing age-appropriate methods of discussing the meaning and substance of this policy with students to help prevent harassment, hazing and bullying.
- C. Staff Training: The Head of School, as the designee of the Board of Trustees, shall ensure that teachers and other employees receive training in preventing, recognizing and responding to harassment, hazing and bullying.
- D. Data Gathering: The school shall provide the Vermont Agency of Education with data requested by the Secretary of Education.

#### **LEGAL REFERENCES:**

Title V, Section B, 504 of the Rehabilitation Act of 1973, 29 U.S.C. §794 et seq.;

Title VI of the Civil Rights Act of 1964, 42 U.S.C. §2000d;

Title IX of the Educational Amendments Act of 1972, 20 U.S.C. §§1681 et seq.;

Family Education Rights Privacy Act, 20 U.S.C. §1232g;

Public Accommodations Act, 9 V.S.A. §§4500 et seq.;

Education, Classifications and Definitions, 16 V.S.A. §11(26);(30)(A);(32);

Education, 16 V.S.A. §140(a)(1);

Education, 16 V.S.A. §166(e);

Education, Bullying, 16 V.S.A. §570c;

Education, Harassment, Hazing and Bullying, 16 V.S.A. §570;

Education, Harassment, 16 V.S.A. §570a;

Education, Harassment, 16 V.S.A. §570c;

Education, Harassment, 16 V.S.A. §570f;

Education, Hazing, 16 V.S.A. §570b;

Education, Hazing, 16 V.S.A. §570f;

Education, Discipline, 16 V.S.A. §1161a;

Education, Suspension or Expulsion of Pupils, 16 V.S.A. §1162;

Child Abuse, 33 V.S.A. §§4911 et seq.;

Adult Protective Services, 33 V.S.A. §6901 et seq.;

all as they may be amended from time to time.

Washington v. Pierce, 179 VT 318 (2005).

ADOPTED: December 18, 2016