

**WHITE RIVER VALLEY SUPERVISORY UNION**  
**Royalton School District**  
**Policy on Prevention of Harassment of Students**

**I. PURPOSES**

The South Royalton School 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. This policy addresses incident(s) and/or conduct that occur on school property, on a school bus or at a school-sponsored activity, or incident(s) and/or conduct that does not occur on school property, on a school bus or at a school-sponsored activity but 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.

Harassment is a form of unlawful discrimination that will not be tolerated. It is the policy of the South Royalton School District to prohibit the unlawful harassment of students based on race, creed, color, national origin, marital status, disability, sex, sexual orientation, and gender identity, to the extent required by law. Retaliation is a form of unlawful discrimination that will not be tolerated. Consistent with these purposes, annually,<sup>1</sup> each school shall select two or more designated employees to receive complaints and shall publicize their availability in any publication of the District/Independent School that sets forth the comprehensive rules, procedures, and standards of conduct for the school.<sup>2</sup>

It is the intent of the South Royalton School 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 harassment policy is to prohibit conduct or communication that is directed at a person's protected characteristics as defined below and that is likely to substantially disrupt the educational learning process and/or access to educational resources, or create a hostile learning environment.

The South Royalton School District shall promptly and effectively address all complaints of harassment in accordance with the procedures established by this policy. In cases where harassment is substantiated, the school shall take prompt and appropriate remedial action reasonably calculated to stop the harassment. Such action may include a wide range of responses from education to serious discipline. Such serious discipline may include termination for employees and, for students, expulsion or removal from school property. Nothing herein shall be construed to prohibit punishment of a person for conduct which, although it does not rise to the level of harassment as defined herein, otherwise violates one or more of the school's other disciplinary policies or codes of conduct.

**II. Definitions**

- A. "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, sexual

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<sup>1</sup> See 16 V.S.A. § 570a(a)(7).

<sup>2</sup> See Appendix A.

- F. "Notice" means a written complaint or oral information that harassment may have occurred which has been provided to a designated employee from another employee, the student allegedly subjected to the harassment, another student, a parent or guardian, or any other individual who has reasonable cause to believe the alleged conduct may have occurred.<sup>5</sup>
- G. "Retaliation" is any adverse action by any person 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. 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.
- H. "School administrator" means a superintendent, principal/head of school/technical center director or his/her designee.

### III. Reporting Student Harassment

- A. Student reporting: Any student who believes that s/he has been harassed under this policy, or who witnesses or has knowledge of conduct that s/he reasonably believes might constitute harassment, should promptly report the conduct to a designated employee or any other school employee.
- B. School employee reporting: Any school employee who witness conduct that s/he reasonably believes might constitute harassment shall take reasonable action to stop the conduct and to prevent its recurrence and immediately report it to a designated employee. Any school employee who overhears or directly receives information about conduct that might constitute harassment shall immediately report the information to a designated employee. If one of the designated employees is the person alleged to be engaged in the conduct complained of, the complaint shall be immediately filed with the other designated employee or the school administrator.
- C. Other reporting: Any other person who witness conduct that s/he reasonably believes might constitute student harassment 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 harassment complaint form, including the time, place, and nature of the alleged conduct, and the identity of the complainant, alleged perpetrator, and any witnesses.
- E. False Complaint: Any person who knowingly makes a false accusation regarding harassment may be subject to disciplinary action up to and including suspension and expulsion of students, or up to and including discharge of employees. There shall be no adverse action taken against a person for reporting a complaint of harassment when the person has a good faith belief that harassment occurred or is occurring.

### IV. Procedures Following a Report

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<sup>5</sup> See 16 V.S.A. § 14(d)(3).

D. Alternative dispute resolution:<sup>9</sup> 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. The following should be considered before pursuing alternative dispute resolution methods: (1) the nature of the accusations, (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 accused individual, safety issues, the relationship between the target and accused individual, or any history of repeated misconduct/harassment by the accused individual. If an alternative dispute resolution is either not appropriate or is unsuccessful, the school administrator shall initiate or cause to be initiated an investigation of the allegations in accordance with the timelines established in this policy.

E. Appeal: A person determined to be in violation of this policy and subjected to disciplinary action under it may appeal the determination and/or the disciplinary action(s) taken in the same manner as other disciplinary actions, in accordance with the District's/Independent School's discipline policy, applicable statutes, or collective bargaining agreements.

F. Independent review:<sup>10</sup> A complainant may request an independent review if s/he: (1) believes that the school did not correctly analyze the complaint and failed to conduct an investigation of the incident because the school believed the alleged conduct did not constitute possible harassment, (2) is dissatisfied with the final determination following an investigation as to whether harassment occurred, or (3) 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 superintendent of schools/head of school. Upon such request, the superintendent/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 Commissioner. The reviewer shall advise the student of other remedies<sup>11</sup> 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 District/Independent School. The District/Independent School may request an independent review at any stage of the process.

F. Retaliation: 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.

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<sup>9</sup> See 16 V.S.A. § 570a(a)(2).

<sup>10</sup> See 16 V.S.A. § 570a(b).

<sup>11</sup> Such as those identified in Section VIII of this policy.

B. Training:<sup>13</sup> The school administrator shall use her/his discretion in developing age-appropriate methods of discussing the meaning and substance of this policy with students to help prevent harassment. The school administrator shall implement training for school staff within the context of professional development to enable staff to recognize, prevent and respond to harassment.

C. Data gathering: Public school districts shall provide the Vermont Department of Education with data requested by the Commissioner.

### VIII. 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

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

#### 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, 9 V.S.A. §§ 4500 et seq.;  
Education, Classifications, and Definitions, 16 V.S.A. § 11a (26); Education, Harassment, Notice and Response, 16 V.S.A. § 14; Education, 16 V.S.A. § 140(a)(1);  
Education, 16 V.S.A. § 166(e);  
Education, Harassment, Chpt. 9, Subchpt. 5 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.

## APPENDIX A

### DESIGNATED EMPLOYEES

<sup>13</sup> See 16 V.S.A. § 570(c).

Race	Sexual Orientation
Creed	Gender Identity
Color	Marital Status
National Origin	Disability
Sex	

**PROCEDURES:**

Any allegations of harassment will be addressed under the Royalton School District's Policy on the Prevention of Harassment of Students.

**Reporting Bullying Complaints:**

The principal of the Royalton Public School will annually designate two employees (Designated Employees) to receive complaints of bullying and harassment. The names and contact information for those Designated Employees can be found in the Student or Employee Handbook.

For the purposes of this policy, "school employee" means any person employed directly by or retained through a contract with the District, an agent of the school, a school board member/member of the board of trustees, a student teacher, an intern, or a school volunteer. "Agent of the school" includes supervisory union staff.

- A. Student reporting: any student who believes that s/he has been bullied under this policy, or who witnesses or has knowledge of conduct that s/he reasonably believes might constitute bullying, is encouraged to report the conduct to a Designated Employee or to any other school employee.
- B. School employee reporting: Any school employee who witnesses or is the target of conduct that s/he reasonably believes might constitute bullying shall take reasonable action to stop the conduct and to prevent its recurrence and shall immediately report it to a Designated Employee. Any school employee who directly receives information about conduct that might constitute bullying shall immediately report it to a Designated Employee.
- C. Parent reporting: Any parent or legal guardian/custodian who witnesses conduct that s/he reasonably believes might constitute bullying or who reasonably believes his/her child or ward is being bullied should promptly report the conduct to a Designated Employee or any school employee.
- D. Documentation of the report: If the complaint is oral, a Designated Employee shall reduce the complaint to writing, including the time, place, and nature of the alleged conduct, and the identity of the complainant, alleged perpetrator(s), and any witnesses.
- E. False Complaint: Any person who knowingly makes a false accusation regarding bullying may be subject to disciplinary action up to and including suspension and expulsion of students, or up to and including the discharge of employees. There shall be no adverse action taken against a person for reporting a complaint of bullying when the person has a good faith belief that bullying occurred or is occurring.
- F. Confidentiality and Record Keeping: The privacy of the complainant, the accused individual, and the witnesses shall be maintained consistent with the Districts' 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.

Response to a Bullying Complaint

c. Safety Planning<sup>17</sup>

- i. A safety plan shall be developed in all instances where a student has been the target of bullying that results in physical harm and/or the student is known to be expressing suicidal ideation as a result of bullying. A safety plan shall not be considered a substitute for in-school procedures and policies that apply to students experiencing mental health crises.
- ii. A safety plan should be considered in instances where the targeted student is known to have difficulty accessing the educational programs at the school as a result of bullying.
- iii. A safety plan may include such measures as checking in with the target and his/her parents on a regular basis, identifying a safe in-school person for the target to seek out when s/he feels threatened, informing teachers to pay particular attention to interactions/ dynamics between identified students and rearranging the schedule of the perpetrator, and providing additional supervision in areas ordinarily subject to lesser supervision (e.g., lunchroom, playground).

D. Parental Notification: Upon completion of the investigation, the school administrator will notify the parent(s) or guardian of the complainant and accused individual(s) of the outcome of the investigation. In cases where the school determines that bullying has occurred, a school administrator may seek a waiver of the confidentiality rights of the perpetrator(s) to inform the complainant of any specific disciplinary action taken.

E. Appeal of Discipline Decisions: A person determined to be in violation of this policy and subjected to disciplinary action under it may appeal the determination and/or the disciplinary action(s) taken in the same manner as other disciplinary actions, in accordance with the District's disciplinary policy, applicable statutes, or collective bargaining agreements.

Reporting to Other Agencies

A. Reports to Department of Children and Families: When a complaint made under 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 law enforcement<sup>18</sup>: Information obtained and documented by school administration regarding the school's response to notice of student or employee conduct that may constitute bullying may constitute an "educational record" or "employee record" regarding the student(s) or employee(s) involved as defined by the Family Education Rights and Privacy Act.<sup>19</sup> Accordingly, such information may not be disclosed to local law enforcement without prior parent or employee approval except in response to a lawfully issued subpoena<sup>20</sup>, or in connection with an emergency if disclosure is necessary to protect the health or safety of the student or other individuals.<sup>21</sup>

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<sup>17</sup> Not required by law, but considered best practice to prevent recurrence of harm.

<sup>18</sup> 16 V.S.A. § 570c(4).

<sup>19</sup> 20 U.S.C. § 1232g(a)(4)(A).

<sup>20</sup> 34 C.F.R. § 99.31(a)(9)(ii).

<sup>21</sup> 34 C.F.R. § 99.36(c) (requiring proof of an "articulable and significant threat to the health and safety of others). There is no affirmative obligation imposed by the health and safety exception requiring disclosure by the school district under these circumstances, only the option for disclosure. *Id.*