

**SOUTH BURLINGTON SCHOOL DISTRICT
POLICY F11**

PREVENTION OF HARASSMENT OF STUDENTS

PURPOSE

The South Burlington School District (“the District”) is committed to providing a safe and supportive school environment in which all students are treated with respect. This policy involves incident(s) and/or conduct that occurs on school property, on a school bus or at a school-sponsored activity, or misconduct not on school property, on a school bus, or at a school-sponsored activity where direct harm to a student or the welfare of the school can be demonstrated.

The purpose of this policy is to prevent harassment as defined in 16 V.S.A. § 11(a)(26) and amended by Act 91 of 2004, and to ensure that the District’s responses to allegations of harassment comply with 16 V.S.A. §565 as amended by Act 91 of 2004, Title VI and IX of the Civil Rights Act. It is the further purpose of this policy, when it is found that harassment has occurred, to ensure that prompt and appropriate remedial action, reasonably calculated to stop harassment, is taken by school district employees.

It is the intent of the District to apply and enforce this policy in a manner that is consistent with and protects students’ rights to free expression under the First Amendment of the U.S. Constitution. The District respects and promotes the rights of students and others to speak freely and to express their ideas, including ideas that may offend the sensibilities of others. However, the District does not condone and shall take action in response to behavior that interferes with the learning of students and is not otherwise protected expression.

DEFINITIONS

Harassment

- 1) **Harassment** means an incident or incidents of verbal, written, visual or physical conduct based on or motivated by a student’s or a student’s family member’s actual or perceived race, religion or creed, color, national origin, marital status, sex, sexual orientation, or disability 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.
- 2) **Harassment** includes conduct which violates subsection (1) of this definition and constitutes one or more of the following:
 - a. **Sexual harassment**, which means conduct that includes unwelcome sexual advances, requests for sexual favors, and other verbal, written,

visual, or physical conduct of a sexual nature when one or both of the following occur:

- i. Submission to that conduct is made either explicitly or implicitly a term or condition of a student's education.
 - ii. Submission to or rejection of such conduct by a student is used as a component of the basis for decisions affecting that student.
- b. **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, and taunts on manner of speech and negative references to racial customs.
- c. **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 or creed, national origin, marital status, sex, sexual orientation, or disability 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.

Complaint means an oral or written report 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.

Complainant means a student who has filed an oral or written complaint to an employee or is the alleged victim in a report made by another alleging conduct and/or incident(s) that may rise to the level of harassment.

Employee includes any person employed directly by or retained through a contract with the District, an agent of the school, a school board member, a student teacher, an intern or a school volunteer.

Designated Employee means an employee who has been designated by the District to receive complaints of harassment pursuant to 16 V.S.A. § 565(c)(1).

REPORTING OF STUDENT HARASSMENT COMPLAINTS

A student, who believes that s/he has been harassed, or who witnesses conduct that s/he believes might constitute harassment, should report the conduct to a designated employee, or to any other school employee.

When a student reports such conduct to a school employee, other than a designated employee, that school employee shall refer the report to a designated employee.

An employee who witnesses conduct that s/he believes might constitute student harassment under this policy shall take prompt and appropriate action to stop the conduct and immediately report the conduct to a designated employee.

Any other person who witnesses conduct that s/he believes might constitute student harassment under this policy should report the conduct to a designated employee.

Consistent with this policy and 16 V.S.A. §565, the Superintendent shall develop procedures regarding the reporting of student harassment complaints and the District's handling of such reports.

Annually, the District shall select two or more designated employees to receive complaints and shall publicize their availability.

PROCEDURES FOLLOWING A REPORT

Consistent with this policy and 16 V.S.A. §565, the Superintendent shall develop procedures for complaint response following a report, initiation of an investigation, investigation, independent review, and alternative dispute resolution provisions.

Independent Review: A complainant who desires independent review under 16 V.S.A. § 565(f) because s/he is either dissatisfied with the final determination of the school officials as to whether harassment occurred, or believes that, although a final determination was made that harassment occurred, the school's response was inadequate to correct the problem, shall make such request in writing to the Superintendent. Upon such request, the Superintendent shall initiate an independent review, and shall comply with the District's procedures and any applicable rules on this subject promulgated by the Commissioner of the Vermont Department of Education ("Commissioner"). The District may request an independent review at any stage of the process.

If after investigation, harassment has been found, the District shall take prompt and appropriate disciplinary or remedial action reasonably calculated to stop the harassment. Consistent with this policy, the District's Student Conduct and Discipline policy and 16 V.S.A. §565, the Superintendent shall develop procedures regarding discipline and corrective action including final action on a complaint, retaliation, false complaints, and appeal provisions.

There will be no adverse action taken against a person for reporting a complaint of harassment when the complainant has a good faith belief that harassment occurred or is occurring or for participating in or cooperating with an investigation. Any person who knowingly makes a false accusation regarding harassment will be subject to disciplinary action.

CONFIDENTIALITY; NOTIFICATION OF RESULTS, AND RECORD KEEPING

The privacy of (1) the complainant, (2) the accused individual, and (3) the witnesses shall be maintained consistent with the District'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.

Subject to state and/or federal laws protecting the confidentiality of personally identifiable student information, the complainant and the accused individual shall be informed in writing of the results of the investigation. If either the complainant or the alleged individual is under the age of 18, subject to the above limitation, his or her parent(s) or guardian(s) shall be provided with a copy of this policy and related procedures, notified when an informal resolution to a harassment complaint is attempted, notified when a complaint is filed, and notified in writing of the investigation results. An authorized school official may seek waiver of confidentiality rights in order to inform the complainant of remedial measures undertaken.

The Superintendent 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 District in a confidential file accessible only to authorized persons. The report of the investigation shall be kept for at least six years after the report is completed.

MANDATORY REPORTING TO STATE AGENCIES

If a harassment complaint is made that conduct by a licensed educator might be grounds under the State Board of Education Rules for suspension or revocation of a license or endorsement, the Superintendent shall report the alleged conduct to the Commissioner.

When a person responsible for reporting suspected child abuse under 33 V.S.A. § 4911, et seq., determines that a complaint made pursuant to this policy must be reported to the Commissioner of the Department for Children and Families, he or she shall make the report as required by law and related District policy. If the victim is a vulnerable adult, as that term is defined in 33 V.S.A. §6902(14), the report shall be made to Adult Protective Services in accordance with 33 V.S.A. § 6903 and 6904.

Nothing in this policy shall preclude anyone from reporting any incidents and/or conduct that may be considered a criminal act to law enforcement officials.

DISSEMINATION OF INFORMATION, TRAINING, COMPREHENSIVE PLAN FOR RESPONDING TO STUDENT MISBEHAVIOR AND DATA GATHERING

Dissemination of Information

Annually, prior to the commencement of curricular and cocurricular activities, the District shall provide notice of this policy and its procedures to students, custodial parents or guardians of students, and employees. Notice to students shall be in age-appropriate language and include examples of harassment. At a minimum, this notice shall appear in any publication of the District that sets forth the comprehensive rules, procedures, and standards of conduct for the District.

Training

The Superintendent shall develop age-appropriate methods of discussing the meaning and substance of this policy with students and staff to help prevent harassment. Training may be implemented within the context of professional development and the school curriculum to develop broad awareness and understanding among all members of the school community. Staff training shall enable staff to recognize, prevent, and respond to harassment.

Comprehensive Plan for Responding to Student Misbehavior

The District's comprehensive plan pursuant to 16 V.S.A. §1161a(a)(6) shall include provisions that promote the positive development of youth and actions to prevent misconduct from escalating to the level of harassment.

Data Gathering

The District shall provide the Vermont Department of Education with data requested by the Commissioner.

COMPLAINTS TO THE HUMAN RIGHTS COMMISSION AND THE U.S. OFFICE OF CIVIL RIGHTS

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 in the procedures accompanying this policy.

Date Policy Warned: February 21, 2007
Date Policy Considered: March 14, 2007
Date Policy Considered: April 4, 2007
Date Policy Adopted: May 9, 2007

Signed:

~~Kathryn Boucher, Chair~~ _____

~~Theodore Manazir, Clerk~~ _____

Richard Cassidy

~~Carol Caldwell-Edmonds~~ _____

Elizabeth Fitzgerald _____

AUTHORITY AND CROSS REFERENCE

Legal References

Act 91 of 2004 (2004 Vt. Laws Act 91)

16 V.S.A. §§11(a) (26), 565 (harassment), 1161a

21 V.S.A. § 495(5) (retaliation)

33 V.S.A. §§ 4911 et seq. (child abuse)

9 V.S.A. §§ 4500 et seq. (public accommodations; retaliation)

20 U.S.C. §§1681 et seq. (Title IX, Civil Rights Act)

34 C.F.R. Part 106

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

20 U.S.C. §1232g; 34 C.F.R. Part 99 (FERPA)

Davis v. Monroe County Board of Education 526 U.S. 629 (1999)

Franklin v. Gwinnett 503 U.S. 60 (1992)

Saxe v. State College School District 240 F. 3d 200 (3rd Cir. 2001)

Cross References

Harassment of Employees

Reporting Suspected Child Abuse or Neglect

Student Conduct and Discipline

Confidentiality of Student Records

Comprehensive Plan for Responding to Student Misbehavior, including Anti-Bullying Provisions