

POLICY F 29R

BURLINGTON SCHOOL DISTRICT POLICY F 29R: PREVENTION OF HARASSMENT, HAZING & BULLYING OF STUDENTS

I. Statement of Policy

The Burlington School District (hereinafter "District") 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 the District to prohibit the unlawful harassment of students based on race, color, religion, creed, national origin, marital status, sex (including but not limited to pregnancy, parental and marital status), sexual orientation, gender expression, 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 the District to prohibit the unlawful hazing and bullying of students. Conduct which constitutes hazing may be subject to civil penalties.

The District 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 - 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, bullying, or hazing 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 superintendent or his/her designee shall:

1. Adopt a procedure directing staff, 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 at each school campus and/or school program, preferably one male and one female, to receive complaints of hazing, bullying and/or harassment and publicize their availability in any publication of the District that sets forth the comprehensive rules, procedures, and standards of conduct for the school. In addition, the District may appoint district-wide Designated Employees to receive and act on complaints. Each school building and program shall post pictures of its Designated Employees and their contact information. The District's web site shall include the names and contact information for all Designated Employees. Each school building and program will identify their Designated Employees with their contact information in the first communication or newsletter sent home at the beginning of each school year. On an annual basis, the superintendent or his/her designee shall write a letter to local news outlets, (e.g. New North End News, etc.) to notify residents of the names of Designated Employees and their contact information.
3. Designate one or more Equity Coordinators to oversee all aspects of the implementation of this policy as it relates to obligations imposed by federal law regarding discrimination. This role may be also be held by a Designated Employee.
4. Respond to notifications of possible violations of this policy in order to promptly and effectively address all complaints of hazing, harassment, and/or bullying.
5. Take action on substantiated complaints. In cases where hazing, harassment and/or bullying is substantiated, the District shall take prompt and appropriate remedial action reasonably calculated to stop the hazing, harassment and/or bullying; 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 the District's purview may also be considered if that organization knowingly permits, authorizes or condones hazing.

III. Constitutionally Protected Speech

It is the intent of the District 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:
 - a. Is repeated over time;
 - b. Is intended to ridicule, humiliate, or intimidate the student; and
 - c. (i) 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
(ii) 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 another student's right to access educational programs.
- B. "Complaint"** means an oral or written report 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 hazing, harassment or bullying.
- C. "Complainant"** means a student who has provided oral or written information about conduct that may rise to the level of hazing, harassment or bullying, or a student who is the target of alleged hazing, harassment or bullying.
- D. "Designated employee"** means an employee who has been designated by the school to receive complaints of hazing, harassment and bullying pursuant to

subdivision 16 V.S.A. 570a(a)(7). The designated employees for each school building are identified in Appendix A of this policy.

- E. **“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. For purposes of this policy, “agent of the school” includes supervisory union staff.
- F. **“Equity Coordinators”** are assigned by the superintendent to be the employees responsible for implementation of Title IX (regarding sex-based discrimination) and Title VI (regarding race-based discrimination) for the District and for coordinating the District’s compliance with Title IX and Title VI in all areas covered by the implementing regulations. The Director of Equity Coordinator is the Equity Coordinator responsible for these tasks as they relate to students and is responsible for overseeing implementation of the District’s *Policy Preventing and Responding to Harassment of Students*. The Human Resource Compliance Manager is the Equity Coordinator responsible for these tasks as they relate to employees and others and is responsible for overseeing implementation of the District’s *Harassment of Employees* policies.
- G. **“Gender Expression”** refers to how people perform their gender, that is, the roles, emotions, and attitudes a given culture assigns to people based on their biological sex. Gender expression includes behaviors and appearances, including how people dress, style their hair, speak, show emotion, and behave.
- H. **“Gender identity”** is an individual’s actual or perceived gender identity, or gender-related characteristics intrinsically, related to an individual’s gender or gender-identity, regardless of the individual’s assigned sex at birth. 1 V.S.A. §144
- I. **“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, creed, color, national origin, marital status disability, sex, (including but not limited to pregnancy, parental and marital status), sexual orientation, gender expression 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:
 - (i) Submission to that conduct is made either explicitly or implicitly a term or condition of a student's education, academic status, or progress; or
 - (ii) 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.

Sexual harassment also occurs where there exists a "Relationship of a Sexual Nature." "Relationship of a Sexual Nature" means any kind of physical or verbal conduct by an employee with a student, engaged in by the employee for the purpose of obtaining power over the student through sexual activity or to gratify a sexual desire. Any District employee's "Relationship of a Sexual Nature" is prohibited. The District will regard any Relationship of a Sexual Nature between an employee and a student as unwelcome by the student.

Further examples of sexual harassment may be found under the District Policy D 7 Sexual Harassment.

- (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, and taunts on manner of speech and negative references to cultural customs.
- (3) Harassment of members of other protected categories, means conduct directed at the characteristics of a student's or a student's family member's actual or perceived creed, national origin, marital status, disability, sex, (including but not limited to pregnancy, parental and marital status), sexual orientation, gender expression 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.

- J. “Hazing”** means any intentional, knowing or reckless act committed by a student, whether individually or in concert with others, against another student: 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
- (1) 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:

- (A) is registered in or in attendance at an educational institution;
- (B) has been accepted for admission at the educational institution where the hazing incident occurs; or
- (C) intends to attend an educational institution during any of its regular sessions after an official academic break.

- K. “Notice”** means a written complaint or oral information that hazing, harassment or bullying may have occurred which has been provided to a designated employee from another employee, the student allegedly subjected to the hazing, harassment 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 hazing, harassment or bullying through other means, for example, if information about hazing, harassment 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; 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 district, 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.

- L. **“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.
- M. **“Pledging”** means any action or activity related to becoming a member of an organization.
- N. **“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 harassment complaint. 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.
- O. **“School administrator”** means a superintendent, principal or his/her designee assistant principal//technical center director or his/her designee and/or the District’s Equity Coordinator.
- P. **“Student Conduct Form”** is a form used by students, staff, or parents, to provide, in written form, information about inappropriate student behaviors that may constitute hazing, harassment and/or bullying.

This Policy and Procedures on the Prevention of Harassment, Hazing and Bullying of Students replaces the following three polices: Prohibition of Student Harassment , F 2R/ JBAA; Hazing Policy, F 8R/JICFA and Prevention of Bullying of Students, JBB/F 9R. Upon the School Board’s adoption of Policy and Procedures on the Prevention of Harassment, Hazing and Bullying of Students, the three aforementioned Polices shall be automatically revoked .

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;

Access to Public Records, 1 V.S.A. §§ 315 et.seq.

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).

CROSS REFERENCES

D 8, Sexual Harassment;
D 1R, Prevention Of Harassment On The Basis Of Protected Characteristics-Employees And Others
A 5, Non-Discrimination in Vocational Education Programs, Procedures and Complaint Procedures-Internal for above Policies.
D 6R, Volunteer and Work Study Students;
F 13, Student Conduct and Discipline Policy;
H2, Reporting of Child and Vulnerable Adult Abuse, Sexual Abuse and Sexual Violence;
F 3R, Policy on Education Records -See Procedures for further detail.

First Reading: 8/11/15

Second Reading & Adoption: 9/8/15

APPENDIX A

Designated Employees:

The following employees of the _____ School have been designated by the District to receive complaints of bullying and/or harassment 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;

Ben Johnson 864-8411
Assistant Principal
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Patty Wesley 864-8581
Guidance Director
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Herb Perez 864-8411
Assistant Principal
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Josh Edelbaum 864-8581
Social Worker/School Clinician
jedelbau@bsdvt.org

Amy Mellencamp 864-8411
Principal
amellenc@bsdvt.org