

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

### **I. Statement of Policy**

As Catholic institutions, the Catholic Schools in the Roman Catholic Diocese of Burlington are committed to providing its students with a safe and supportive school environment in which all members of the school community are treated with respect.

In keeping with the teachings of the Catholic Church, it is the policy of the School to prohibit the unlawful hazing, harassment, and/or bullying of students based on age, ancestry, color, disability, national origin, place of birth, race, sex, marital status, or association with a member of a legally protected category listed above in so far as it aligns with the religious teachings of the Catholic church. Hazing, harassment, and/or bullying 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.

Note: Conduct which constitutes unlawful hazing, harassment and/or bullying may be subject to civil penalties.

The school shall address all complaints of harassment, hazing and bullying according to the procedures accompanying this policy, and shall take appropriate action against any person 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, and/or hazing as defined herein, otherwise violates one or more provisions of the school's code of conduct.

### **II. Implementation**

The principal 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.
2. Annually, select two or more designated employees who are well versed in the teachings of the Catholic Church and the policies of the School to receive complaints of hazing, bullying and/or harassment at each school campus and publicize their availability in any publication of the school that sets forth the comprehensive rules, procedures, and standards of conduct for the school.

3. Designate an Equity Coordinator who is well versed in the teachings of the Catholic Church and the policies of the School to oversee all aspects of the implementation of this policy as it relates to obligations imposed by federal law regarding discrimination. This role may also 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 hazing, harassment, and/or bullying.
5. Take action on substantiated complaints. In cases where hazing, harassment and/or bullying is substantiated, the school 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 School's purview may also be considered if that organization knowingly permits, authorizes or condones hazing.

### **III. Purpose**

It is the intent of the school to apply and enforce this policy in a manner consistent with the mission of the school as a Catholic institution. 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;
  2. Is intended to ridicule, humiliate, or intimidate the student; and
  3. (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 of 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, and/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, and/or bullying, or a student who is the target of alleged hazing, harassment, and/or bullying.
- D. **“Designated employee”** means an employee who has been designated by the school to receive complaints of hazing, harassment and/or bullying pursuant to subdivision 16 V.S.A. 570a(a)(7). The designated employees for each school, are identified in Appendix 5152 of each school's regulations for this policy.
- E. **“Employee”** includes any person employed directly by or retained through a contract with a school, 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 Diocesan personnel associated with the schools.
- F. **“Equity Coordinator”** is the person responsible for implementation of Title IX (regarding sex-based discrimination) and Title VI (regarding race-based discrimination) for each 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 harassment policy. This role may also 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 age, ancestry, color, disability, national origin, place of birth, race, sex, marital status, or association with a member of a legally protected category listed above in so far as it aligns with the religious teachings of the Catholic church, 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 on the basis of sex. A hostile environment exists where the harassing conduct is contrary to the mission of the school as a Catholic institution, severe, persistent and/or so pervasive as to deny or limit the student's ability to participate in or benefit from the educational program.

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 contrary to the mission of the school as a Catholic institution and is directed at the characteristics of a student's or a student's family member's actual or perceived age, ancestry, disability, national origin, place of birth, sex, marital status, or association with a member of a legally protected category listed above in so far as it aligns with the religious teachings of the Catholic church 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: 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:

- (i) the goals are in keeping with the teachings of the Catholic Church;
  - (ii) are approved by the educational institution; and
  - (iii) 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.
2. With respect to Hazing, “**Student**” means any person who:
- (i) is registered in or in attendance at an educational institution;
  - (ii) has been accepted for admission at the educational institution where the hazing incident occurs; or
  - (iii) 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 hazing, harassment, and/or bullying may have occurred which has been provided to a designated employee from another employee, the student allegedly subjected to the hazing, harassment, and/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, and/or bullying through other means, for example, if information about hazing, harassment, and/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 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 hazing, harassment and/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 any person involved in an alleged or substantiated case of hazing, harassment, and/or bullying. This includes but is not limited to the complainant, the alleged or substantiated perpetrator, any witnesses, and any person who assists or participates in an investigation, proceeding, or hearing related to the hazing, harassment, and/or bullying 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 or school employee in the form of further and/or newly initiated hazing, harassment, bullying, intimidation, and reprisal.
- M. **“School administrator”** means a superintendent, principal or his/her designee, assistant principal and/or the School’s Equity Coordinator.
- N. **“Complaint Reporting 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.

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Bishop of Burlington

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Regulation 5152

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

- I. **Reporting Complaints of Hazing, Harassment and/or Bullying**
- A. Student Reporting: Any student who believes that s/he has been hazed, harassed and/or bullied under this policy, or who witnesses or has knowledge of conduct that s/he reasonably believes might constitute hazing, harassment 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 hazing, harassment 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 hazing, harassment 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 hazing, harassment 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, including the time, place, and nature of the alleged conduct, the identity 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 hazing, harassment 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 hazing, harassment and/or bullying when the person has a good faith belief that hazing, harassment and/or bullying occurred or is occurring.
- 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  
8th 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 hazing, harassment and/or bullying may have occurred the designated employee shall:
- i. Promptly reduce any oral information to writing, including the time, place, and nature of the alleged conduct, the identity of the complainant, alleged perpetrator, and any witnesses;
  - ii. Promptly inform the school administrator(s) of the information;
  - iii. 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 hazing, harassment and bullying and these procedures to the complainant and 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:
- i. Notify in writing both the complainant and 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 Hazing, Harassment 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 be mindful of the mission of the school as a Catholic institution as s/he considers 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 accused will be provided the opportunity to present witnesses and other evidence during an investigation. The school has the discretion to 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 hazing, harassment 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 a review conducted by the Bishop of the Roman Catholic Diocese of Burlington, or his designee, 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:
  - i. Notify in writing both the complainant and accused individual (or if either is a minor inform their respective parent or guardian) that:
    - 1. the investigation has been completed;
    - 2. whether or not the investigation concluded that a policy violation occurred;
    - 3. 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.
  - ii. Notify the Complainant Student - or if a minor, their parent(s) or guardian - in writing of their rights to:
    - 1. Request (within 30 days) an internal review by the school of the investigator's determination as to whether hazing, harassment, and/or bullying occurred;
    - 2. Request (within 30 days of the school's determination after internal review) an additional review by the Bishop of the Roman Catholic Diocese of Burlington as to (1) whether hazing, harassment, and/or bullying occurred or

- (2) if hazing, harassment, and/or bullying was determined to have occurred, whether the school took adequate steps to protect the complainant against further hazing, harassment, and/or bullying;
  - 3. Request an Independent Review of the school's determination (within 30 days of the school's determination after internal review or, if requested, within 30 days of the review by the Bishop) as to (1) whether harassment occurred or (2) if harassment was determined to have occurred, whether the school took adequate steps to protect the complainant against further hazing, harassment, and/or bullying and correct the problem; and that the review will be conducted by an investigator to be selected by the superintendent from a list developed by the Agency of Education;
  - 4. File complaints of hazing, harassment, and/or bullying with either the Vermont Human Rights Commission and/or the federal Department of Education's Office of Civil Rights.
- iii. Notify the Accused Student – or if a minor, their parent(s) 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 hazing, harassment and/or bullying has been committed, the school shall take prompt and appropriate disciplinary and/or remedial action reasonably calculated to stop the hazing, harassment and/or bullying and prevent any recurrence of harassment, hazing and/or bullying, and remedy its effects on the victim(s).

In so doing, the following should be considered:

- i. 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 hazing, harassment and/or bullying. To prevent recurrences counseling for the offender may be appropriate to ensure that he or she understands what constitutes hazing/harassment and/or bullying and the effects it can have. Depending on how widespread the hazing/harassment/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 and teachers can recognize hazing/harassment/bullying if it recurs and know how to respond.

- ii. 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 female 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 behaviors contrary to the mission of the school as a Catholic institution; harassment, hazing, and/or bullying and will be responsive to any student who reports that conduct.
  - iii. Hazing Case Considerations. Appropriate penalties or sanctions or both for organizations that or individuals who engage in hazing and revocation or suspension of an organization's permission to operate or exist within the institution's purview if that organization knowingly permits, authorizes, or condones hazing.
  - iv. 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 hazing, harassment, and/or bullying or against a person who assists or participates in an investigation, proceeding or hearing related to the hazing, harassment, and/or bullying complaint, or against a person accused of and/or found responsible for the hazing, harassment, and/or bullying, of another.

A person may not violate this anti-retaliation provision regardless of whether the underlying complaint of hazing, harassment and/or bullying 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 hazing, harassment and/or bullying), against the person who filed a complaint on behalf of a student, the person who is accused of and/or found responsible for the behavior, or against those who provided information as witnesses. At a minimum, this includes making sure that the students and their parents, 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 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:
- i. the nature of the accusations (for example, face-to-face mediation is not appropriate for sexual violence cases),
  - ii. the age of the complainant and the accused individual,
  - iii. the agreement of the complainant, and
  - iv. other relevant factors such as any disability of the target or accused individual, safety issues, the relationship and relative power differential between the target and accused individual, or any history of repeated misconduct/harassment by the accused individual.

## V. **Post Investigative Reviews**

### Rights of Complainants

A. Request Internal Review of Initial Harassment Determinations.

A complainant or parent of a complainant if complainant is a minor, may request internal review by the school of a designee's initial determination (following investigation) that hazing, harassment and/or bullying has not occurred via written request within 30 days submitted to the superintendent of schools. All levels of internal review of the investigator's initial determination, and the issuance of a decision, shall, unless special circumstances are present and documented by the school, be completed within 30 calendar days after review is requested.

B. Request Additional Review by the Office of the Bishop.

A complainant, or parent of complainant if complainant is a minor, may request in writing and within 30 days of the internal review, an additional review by the Office of the Bishop. All levels of this additional review of the investigator's initial determination and the results of the internal review along with the issuance of a final

decision, shall, unless special circumstances are present and documented by the Office of the Bishop, be completed within 30 calendar days after review is requested.

C. Independent Reviews of Final Hazing, Harassment, and/or Bullying Determinations By Complainant.

A complainant may request an independent review within thirty (30) days of a final determination if s/he:

- i. is dissatisfied with the final determination as to whether harassment occurred, or
- ii. if a final determination was made that harassment had occurred, believes the steps taken by the school were inadequate to protect the complainant and prevent further hazing, harassment or bullying.

The complainant shall make such a request in writing to the superintendent of schools within thirty (30) days of a final determination. Upon such request, the superintendent 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, the accused, any witnesses, 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:

- i. 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
- ii. 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 Superintendent of Schools for the Roman Catholic Diocese of Burlington.

The reviewer shall advise the complainant, or if a minor the parents of the complainant, 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.

D. Rights to Alternative Process.

In addition to, or as an alternative to filing a hazing, harassment and/or bullying complaint pursuant to this policy, a person may file a hazing, harassment and/or

bullying 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  
8th 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 hazing, harassment and/or bullying may appeal, in writing, the determination and/or any related disciplinary action(s) taken, directly to the superintendent. The superintendent, or his/her designee, shall conduct a review of the record. The standard of review by the superintendent, or his/her designee, shall be whether the finding that an act(s) of hazing, harassment, and/or bullying has been committed constitutes an abuse of discretion by the school level fact finder.

Appeals should be made to the superintendent in writing and within ten (10) calendar days of receiving the determination that an act(s) of hazing, harassment and/or bullying has occurred and/or any announced discipline.

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 by the Superintendent, 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.
- i. Concerns Related to Hazing, Harassment, and/or Bullying Complaints. The scope of appropriate response to a hazing, harassment and/or bullying complaint may depend upon whether a student or parent of a minor student reporting the hazing, harassment and/or bullying asks that the student's name not be disclosed to the accused person or that nothing be done about the alleged hazing, harassment and/or bullying. 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, or if a minor the student's parents, continues to ask that his or her name not be revealed, the school will secure this request in writing and 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 hazing, harassment and/or bullying and preventing harassment of other students.

The school will evaluate the confidentiality request in the context of its responsibility to act in accordance with the teachings of the Catholic Church and 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 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 model policy and model 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 the school administrator 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 hazing, harassment, and/or bullying complaint is made in an independent school about conduct by a licensed educator that might be grounds under Vermont law for licensing action, the principal will report the alleged conduct to the Superintendent who in turn will report it to the Secretary of Education.

### C. Reporting Incidents to Police

- i. FERPA Rights. Information obtained and documented by school administration regarding the school's response to notice of student conduct that may constitute hazing, harassment 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 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.
- ii. 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.
- iii. Hazing Incidents. It is unlawful to (1) engage in hazing; (2) solicit direct, aid, or attempt to aid, or abet another person engaged in hazing; or (3) 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 hazing, harassment 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 staff members, 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 hazing, harassment 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 ensure their actions are in keeping with the teachings of the Catholic Church and in an effort to prevent hazing, harassment and/or bullying.
- C. Staff Training. The principal or his/her designee shall ensure that teachers and other staff receive training in preventing, recognizing and responding to hazing, harassment and bullying. This training will occur in a manner consistent with the teachings of the Catholic Church.

#### **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).

Superintendent of Schools

Promulgated: September 12, 2019

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## **APPENDIX 5152**

### **Designated Employees**

The following employees of Good Shepherd Catholic School have been designated by the School to receive complaints of hazing, bullying and/or harassment pursuant to this policy and 16 V.S.A. §570a(7) and 16 V.S.A. §570c(7) and under Federal anti-discrimination laws:

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