

Policy: Prevention of Harassment of Students
File Code: JBEEA

I. Purpose & Statement of Policy.

A. The Chittenden Central Supervisory Union and its member districts (District) are 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 occur 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 the welfare of the school can be demonstrated.

B. 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.

C. 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.

II. Definitions

A. 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, 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 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.

B. **"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.

C. **"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.

D. **"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.

E. **"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).

F. **"Principal"** means the building level administrator, or his/her designee, at an independent or public school designated by a school governing board to be a school principal, headmaster, or technical center director.

III. Reporting of Student Harassment Complaints

A. 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.

B. 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.

C. 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.

D. 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.

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

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

IV. Procedures Following a Report

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

B. 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.

V. Discipline and/or Corrective Action.

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 policies and 16 V.S.A. §565, the Superintendent or Principal 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.

VI. Confidentiality; Notification of Results; and Record Keeping.

A. 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.

B. 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.

C. The Superintendent or Principal 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.

VII. Mandatory Reporting to State Agencies.

A. 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 Principal shall report to the Superintendent and the Superintendent shall report the alleged conduct to the Commissioner.

B. 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.

C. 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.

VIII. Dissemination of Information, Training, Comprehensive Plan for Responding to Student Misbehavior and Data Gathering.

A. **Dissemination of Information.** Annually, prior to the commencement of curricular and co-curricular 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.

B. **Training.** The Superintendent or Principal 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.

C. **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.

D. **Data Gathering.** The District shall provide the Vermont Department of Education with data requested by the Commissioner.

IX. Complaints to the Vermont 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.

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 Area School District, 240 F. 3d 200 (3rd Cir. 2001)

CCSU School District Policy Cross References.

1. See also JBEAA-R (Procedure: Prevention of Harassment of Students)
2. See also GBEAA (Sexual Harassment staff incurred), GBEAA-R (Procedure: Unlawful Harassment-Staff Incurred).
3. See also JHG (Reporting Suspected Child Abuse and Neglect).
4. See also JG (Student Conduct and Discipline).
5. See also JG (Discipline and Required Student Behavior).
6. See also JGD (Student Suspension).
7. See also JGF (Other Sanctions Instead of Suspension).
8. See also JO (Student Records).

9. See also individual school Discipline Plans for Responding to Student Misbehavior, including Anti-Bullying Provisions.

Date of First Reading: September 27, 2004
Adopted: November 22, 2004
Chittenden Central Supervisory Union