

**Sample Form Student Misconduct Complaints**

*Note: Form should not be titled "harassment" or "bullying" form, so as to avoid inappropriately narrowing the scope of the investigation, rather "Student Conduct Form." Any form created by the school should contain the following fields:*

**DISTRICT EMPLOYEE AUTHOR:**

**(Designated Employee?            Y            N)**

**IDENTITY OF STUDENT/ADULT REPORTER:**

**IDENTITY OF ALLEGED STUDENT OFFENDER:**

**DATE OF REPORT BY STUDENT:**

**TIME OF REPORT BY STUDENT:**

**DESCRIPTION OF CONDUCT REPORTED:**

**STUDENT WITNESSES (if any):**

**DISTRICT EMPLOYEE WITNESSES (if any):**

**STUDENTS INTERVIEWED BY EMPLOYEE AUTHOR (if any):**

**INITIAL ACTIONS BY EMPLOYEE AUTHOR (if any):**

**NEXT STEPS TO BE TAKEN BY EMPLOYEE AUTHOR (report to Designee, inform parents, commence investigation):**

**SCHOOL DESIGNEE INCIDENT REPORTED TO:**

**DATE & TIME INCIDENT WAS REPORTED TO C-1 DESIGNEE:**

\_\_\_\_\_ **(Signature of Designee)**

*Copies of this form must be given to the school principal, assistant principal, both Designated Employees, the alleged offender's teachers, the alleged victim's teachers, and placed within both the accused student and complainant student's disciplinary files (where appropriate). A copy must also be placed in central filing.*

**SAMPLE LETTER ANNOUNCING DELAY IN INVESTIGATION**

**TO: Complainant Student/Parent(s)**

**RE: Announcing Special Circumstances Delaying Initiation of Investigation**

I am writing to inform you that on [INSERT DATE] I received information regarding student conduct directed towards your son/daughter that I believe may constitute a violation of our HHB Policies. Under the related procedures, the school is required to initiate an investigation of those allegations within one school day of my receiving that information, except where special circumstances exist.

I am writing to inform you that special circumstances exist in this case whereby [INSERT EXPLANATION TO THE EXTENT POSSIBLE WITHOUT VIOLATING OTHER STUDENT PRIVACY RIGHTS] such that I will not be able to initiate the investigation within that time limit.

I will contact you again in writing to confirm the commencement of my investigation, which I anticipate will be no later than [INSERT DATE].

I am enclosing a copy of our HHB Policies and Procedures for your information.

Please feel free to contact me with any questions.

Signed

Designee

ENC: HHB Policies and Procedures

bcc: Investigative File

**SAMPLE LETTER ANNOUNCING DELAY IN INVESTIGATION**

**TO: Accused Student/Parent(s)**

**RE: Announcing Special Circumstances Delaying Initiation of Investigation**

I am writing to inform you that on [INSERT DATE] I received information that your son/daughter may have engaged in conduct which I believe may constitute a violation of our HHB Policies. Under the related procedures the school is required to initiate an investigation of those allegations within one school day of my receiving that information, except where special circumstances exist.

I am writing to inform you that special circumstances exist in this case whereby [INSERT EXPLANATION TO THE EXTENT POSSIBLE WITHOUT VIOLATING OTHER STUDENT PRIVACY RIGHTS] such that I will not be able to initiate the investigation within that time limit.

I will contact you again in writing to confirm the commencement of my investigation, which I anticipate will be no later than [INSERT DATE].

I am enclosing a copy of our HHB Policies and Procedures for your information.

Please feel free to contact me with any questions.

Signed

Designee

ENC: HHB Policies and Procedures

bcc: Investigative File

## **SAMPLE LETTER ANNOUNCING COMMENCEMENT OF INVESTIGATION**

**TO: Complainant Student/Parent(s)**

**RE: Announcement of Commencement of Investigation**

Today (or date) I received a report that your son/daughter may have been subjected to inappropriate student conduct.

I have initiated an investigation under our harassment, hazing and bullying policies to ascertain whether or not the alleged behaviors occurred - and if so – whether they violated one or more of those policies.

I am enclosing a copy of these policies - which include a copy of our investigation procedures - for your information. These were first given to you in our student handbook at the beginning of the year. I would encourage you to please review these policies again with your son/daughter. I would also encourage you to contact us with any additional information that your son or daughter may share with you regarding behaviors of which he/she has concerns so that I may address those as well.

Please be aware that the investigation is confidential. This is for the rights of all involved. Accordingly, I may not disclose details of the alleged incidents to you at this time. I can tell you that...[insert brief description of what the alleged policy violation involving their child without reference to the accused by name or other personally identifying information which would violate their right to privacy.]

Please also know that your child has a right to be free of any retaliation from students or faculty as a result of the filing of this complaint and participation in this investigation. Accordingly, if at any time you believe that your child has been subject to retaliation by either students or staff I would encourage you to contact me immediately so that we may take prompt, appropriate action.

I will report to you upon completion of our investigation as to whether any alleged policy violation(s) were or were not substantiated. In the meantime, please feel free to contact me regarding any questions you may have about our policies or the investigation.

Thank you for your cooperation.

Designated Employee

Enclosures: Policies: Harassment, Hazing, Bullying, Investigative Procedures

BCC: Investigator's Investigative File

## **SAMPLE LETTER ANNOUNCING COMMENCMENT OF INVESTIGATION**

**TO: Accused Student/Parent(s)**

**RE: Announcement of Commencement of Investigation**

Today (or date) I received a report that your son/daughter may have been involved in some inappropriate student conduct which may violate either our harassment, hazing or bullying policies.

As required under Vermont law and our policies I have initiated an investigation of this matter. I am enclosing a copy of these policies which include a copy of our investigation procedures for your information. These were first given to you in our student handbook at the beginning of the year. I would encourage you to please review these policies again with your son/daughter.

I will be speaking with your son/daughter about these allegations as part of my investigation. I encourage you to contact me as well with any additional information that your son or daughter may share with you regarding the incident.

Please be aware that the investigation is confidential. This is for the rights of all involved. Accordingly, I may not disclose details of the alleged incidents to you at this time. I can tell you that [insert brief description of alleged policy violation without identifying complainant student by name or other personally identifying information which would violate their right to privacy].

In addition, please be aware that the alleged victim, as well as any other students who cooperate in this investigation – including your child - have a right to be free from and are protected from any retaliation as a result of the filing of this complaint and participation in this investigation. Accordingly, if at any time you or your child believe that he/she has been subject to retaliation by either students or staff I would encourage you to contact me immediately so that we may take prompt, appropriate action.

I will report to you upon completion of our investigation as to any policy violations that have been substantiated or unsubstantiated and any related discipline or other remedies that may be imposed as a consequence. In the meantime, please feel free to contact me regarding any questions you may have about our policies or the investigation.

Thank you for your cooperation.

Designated Employee

Enclosures: Policies: Harassment, Hazing, Bullying, Investigative Procedures

BCC: Investigator's Investigative File

**SAMPLE LETTER ANNOUNCING DELAY IN COMPLETION OF INVESTIGATION**

**TO: Complainant Student/Parent(s)**

**RE: Announcing Special Circumstances Delaying Timely Completion of Investigation**

I am writing to update you on the progress of my investigation regarding student conduct directed towards your son/daughter that may constitute a violation of our HHB Policies. Under the related procedures the school is required to complete its investigation of those allegations within five school days of my receiving that information, except where special circumstances exist.

I am writing to inform you that special circumstances exist in this case whereby [INSERT EXPLANATION TO THE EXTENT POSSIBLE WITHOUT VIOLATING OTHER STUDENT PRIVACY RIGHTS] such that I will not be able to complete the investigation within that time limit.

I will contact you again in writing to confirm the completion of my investigation, which I anticipate will be no later than (INSERT DATE). I apologize for the delay and thank you for your patience through this process.

Please feel free to contact me with any questions.

Signed

Designee

ENC: HHB Policies and Procedures

bcc: Investigative File

**SAMPLE LETTER ANNOUNCING DELAY IN COMPLETION OF INVESTIGATION**

**TO: Complainant Student/Parent(s)**

**RE: Announcing Special Circumstances Delaying Timely Completion of Investigation**

Dear Parent of Accused Student:

I am writing to update you on the progress of my investigation into allegations of your son/daughter's conduct which may constitute a violation of our HHB Policies. Under the related procedures the school is required to complete its investigation of those allegations within five school days of my receiving that information, except where special circumstances exist.

I am writing to inform you that special circumstances exist in this case [INSERT EXPLANATION TO THE EXTENT POSSIBLE WITHOUT VIOLATING OTHER STUDENT PRIVACY RIGHTS] such that I will not be able to complete the investigation within that time limit.

I will contact you again in writing to confirm the completion of my investigation, which I anticipate will be no later than (INSERT DATE). I apologize for the delay and thank you for your patience through this process.

Please feel free to contact me with any questions.

Signed

Designee

ENC: HHB Policies and Procedures

bcc: Investigative File

## **SAMPLE LETTER ANNOUNCING NO POLICY VIOLATION**

**TO: Complainant Student/Parent(s)**

**RE: Investigation Conclusion No Policy Violation**

On [Insert date of first letter announcing investigation] I reported to you that I had received a report that your son/daughter may have been subjected to inappropriate student conduct, and that we had initiated an investigation under our harassment, hazing and bullying policies and related procedures.

I write today to report that our investigation was completed on [INSERT DATE/(No more than 5 days ago)] with no substantiation of a violation of the school's aforementioned policies.

Please be advised that all persons who participated in this investigation continue to have the right to be free from any acts of retaliation against them stemming from that participation.

### [IN CASES OF ALLEGED HARASSMENT ONLY:

Please be advised that you are entitled to an Internal Review of our investigations' conclusions regarding whether harassment occurred. [Source: AOE Model Procedures III.H.ii.1 (2015).] Such review shall be completed within thirty days. You are also entitled to an Independent Review by an investigator selected by the school from a roster of investigators maintained by the Vermont Agency of Education in conjunction with the Vermont Human Rights Commission of our investigation's conclusions regarding whether harassment occurred. Please contact our Superintendent of Schools in writing if you wish to pursue either one of these options at the following address [INSERT], and in cases of seeking an Independent Review no later than (insert date thirty days of this letter).

You may at any time also refer incidents of alleged harassment to the Vermont Human Rights Commission or the U.S. Department of Education Office of Civil Rights division for review. The contact information for both entities are listed within the school policies enclosed.]

Finally, please feel free to contact me with any remaining questions or concerns you have.

School Administrator

BCC: Investigative File

Enc: HHB Policies and Procedures

**SAMPLE LETTER ANNOUNCING NO POLICY VIOLATION**

**TO: Accused Student/Parent(s)**

**RE: Investigation Conclusion No Policy Violation**

On [insert date of first letter announcing investigation] I reported to you that I had received a report that your son/daughter may have engaged in inappropriate student conduct that violates our [either/and/or] harassment, hazing, or bullying policies and that we had initiated an investigation under our related procedures.

I write today to report that our investigation was completed on [INSERT DATE/(No more than 5 days ago)] with no substantiation of a violation of the school's aforementioned policy/ies.

Please be advised that the Complainant Student may retain rights of review under Vermont law beyond the school level which may require further action as outlined in the attached 2015 HHB Procedures.

Please be advised that all persons who participated in this investigation continue to have the right to be free from any acts of retaliation against them stemming from that participation.

I encourage you to contact me with any remaining questions or concerns that you have.

Sincerely,

School Administrator

BCC: Investigative File

Enc: HHB Policies and Procedures

**SAMPLE LETTER ANNOUNCING INAPPROPRIATE CONDUCT FOUND BUT NO HHB POLICY VIOLATION  
SUBSTANTIATED**

**TO: Complainant Student/Parent(s)**

**RE: Investigation Conclusion: Inappropriate Conduct Requiring Response Found But No HHB  
Violation**

On [insert date of first letter announcing investigation] I reported to you that I had received a report that your son/daughter may have been subjected to inappropriate student conduct, and that we had initiated an investigation under harassment, hazing and bullying procedures.

Today I write to report to you that our investigation was completed on [INSERT DATE/(No more than 5 days ago)] and concluded that although inappropriate conduct was found to have occurred, there was no substantiation that the school's harassment, bullying, and/or hazing policies were violated.

Although federal privacy law prevents me from discussing any disciplinary action taken to address the inappropriate conduct committed by other students that was found to have occurred - I can tell you that appropriate action has been taken with the appropriate students.

Please also be advised that all persons who participated in this investigation continue to have the right to be free from any acts of retaliation against them stemming from that participation.

[In cases of Alleged Harassment ONLY: Please be advised that you are entitled to an Internal Review of our investigations' conclusions regarding whether harassment occurred. [Source: AOE Model Procedures III.H.ii.1 (2015).] Such review shall be completed within thirty days. You are also entitled to an Independent Review by an investigator selected by the school from a roster of investigators maintained by the Vermont Agency of Education in conjunction with the Vermont Human Rights Commission of our investigation's conclusions regarding whether harassment occurred. Please contact our Superintendent of Schools in writing if you wish to pursue either one of these options at the following address [INSERT], and in cases of seeking an Independent Review within thirty days of this letter.]

You may at any time also refer incidents of alleged harassment to the Vermont Human Rights Commission or U.S. DOE Civil Rights division for review. The contact information for both entities are listed within the school policies forwarded to you at the start of this investigation. Please let me know if you need another copy.]

Finally, please feel free to contact me with any remaining questions or concerns you have regarding this incident.

School Administrator

BCC: Investigative File

Enc: HHB Policies and Procedures

**SAMPLE LETTER ANNOUNCING INAPPROPRIATE CONDUCT FOUND BUT NO HHB POLICY VIOLATION  
SUBSTANTIATED**

**TO: Accused Student/Parent(s)**

**RE: Investigation Conclusion: Inappropriate Conduct Requiring Response Found But No HHB  
Violation**

On [insert date of first letter announcing investigation] I reported to you that I had received a report that your son/daughter may have engaged in inappropriate student conduct that violates either our harassment, hazing or bullying policies, and I had initiated an investigation as required under our related procedures.

Today I write to report to you that our investigation was completed on [INSERT DATE/(No more than 5 days ago)] and concluded that although inappropriate student conduct occurred, there was no violation of the school's harassment, bullying or hazing policies.

Please also be advised that all persons who participated in this investigation continue to have the right to be free from any acts of retaliation against them stemming from that participation.

INSERT ANY DISCIPLINE FOR THE "INAPPROPRIATE CONDUCT" AS NECESSARY. [IF THE DISCIPLINE IS FOR MORE THAN TEN DAYS SUSPENSION OR EXPULSION DETAIL THEIR RIGHT TO APPEAL THIS DISCIPLINE TO SCHOOL BOARD].

[NOTE: There is no appeal available in cases of 10 days or less suspension where policies of harassment/hazing/bullying were NOT found to have been violated.]

I encourage you to contact us with any remaining questions or concerns that you have regarding this incident.

Sincerely,

School Administrator

BCC: Investigative File

Enc: HHB Policies and Procedures

**SAMPLE LETTER ANNOUNCING VIOLATION OF HHB POLICY FOUND**

**TO: Complainant Student/Parent(s)**

**RE: Investigation Conclusion: HHB Policy Violation Found**

On [INSERT date of letter announcing initiation of investigation] I reported that I had received a report that your son/daughter may have been subjected to inappropriate student conduct, that this conduct may violate our harassment/hazing/bullying policies and that I/we had initiated an investigation under related procedures.

Today I write to report to you that our investigation was completed on[INSERT DATE/(No more than 5 days ago)] and concluded that inappropriate conduct did occur which violated our Harassment/Hazing/Bullying [Choose one or more] policies.

Although Federal privacy law prevents me from discussing any specific disciplinary action taken in this matter with respect to other students I can tell you we are required to take reasonable steps to prevent a reoccurrence of the offending conduct and have taken and will take steps consistent with this obligation, subject to any appeal rights that the offending student may choose to exercise.

[IN CASES OF ALLEGED HARASSMENT ONLY]

Please be advised that you are entitled to an Independent Review by an investigator selected by the school from a roster of investigators maintained by the Vermont Agency of Education in conjunction with the Vermont Human Rights Commission regarding whether our response was adequate to correct the problem. Please contact our Superintendent of Schools in writing if you wish to pursue this option at the following address [INSERT ADDRESS] by [INSERT DATE THIRTY DAYS FROM DATE OF THIS LETTER].

Please also be advised that at any time you are entitled to refer harassment issues either to the Vermont Human Rights Commission or to the U.S. Department of Education Office of Civil Rights for review. The contact information for these organizations is contained in the policies forwarded to you at the start of this investigation. Please let me know if you need another copy.]

I encourage you to contact me directly with any remaining questions or concerns that you have.

Sincerely,

School Administrator/Designee

BCC: School Investigative File

Enc: HHB Policies and Procedures

## **SAMPLE LETTER ANNOUNCING VIOLATION OF HHB POLICY FOUND**

**TO: Accused Student/Parent(s)**

**RE: Investigation Conclusion: HHB Policy Violation Found**

On [insert date of first letter announcing investigation] I reported to you that I had received a report that your son/daughter may have engaged in inappropriate student conduct that violates our [either/and/or] harassment, hazing, or bullying policies and that we had initiated an investigation under our related procedures.

I write today to report that our investigation was completed on [INSERT DATE/(No more than 5 days ago)] and concluded that inappropriate conduct did occur which violated our Harassment/Hazing/Bullying [choose one or more] policies.

By law we are required to take reasonable steps to prevent a reoccurrence of the offending conduct and have taken and will take steps consistent with this obligation. Accordingly [announce any discipline that is to be imposed.]

Any student determined to have engaged in an act(s) of [SELECT ONE harassment/hazing/bullying] may appeal that determination and/or any related disciplinary action(s) taken, directly to the board of the school district. Should you wish to pursue this right, please contact within ten calendar days of receipt of this letter either the school board directly, or the school board, care of the Superintendent, of that request. The Board will then set the matter for review at the next scheduled school board meeting to the extent practicable, but no later than 30 days from receipt of your request. Please note that while recommended discipline will be "stayed" until the conclusion of such review, other actions taken for the safety of students will be maintained to the extent practicable. Please see the attached Procedures for further details regarding this process.

I encourage you to contact me directly with any remaining questions or concerns that you have.

Sincerely,

School Administrator/Designee

Encl: HHB Policy and Procedures.

BCC: School Investigative File

## **SAMPLE LETTER NOTIFYING PARENT OF RECEIPT OF SUBPOENA SEEKING STUDENT RECORDS**

Dear Parent of Student Whose Records are Sought:

I am writing to inform you that a subpoena seeking educational records of your child was served upon the [SCHOOL NAME], with a compliance date of [DATE]. A copy of that subpoena has been enclosed with this letter.

I am writing to you to provide you with knowledge of the subpoena so that you may, if you wish, seek to prevent the production of your [CHILD'S] educational records directly from the court by filing a motion (request) to prevent disclosure of the educational records. If you intend to do so, please be aware that the school must comply with the subpoena by [SAME DATE]. Accordingly, please let me know if you will seek to prevent the disclosure.

**Please be aware that for as long as the subpoena remains in force the school is obligated to comply with its terms. In the absence of any order from the court preventing disclosure the school will be obligated to produce your [CHILD'S] records on [SAME DATE].**

Feel free to contact me with any questions. Thank you for your attention to this matter.

Sincerely,

(Signed)

School Administrator

Enclosure: Copy of Subpoena

Cc: Investigative File

# Harassment, Hazing and Bullying Toolkit

## Introduction

On May 29, 2015, Secretary Holcombe announced a new single Model Harassment, Hazing and Bullying Policy/Procedures (<http://education.vermont.gov/documents/edu-memo-holcombe-regarding-hhb-model-policies-2015.pdf>). VSBIT was proud to assist the AOE, and other educational stakeholders, in this endeavor. We agree with the Secretary that this “unified document should make it easier for school leaders and designated reporters to appropriately address allegations of harassment, hazing or bullying”.

It is important to note that although most of the information in the combined policy details responsibilities that exist today, the new policy contains substantive changes including appeal rights for students found to have engaged in harassment, hazing or bullying. Given these changes, and the overall complexity of this issue, VSBIT saw the need to provide superintendents, principals, school board members and designees resources on how best to meet their responsibilities. The result was the development of a toolkit designed to assist each group in understanding and addressing applicable state/federal statutes, the new HHB state policy, as well as state/federal legal and regulatory decisions in this area.

Our toolkit spells out each group’s specific duties, details time specific action items, provides specific tips on how to accomplish each duty, as well as provides sample guidance memos/letters. It is designed to give you the tools to manage the complex world of harassment, hazing and bullying complaints/investigations.

Users of this toolkit will note the inclusion of many “Summer Action Items”. The items are noted as such as it is the most logical time to address such issues. If you have not yet addressed one of these issues, and need assistance doing so, please contact Don Morrill, VSBIT Multi-Line Program Manager ([don@vsbit.org](mailto:don@vsbit.org)).

Those SU/SD’s that are Multi-Line members also have access to Legal Grants to assist in this area (<http://www.vsbit.org/multi-line-program-vsbit/grants/>).

**DESIGNEE PRIMER**

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**1. Duty to Receive Complaints of Conduct that May Constitute Harassment, Hazing and/or Bullying**

School boards are required to designate annually two or more persons per school campus with the responsibility of receiving complaints on harassment/hazing/bullying. Sources: 16 V.S.A. §570a(a)(7); §570b(7); §570c(7).

**ACTION ITEM:** Principals/School Administrators will make “Designee” assignments by the start of the school year. Once assigned, Designees are responsible for receiving complaints of HHB Policy violations from any source as detailed below:

Student Report: Any student who believes that s/he has been harassed, hazed and/or bullied under the school’s policy, or who witnesses or has knowledge of conduct that s/he reasonably believes might constitute harassment, hazing and or/bullying, should promptly report the conduct to a designated employee or any other school employee. 2015 AOE Model Procedures (I.A.)

School Employee Report: Any school employee who **witnesses** conduct that s/he reasonably believes might constitute harassment, hazing 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. 2015 AOE Model Procedures (I.B.)

Any school employee **who overhears or directly receives information** about conduct that might constitute harassment, hazing 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. 2015 AOE Model Procedures (I.B.)

OTHER REPORTS: Any other person who witnesses conduct that s/he reasonably believes might constitute harassment, hazing and/or bullying under this policy should promptly report the conduct to a designated employee. Please see the definition of “Notice” as defined in the school’s policy, regarding additional considerations regarding third party reports. 2015 AOE Model Procedures (I.C.)

**2. Duty to Document Oral Complaints Upon Receipt**

Upon notice that harassment, hazing and/or bullying may have occurred the designated employee shall promptly reduce any oral information to writing, including the time, place and nature of the conduct, and the identity of the participants in the complaint. 2015 AOE Model Procedures (II.A.)

**ACTION ITEM/ONGOING:** To properly respond to notice of HHB violation complaints:

- (1) Be sure to document ALL oral complaints by filling out a “Student Conduct Form” (Page 7). This should be used regardless of the source of the information (student, fellow employee, or parent).

### **3. Duty to Report HHB Policy Complaints to School Administrators**

Promptly inform the school administrator(s) of the HHB Policy complaint.

**ACTION ITEM/ONGOING:** To properly respond to Notice of HHB violation complaints:

- (1) Promptly provide school administrator/principal with a copy of the "Student Conduct Form." (Page 7).
- (2) Promptly confer with school administrator/principal as to whether Interim Measures are required for the safety of the targeted student pending completion of the HHB Violation investigation with reference to the following Guidance Memorandum (Page 6).

## GUIDANCE MEMORANDUM

RE: Duty to Take Appropriate Interim Measures Pending Investigations

Q: What are “Interim Measures?”

They are any and all arrangements put in place by a school upon receipt of a complaint of a HHB Policy violation which are instituted in order to provide immediate protections for a complaining student. Interim Measures are typically represented in a document created by the School titled “Safety Plan.”

Q: Are there cases where the school is required to create a Safety Plan?

YES. In any case where a targeted Student has (1) suffered physical harm (either from another student (sexual assault or severe physical violence) or (2) is known to be expressing suicidal ideation. In these cases a Safety Plan for that student must be created.<sup>1</sup>

Q: Are there cases where Safety Plans are strongly recommended?

YES. Where a targeted Student is known to have difficulty accessing the educational programs at school as a result of the inappropriate behavior, a Safety Plan MUST be considered.<sup>2</sup>

Q: If a student alleges he/she has been sexually assaulted by another student can he/she insist on separate classes and/or transportation from the accused?

The school MAY decide (but it remains within the school’s discretion) to separate the students immediately in class and during transportation.<sup>3</sup> Care should be made in any such arrangements to not impose a burden on the targeted student in these arrangements, while also balancing the offending student’s right to access their education pending the outcome of the investigation.

Q: If the alleged harasser is a teacher, may the student be transferred to a different class?

Yes.<sup>4</sup>

Q: What about no contact orders issued by a court?

If the order addresses “in school contact” or “all contact” the school should make its best efforts to implement the order. However unless the order names the school directly (which is unlikely unless the school was a party to the court action), such compliance is arguably voluntary with respect to the school, and the obligation for compliance with its terms rests with the target of the order (the offending student). In any such case the school should verify the precise terms of the order before taking any actions in reliance upon representations that such an order exists. Knowledge of the order’s terms and of in school student behaviors violating its terms may in some cases obligate reports to DCF or law enforcement.

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<sup>1</sup> 2015 AOE Model Procedures (III.C.)

<sup>2</sup> Id.

<sup>3</sup> Id.

<sup>4</sup> Id.

**Sample Form Student Misconduct Complaints**

*Note: Form should not be titled "harassment" or "bullying" form, so as to avoid inappropriately narrowing the scope of the investigation, rather "Student Conduct Form." Any form created by the school should contain the following fields:*

**DISTRICT EMPLOYEE AUTHOR:**

**(Designated Employee?            Y            N)**

**IDENTITY OF STUDENT/ADULT REPORTER:**

**IDENTITY OF ALLEGED STUDENT OFFENDER:**

**DATE OF REPORT BY STUDENT:**

**TIME OF REPORT BY STUDENT:**

**DESCRIPTION OF CONDUCT REPORTED:**

**STUDENT WITNESSES (if any):**

**DISTRICT EMPLOYEE WITNESSES (if any):**

**STUDENTS INTERVIEWED BY EMPLOYEE AUTHOR (if any):**

**INITIAL ACTIONS BY EMPLOYEE AUTHOR (if any):**

**NEXT STEPS TO BE TAKEN BY EMPLOYEE AUTHOR (report to Designee, inform parents, commence investigation):**

**SCHOOL DESIGNEE INCIDENT REPORTED TO:**

**DATE & TIME INCIDENT WAS REPORTED TO C-1 DESIGNEE:**

\_\_\_\_\_ **(Signature of Designee)**

*Copies of this form must be given to the school principal, assistant principal, both Designated Employees, the alleged offender's teachers, the alleged victim's teachers, and placed within both the accused student and complainant student's disciplinary files (where appropriate). A copy must also be placed in central filing.*

#### 4. Duty to Timely Initiate Investigation

Unless special circumstances are present and documented, such as reports to the Department for Children and Families (“DCF”) or the police, no later than one school day after Notice to the designated employee of conduct which the designee reasonably believes may constitute harassment, hazing or bullying, the Designee shall initiate an investigation of the allegations. 2015 AOE Model Procedures (III.A.)

**ACTION ITEM/ONGOING:** Upon receipt of information of student conduct which the Designee reasonably believes may constitute a violation of the HHB Policy, the Designee shall:

- (1) Initiate an investigation of the allegations within one school day of “notice” of that information;
- (2) If an investigation cannot be commenced within one school day, due to special circumstances, such as reports to the Department for Children and Families or the police, the Designee shall nevertheless notify the parents of the targeted and accused student(s) in writing to document the existence of those circumstances, the reason for the delay, and the anticipated commencement date. (see sample letters)

**SAMPLE LETTER ANNOUNCING DELAY IN INVESTIGATION**

**TO: Complainant Student/Parent(s)**

**RE: Announcing Special Circumstances Delaying Initiation of Investigation**

I am writing to inform you that on [INSERT DATE] I received information regarding student conduct directed towards your son/daughter that I believe may constitute a violation of our HHB Policies. Under the related procedures, the school is required to initiate an investigation of those allegations within one school day of my receiving that information, except where special circumstances exist.

I am writing to inform you that special circumstances exist in this case whereby [INSERT EXPLANATION TO THE EXTENT POSSIBLE WITHOUT VIOLATING OTHER STUDENT PRIVACY RIGHTS] such that I will not be able to initiate the investigation within that time limit.

I will contact you again in writing to confirm the commencement of my investigation, which I anticipate will be no later than [INSERT DATE].

I am enclosing a copy of our HHB Policies and Procedures for your information.

Please feel free to contact me with any questions.

Signed

Designee

ENC: HHB Policies and Procedures

bcc: Investigative File

**SAMPLE LETTER ANNOUNCING DELAY IN INVESTIGATION**

**TO: Accused Student/Parent(s)**

**RE: Announcing Special Circumstances Delaying Initiation of Investigation**

I am writing to inform you that on [INSERT DATE] I received information that your son/daughter may have engaged in conduct which I believe may constitute a violation of our HHB Policies. Under the related procedures the school is required to initiate an investigation of those allegations within one school day of my receiving that information, except where special circumstances exist.

I am writing to inform you that special circumstances exist in this case whereby [INSERT EXPLANATION TO THE EXTENT POSSIBLE WITHOUT VIOLATING OTHER STUDENT PRIVACY RIGHTS] such that I will not be able to initiate the investigation within that time limit.

I will contact you again in writing to confirm the commencement of my investigation, which I anticipate will be no later than [INSERT DATE].

I am enclosing a copy of our HHB Policies and Procedures for your information.

Please feel free to contact me with any questions.

Signed

Designee

ENC: HHB Policies and Procedures

bcc: Investigative File

**5. Duty to Communicate Commencement of Investigation and to Distribute Policies and Procedures Upon Initiation of Investigation**

The designated employee shall notify in writing both the complainant and accused individual (or if either is a minor inform his/her respective parent or guardian) that:

- (1) An investigation has been initiated;
- (2) Retaliation is prohibited;
- (3) All parties have confidentiality rights;
- (4) They will be informed in writing of the outcome of the investigation;
- (5) A copy of the policy and investigative procedures to both complainant student/accused student will be provided.

SOURCES: 16 V.S.A. §570f(a)(1); 2015 AOE Procedures (II.B.i).

**ACTION ITEM/AUGUST:** Before the start of the school year Designees should:

- (1) Prepare "Draft" notification letters for the purpose of announcing the initiation of investigations and related mandatory communications. These should be maintained and updated throughout the year. (Sample Draft letters are provided on the following pages.)

**SAMPLE LETTER ANNOUNCING COMMENCEMENT OF INVESTIGATION**

**TO: Complainant Student/Parent(s)**

**RE: Announcement of Commencement of Investigation**

Today (or date) I received a report that your son/daughter may have been subjected to inappropriate student conduct.

I have initiated an investigation under our harassment, hazing and bullying policies to ascertain whether or not the alleged behaviors occurred - and if so – whether they violated one or more of those policies.

I am enclosing a copy of these policies - which include a copy of our investigation procedures - for your information. These were first given to you in our student handbook at the beginning of the year. I would encourage you to please review these policies again with your son/daughter. I would also encourage you to contact us with any additional information that your son or daughter may share with you regarding behaviors of which he/she has concerns so that I may address those as well.

Please be aware that the investigation is confidential. This is for the rights of all involved. Accordingly, I may not disclose details of the alleged incidents to you at this time. I can tell you that...[insert brief description of what the alleged policy violation involving their child without reference to the accused by name or other personally identifying information which would violate their right to privacy.]

Please also know that your child has a right to be free of any retaliation from students or faculty as a result of the filing of this complaint and participation in this investigation. Accordingly, if at any time you believe that your child has been subject to retaliation by either students or staff I would encourage you to contact me immediately so that we may take prompt, appropriate action.

I will report to you upon completion of our investigation as to whether any alleged policy violation(s) were or were not substantiated. In the meantime, please feel free to contact me regarding any questions you may have about our policies or the investigation.

Thank you for your cooperation.

Designated Employee

Enclosures: Policies: Harassment, Hazing, Bullying, Investigative Procedures

BCC: Investigator’s Investigative File

**SAMPLE LETTER ANNOUNCING COMMENCEMENT OF INVESTIGATION**

**TO: Accused Student/Parent(s)**

**RE: Announcement of Commencement of Investigation**

Today (or date) I received a report that your son/daughter may have been involved in some inappropriate student conduct which may violate either our harassment, hazing or bullying policies.

As required under Vermont law and our policies I have initiated an investigation of this matter. I am enclosing a copy of these policies which include a copy of our investigation procedures for your information. These were first given to you in our student handbook at the beginning of the year. I would encourage you to please review these policies again with your son/daughter.

I will be speaking with your son/daughter about these allegations as part of my investigation. I encourage you to contact me as well with any additional information that your son or daughter may share with you regarding the incident.

Please be aware that the investigation is confidential. This is for the rights of all involved. Accordingly, I may not disclose details of the alleged incidents to you at this time. I can tell you that [insert brief description of alleged policy violation without identifying complainant student by name or other personally identifying information which would violate their right to privacy].

In addition, please be aware that the alleged victim, as well as any other students who cooperate in this investigation – including your child - have a right to be free from and are protected from any retaliation as a result of the filing of this complaint and participation in this investigation. Accordingly, if at any time you or your child believe that he/she has been subject to retaliation by either students or staff I would encourage you to contact me immediately so that we may take prompt, appropriate action.

I will report to you upon completion of our investigation as to any policy violations that have been substantiated or unsubstantiated and any related discipline or other remedies that may be imposed as a consequence. In the meantime, please feel free to contact me regarding any questions you may have about our policies or the investigation.

Thank you for your cooperation.

Designated Employee

Enclosures: Policies: Harassment, Hazing, Bullying, Investigative Procedures

BCC: Investigator's Investigative File

## 6. Duty to Investigate / Conduct Interviews

In the course of conducting an investigation, the Designee should conduct interviews of witnesses who may have relevant information (students, staff and teachers). In so doing, the following should be considered:

### General Guidance for All Interviews

- (1) Make sure special needs are accommodated.
- (2) Interview each witness privately, and if at all possible have at least one other adult in the room whose sole job is to support student.
- (3) Take good notes or consider having a "note taker" present so you can focus on the information you are learning. Strongly recommended.
- (4) Explain the purpose of the interview is to find out what happened and make sure all students feel safe, and can access their education.
- (5) Explain that nothing has been decided and will not be decided until all relevant information has been reviewed.
- (6) Explain that his/her role in this process is confidential and for that reason he/she must not speak to other students about the investigation, but he/she can talk to his/her parents.
- (7) Explain rights against retaliation.

### Targeted Student Interviews

*It is best to interview the alleged victim first so that you have as clear a sense as possible of what is alleged so that you may attempt to seek collaborating evidence from other student and staff witnesses, and so that you may give the accused student the best opportunity to respond to the accusations in his/her interview.*

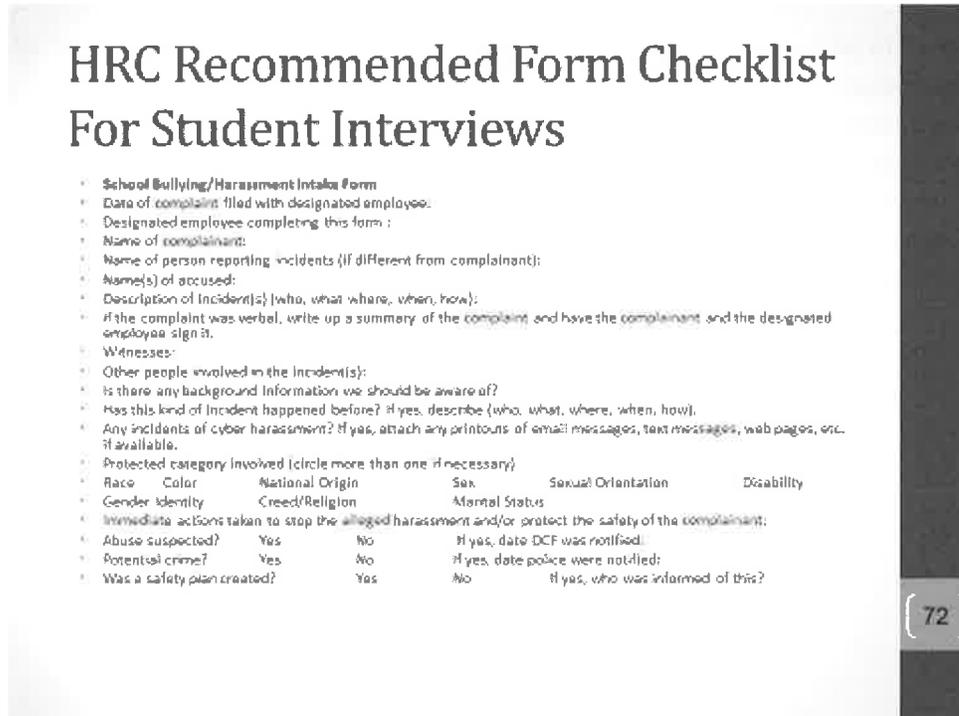
- (1) Ask if there is any reason they think you cannot be impartial;
- (2) Ask them to describe their relationship/prior history to alleged perpetrator;
- (3) Ask them to describe in detail what they saw/heard;
- (4) Ask them to identify anyone else who witnessed the events;
- (5) Ask if they have in their possession physical evidence (Texts/emails/posts);
- (6) Ask them to write out his/her statement in their words. (Or if they are not able to, write a summary of what they tell you and give them an opportunity to review (and correct or add to it) and sign that summary).

### Accused Student Interviews

- (1) Ask if there is any reason they think you cannot be impartial;
- (2) Ask them to describe their relationship/prior history to targeted student;
- (3) Ask them to provide their side of the story;
- (4) Ask them for witnesses that will support their explanation;
- (5) Ask if they have in their possession physical evidence (Texts/emails/posts);
- (6) Ask them to write out their statement in his/her words. (Or if they are not able to, write a summary of what they tell you and give them an opportunity to review (and correct or add to it) and sign that summary).

### Third Party Interviews/(Students/Staff/Teachers)

- (1) Ask them to describe their relationship/prior history to targeted student/alleged perpetrator (bias);
- (2) Ask them to describe in detail what they saw/heard;
- (3) Ask if they can identify other witnesses;
- (4) Ask if they have in their possession physical evidence (Texts/emails/posts);
- (5) Be sure to inquire targeted students access to education and academic performance or demeanor (changes over time).



## **7. Duty to Investigate/Other Investigation Duties**

Investigators shall, in addition to conducting witness interviews be sure to perform the following tasks in the performance of their investigation:

- (1) Review student’s discipline record to check for patterns of behavior (repetition may constitute bullying; multiple instances may create a “hostile environment”);
- (2) Review Targeted Student’s academic/grade/progress reports to assess whether or not changes in academic performance coincide with targeting by inappropriate conduct;
- (3) Maintain copies of all documents reviewed AND created in the course of the investigation in an Investigation File along with the Investigative Report. Copies of all Investigation Files/Reports shall be forwarded in full to Central Office at year’s end.

## **8. Duty to Timely Complete Investigation**

Investigators shall, no later than five school days from the filing of the complaint with the designated employee, unless special circumstances are present and documented, submit a written initial determination to the school administrator as to whether the HHB policy was violated by the alleged student's conduct. 2015 AOE Model Procedures (III.F.)

**ACTION ITEM/ONGOING:** Upon receipt of information of student conduct which the Designee reasonably believes may constitute a violation of the HHB Policy the Designee shall:

- (1) Complete an investigation of the allegations within five school days of "notice" of that information;
- (2) If an investigation cannot be completed within five school days, due to special circumstances, such as reports to the Department for Children and Families or the police, the Designee shall nevertheless notify the parents of the targeted and accused students in writing to document the existence of those circumstances, the reason for the delay, and the anticipated completion date. (See Sample Letters following)

**SAMPLE LETTER ANNOUNCING DELAY IN COMPLETION OF INVESTIGATION**

**TO: Complainant Student/Parent(s)**

**RE: Announcing Special Circumstances Delaying Timely Completion of Investigation**

I am writing to update you on the progress of my investigation regarding student conduct directed towards your son/daughter that may constitute a violation of our HHB Policies. Under the related procedures the school is required to complete its investigation of those allegations within five school days of my receiving that information, except where special circumstances exist.

I am writing to inform you that special circumstances exist in this case whereby [INSERT EXPLANATION TO THE EXTENT POSSIBLE WITHOUT VIOLATING OTHER STUDENT PRIVACY RIGHTS] such that I will not be able to complete the investigation within that time limit.

I will contact you again in writing to confirm the completion of my investigation, which I anticipate will be no later than (INSERT DATE). I apologize for the delay and thank you for your patience through this process.

Please feel free to contact me with any questions.

Signed

Designee

ENC: HHB Policies and Procedures

bcc: Investigative File

**SAMPLE LETTER ANNOUNCING DELAY IN COMPLETION OF INVESTIGATION**

**TO: Complainant Student/Parent(s)**

**RE: Announcing Special Circumstances Delaying Timely Completion of Investigation**

Dear Parent of Accused Student:

I am writing to update you on the progress of my investigation into allegations of your son/daughter's conduct which may constitute a violation of our HHB Policies. Under the related procedures the school is required to complete its investigation of those allegations within five school days of my receiving that information, except where special circumstances exist.

I am writing to inform you that special circumstances exist in this case [INSERT EXPLANATION TO THE EXTENT POSSIBLE WITHOUT VIOLATING OTHER STUDENT PRIVACY RIGHTS] such that I will not be able to complete the investigation within that time limit.

I will contact you again in writing to confirm the completion of my investigation, which I anticipate will be no later than (INSERT DATE). I apologize for the delay and thank you for your patience through this process.

Please feel free to contact me with any questions.

Signed

Designee

ENC: HHB Policies and Procedures

bcc: Investigative File

## 9. Duty to Prepare Investigation Report

A written investigation report prepared by the Investigator is required. The preparation of the report can serve to assist the investigator to review and weigh the evidence, consider the policy definitional requirements, and document steps taken in pursuit of the investigation. It also serves as a written record supporting the decisions made by the investigator regarding both the facts as found by the investigator to be more likely than not to be true, and the application of the policy to those facts with respect to policy violations conclusions. The Report is a confidential student record. See Guidance Memorandum (Page 20).

### Essential Elements of Report

- (1) Preserves all evidence, and all decisions made in course of investigation.
- (2) Is maintained with all other documents used in investigation and forwarded to the Central Office at the conclusion of the school year.
- (3) States investigator's conclusion as to (a) whether alleged conduct occurred and (b) whether it constituted a violation of harassment, hazing and/or bullying policies.

### Investigative Report – Recommended Outline

- (1) Repeat verbatim the “initial” report/Student Conduct Form (attach original).
- (2) Repeat school policy definitions (harassment/hazing and/or bullying) which were considered.
- (3) List Each Interview Conducted By Date, Time, Location, Persons Present, Facts Stated By Witness.
- (4) List Facts and Conclusions Found More Likely Than Not to Be TRUE – Explain any essential disputed facts which required the investigator to make a finding.
- (5) Itemize Policy Conclusions – State findings and reasoning for same, i.e.: “The behavior was harassment because (insert reasoning).” (See Guidance Memorandum, Page 20)
- (6) Recommendations – State recommendations for sanctions to prevent reoccurrence and other next steps. (See Section IV. “Responding to Substantiated Claims” in Model AOE Policies or School Policies – once adopted - for Guidance).

Attach all documents used and considered in the process/investigations.

**GUIDANCE MEMORANDUM**

RE: Reaching Conclusions Regarding Policy Violations / Standard Used to Assess Conduct

Q: Once I have reached findings of fact in my investigative report, how do I decide whether or not the facts support a finding that the policy was violated?

In determining whether the conduct constitutes a violation of the policy, the investigator shall review the definition of harassment/hazing/bullying and consider the following with respect to the facts as found by the investigator:

- (1) All relevant facts and surrounding circumstances<sup>5</sup>;
- (2) The nature of the behavior<sup>6</sup>;
- (3) Past incidents or past or continuing patterns of behavior<sup>7</sup>;
- (4) The relationships between the parties involved<sup>8</sup>;
- (5) The context in which the alleged incidents occurred<sup>9</sup>;
- (6) The impact of relevant off-campus conduct on the school environment where either:
  - (a) Direct harm to the welfare of the school can be demonstrated;
  - (b) OR the off-campus conduct can be shown to pose a clear and substantial interference with another student’s equal access to educational programs<sup>10</sup>.

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<sup>5</sup> 2015 AOE Model Procedure III.E.

<sup>6</sup> Id.

<sup>7</sup> Id.

<sup>8</sup> Id.

<sup>9</sup> Id.

<sup>10</sup> Id.

## GUIDANCE MEMORANDUM

RE: Report Disclosure Guidance.

Q: Who can see my Investigative Report?

The report, when referencing student conduct, is a student record and therefore confidential.

Q: Does the fact that it is confidential mean that no Student/Parent may ever see it?

**Not necessarily.** For example, any documentation reviewed and created by the Investigator, including the Investigation Report, may be sought by an Accused Student/Appellant Parent in the context of a Board Appeal of a finding of a HHB policy violation or imposition of discipline related to such finding. Such requests shall be directed by the Designee to the Building Administrator/Principal for consideration and handling. (In such case if the document cannot be redacted sufficiently to protect the Targeted Student's identity, the request may require consent of the Targeted Student's family before production, which may or may not be forthcoming).

Q: Is there any other way a Parent might see my report?

Yes. It may be made available to investigators in the context of a review conducted by either an Independent Review, or investigations of harassment conducted by the Vermont Human Rights Commission or U.S. Dept. of Education Office of Civil Rights. Once obtained by any of these government bodies, it may be the subject of a Freedom of Information Act request for information. It may also be subject to a request for information via warrant in a criminal proceeding, or via subpoena in a civil litigation matter.

**10. Duty to Communicate Results of Investigation**

The designated employee/investigator shall notify in writing both the complainant and accused student (or if either is a minor inform his/her respective parent or guardian):

- (1) The investigation has been completed (notice must be sent within five days of completion);
- (2) whether or not the investigation concluded that a policy violation occurred (and which policy term was violated, i.e. harassment, hazing and/or bullying);
- (3) that federal privacy law prevents disclosure of any discipline imposed as a result of the investigation;

SOURCE: 2015 AOE Model Procedures Section III.H.

**ACTION ITEM/LATE SUMMER:** Designees should have draft/form letters on file to be used for the above referenced communications at the conclusion of investigations. Sample drafts are provided on Pages 24-29.

**11. Duty to Communicate Appeal Rights to Targeted Student (Or if Minor, His/Her Parents)**

When announcing the completion of the investigation and its conclusions, the designated employee/investigator shall also notify the complainant (or if a minor inform his/her respective parent or guardian) in writing of his/her rights to:

- (1) Seek an internal review by the school of its initial determination as to whether harassment occurred, and instructions on how to pursue this option<sup>11</sup>; or
- (2) An Independent Review of (i) the school's determination as to whether harassment occurred; or (ii) although a determination was made that harassment indeed occurred a review of the school's response to that harassment to see if it was inadequate to correct the problem; and that in either case the review will be conducted by an investigator to be selected by the school from a list of Independent Reviewers maintained by the Agency of Education in conjunction with the Vermont Human Rights Commission, and instructions on how to pursue this option<sup>12</sup>;
- (3) At any time file complaints of harassment with either the Vermont Human Rights Commission and/or the U.S. Department of Education's Office of Civil Rights (with contact information to be provided)<sup>13</sup>;
- (4) That a student may seek any or all of the above forms of review/appeal.

**ACTION ITEM/LATE SUMMER:** Designees should have draft/form letters on file to be used for the above referenced communications at the conclusion of investigations. Again, sample drafts are provided on Pages 24-29.

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<sup>11</sup> 2015 AOE Model Procedures Section III.H.ii.

<sup>12</sup> Id.

<sup>13</sup> Id.

## **12. Duty to Communicate Appeal Rights to Accused Student/Parents**

When announcing the completion of the investigation and its conclusions, the designated employee/investigator shall also notify the accused student (or if a minor inform his/her respective parent or guardian) in writing of his/her rights to:

- (1) Appeal directly to the school board the determination that they have engaged in an act(s) of harassment, hazing, and/or bullying and/or any related disciplinary action(s) to be taken<sup>14</sup>.

**ACTION ITEM:** Designees have draft/form letters on file to be used for the above referenced communications at the conclusion of investigations. Sample drafts are provided on the following Pages 24-29.

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<sup>14</sup> 2015 AOE Model Procedures Section III.H.iii.

**SAMPLE LETTER ANNOUNCING NO POLICY VIOLATION**

**TO: Complainant Student/Parent(s)**

**RE: Investigation Conclusion No Policy Violation**

On [Insert date of first letter announcing investigation] I reported to you that I had received a report that your son/daughter may have been subjected to inappropriate student conduct, and that we had initiated an investigation under our harassment, hazing and bullying policies and related procedures.

I write today to report that our investigation was completed on [INSERT DATE/(No more than 5 days ago)] with no substantiation of a violation of the school's aforementioned policies.

Please be advised that all persons who participated in this investigation continue to have the right to be free from any acts of retaliation against them stemming from that participation.

[IN CASES OF ALLEGED HARASSMENT ONLY:

Please be advised that you are entitled to an Internal Review of our investigations' conclusions regarding whether harassment occurred. [Source: AOE Model Procedures III.H.ii.1 (2015).] Such review shall be completed within thirty days. You are also entitled to an Independent Review by an investigator selected by the school from a roster of investigators maintained by the Vermont Agency of Education in conjunction with the Vermont Human Rights Commission of our investigation's conclusions regarding whether harassment occurred. Please contact our Superintendent of Schools in writing if you wish to pursue either one of these options at the following address [INSERT], and in cases of seeking an Independent Review no later than (insert date thirty days of this letter).

You may at any time also refer incidents of alleged harassment to the Vermont Human Rights Commission or the U.S. Department of Education Office of Civil Rights division for review. The contact information for both entities are listed within the school policies enclosed.]

Finally, please feel free to contact me with any remaining questions or concerns you have.

School Administrator

BCC: Investigative File

Enc: HHB Policies and Procedures

**SAMPLE LETTER ANNOUNCING NO POLICY VIOLATION**

**TO: Accused Student/Parent(s)**

**RE: Investigation Conclusion No Policy Violation**

On [insert date of first letter announcing investigation] I reported to you that I had received a report that your son/daughter may have engaged in inappropriate student conduct that violates our [either/and/or] harassment, hazing, or bullying policies and that we had initiated an investigation under our related procedures.

I write today to report that our investigation was completed on [INSERT DATE/(No more than 5 days ago)] with no substantiation of a violation of the school's aforementioned policy/ies.

Please be advised that the Complainant Student may retain rights of review under Vermont law beyond the school level which may require further action as outlined in the attached 2015 HHB Procedures.

Please be advised that all persons who participated in this investigation continue to have the right to be free from any acts of retaliation against them stemming from that participation.

I encourage you to contact me with any remaining questions or concerns that you have.

Sincerely,

School Administrator

BCC: Investigative File

Enc: HHB Policies and Procedures

**SAMPLE LETTER ANNOUNCING INAPPROPRIATE CONDUCT FOUND BUT NO HHB POLICY VIOLATION  
SUBSTANTIATED**

**TO: Complainant Student/Parent(s)**

**RE: Investigation Conclusion: Inappropriate Conduct Requiring Response Found But No HHB  
Violation**

On [insert date of first letter announcing investigation] I reported to you that I had received a report that your son/daughter may have been subjected to inappropriate student conduct, and that we had initiated an investigation under harassment, hazing and bullying procedures.

Today I write to report to you that our investigation was completed on [INSERT DATE/(No more than 5 days ago)] and concluded that although inappropriate conduct was found to have occurred, there was no substantiation that the school's harassment, bullying, and/or hazing policies were violated.

Although federal privacy law prevents me from discussing any disciplinary action taken to address the inappropriate conduct committed by other students that was found to have occurred - I can tell you that appropriate action has been taken with the appropriate students.

Please also be advised that all persons who participated in this investigation continue to have the right to be free from any acts of retaliation against them stemming from that participation.

[In cases of Alleged Harassment ONLY: Please be advised that you are entitled to an Internal Review of our investigations' conclusions regarding whether harassment occurred. [Source: AOE Model Procedures III.H.ii.1 (2015).] Such review shall be completed within thirty days. You are also entitled to an Independent Review by an investigator selected by the school from a roster of investigators maintained by the Vermont Agency of Education in conjunction with the Vermont Human Rights Commission of our investigation's conclusions regarding whether harassment occurred. Please contact our Superintendent of Schools in writing if you wish to pursue either one of these options at the following address [INSERT], and in cases of seeking an Independent Review within thirty days of this letter.]

You may at any time also refer incidents of alleged harassment to the Vermont Human Rights Commission or U.S. DOE Civil Rights division for review. The contact information for both entities are listed within the school policies forwarded to you at the start of this investigation. Please let me know if you need another copy.]

Finally, please feel free to contact me with any remaining questions or concerns you have regarding this incident.

School Administrator

BCC: Investigative File

Enc: HHB Policies and Procedures

**SAMPLE LETTER ANNOUNCING INAPPROPRIATE CONDUCT FOUND BUT NO HHB POLICY VIOLATION SUBSTANTIATED**

**TO: Accused Student/Parent(s)**

**RE: Investigation Conclusion: Inappropriate Conduct Requiring Response Found But No HHB Violation**

On [insert date of first letter announcing investigation] I reported to you that I had received a report that your son/daughter may have engaged in inappropriate student conduct that violates either our harassment, hazing or bullying policies, and I had initiated an investigation as required under our related procedures.

Today I write to report to you that our investigation was completed on [INSERT DATE/(No more than 5 days ago)] and concluded that although inappropriate student conduct occurred, there was no violation of the school's harassment, bullying or hazing policies.

Please also be advised that all persons who participated in this investigation continue to have the right to be free from any acts of retaliation against them stemming from that participation.

INSERT ANY DISCIPLINE FOR THE "INAPPROPRIATE CONDUCT" AS NECESSARY. [IF THE DISCIPLINE IS FOR MORE THAN TEN DAYS SUSPENSION OR EXPULSION DETAIL THEIR RIGHT TO APPEAL THIS DISCIPLINE TO SCHOOL BOARD].

[NOTE: There is no appeal available in cases of 10 days or less suspension where policies of harassment/hazing/bullying were NOT found to have been violated.]

I encourage you to contact us with any remaining questions or concerns that you have regarding this incident.

Sincerely,

School Administrator

BCC: Investigative File

Enc: HHB Policies and Procedures

**SAMPLE LETTER ANNOUNCING VIOLATION OF HHB POLICY FOUND**

**TO: Complainant Student/Parent(s)**

**RE: Investigation Conclusion: HHB Policy Violation Found**

On [INSERT date of letter announcing initiation of investigation] I reported that I had received a report that your son/daughter may have been subjected to inappropriate student conduct, that this conduct may violate our harassment/hazing/bullying policies and that I/we had initiated an investigation under related procedures.

Today I write to report to you that our investigation was completed on[INSERT DATE/(No more than 5 days ago)] and concluded that inappropriate conduct did occur which violated our Harassment/Hazing/Bullying [Choose one or more] policies.

Although Federal privacy law prevents me from discussing any specific disciplinary action taken in this matter with respect to other students I can tell you we are required to take reasonable steps to prevent a reoccurrence of the offending conduct and have taken and will take steps consistent with this obligation, subject to any appeal rights that the offending student may choose to exercise.

[IN CASES OF ALLEGED HARASSMENT ONLY]

Please be advised that you are entitled to an Independent Review by an investigator selected by the school from a roster of investigators maintained by the Vermont Agency of Education in conjunction with the Vermont Human Rights Commission regarding whether our response was adequate to correct the problem. Please contact our Superintendent of Schools in writing if you wish to pursue this option at the following address [INSERT ADDRESS] by [INSERT DATE THIRTY DAYS FROM DATE OF THIS LETTER].

Please also be advised that at any time you are entitled to refer harassment issues either to the Vermont Human Rights Commission or to the U.S. Department of Education Office of Civil Rights for review. The contact information for these organizations is contained in the policies forwarded to you at the start of this investigation. Please let me know if you need another copy.]

I encourage you to contact me directly with any remaining questions or concerns that you have.

Sincerely,

School Administrator/Designee

BCC: School Investigative File

Enc: HHB Policies and Procedures

**SAMPLE LETTER ANNOUNCING VIOLATION OF HHB POLICY FOUND**

**TO: Accused Student/Parent(s)**

**RE: Investigation Conclusion: HHB Policy Violation Found**

On [insert date of first letter announcing investigation] I reported to you that I had received a report that your son/daughter may have engaged in inappropriate student conduct that violates our [either/and/or] harassment, hazing, or bullying policies and that we had initiated an investigation under our related procedures.

I write today to report that our investigation was completed on [INSERT DATE/(No more than 5 days ago)] and concluded that inappropriate conduct did occur which violated our Harassment/Hazing/Bullying [choose one or more] policies.

By law we are required to take reasonable steps to prevent a reoccurrence of the offending conduct and have taken and will take steps consistent with this obligation. Accordingly [announce any discipline that is to be imposed.]

Any student determined to have engaged in an act(s) of [SELECT ONE harassment/hazing/bullying] may appeal that determination and/or any related disciplinary action(s) taken, directly to the board of the school district. Should you wish to pursue this right, please contact within ten calendar days of receipt of this letter either the school board directly, or the school board, care of the Superintendent, of that request. The Board will then set the matter for review at the next scheduled school board meeting to the extent practicable, but no later than 30 days from receipt of your request. Please note that while recommended discipline will be “stayed” until the conclusion of such review, other actions taken for the safety of students will be maintained to the extent practicable. Please see the attached Procedures for further details regarding this process.

I encourage you to contact me directly with any remaining questions or concerns that you have.

Sincerely,

School Administrator/Designee

Encl: HHB Policy and Procedures.

BCC: School Investigative File

### **13. Duty to Report to Department for Children and Families**

When a complaint of harassment, hazing or bullying is made pursuant to the District's policies, which 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. 2015 Vermont AOE Procedures "Reporting to Other Agencies."

**ACTION ITEM/ONGOING:** Designees must be aware at all times of:

- (1) The ongoing and separately independent duty to report behaviors to DCF that may also violate the school's Harassment, Hazing and/or Bullying Policies.
- (2) That the involvement of and/or reports to DCF do not relieve Designees of their obligations to timely pursue and complete an investigation upon receipt of notice which may constitute harassment, hazing and/or bullying.

### **14. Duty to Report to Vermont Agency of Education**

When a complaint of harassment, hazing or bullying is made pursuant to the District's policies, ***which includes allegations regarding a licensed educator that might be grounds under Vermont law for licensing action***, in accordance with 16 V.S.A. §1698, the Building Administrator/Principal shall report the alleged conduct to the Superintendent, and the Superintendent shall report the alleged conduct to the Secretary.

**ACTION ITEM/ONGOING:** Designees must be aware at all times of:

- (1) The ongoing and separately independent duty of Principals to report to the Superintendent (and for Designees to report to Principals) **ALL behaviors of licensed educators that** (while they may also violate the school's Harassment, Hazing and/or Bullying Policies either by conduct directed at a student, or through an alleged failure to act consistent with duties imposed by these policies to respond or investigate policy violations), **may be grounds under Vermont law for licensing action by the Agency of Education.**

### **15. Duty to Report Incidents to the Police Consistent with FERPA**

Information obtained and documented by the school administration regarding the school's response to notice of student conduct that may constitute harassment, hazing 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. This prohibition on disclosure is to protect student privacy and is not intended to prevent school officials from cooperating in a law enforcement investigation where appropriate.

**ACTION ITEMS/ONGOING:** Designees must be aware at all times of:

- (1) Their ongoing and separately independent duty to maintain Student rights to confidentiality where behaviors may also violate the school's Harassment, Hazing and/or Bullying Policies, such that they can distinguish "educational records" privacy compliance vs. cooperating with a police investigation (eye witness reporting vs. turning over 'educational records' in violation of FERPA); and
- (2) That any involvement and/or reports made to the local police do not relieve Designees of their obligations under Vermont law to timely pursue and complete an investigation upon receipt of notice which may constitute harassment, hazing and/or bullying.
- (3) Content of the related Guidance Memorandum (Page 32).

## GUIDANCE MEMORANDUM

RE: Police and HHB Investigations

Q: When can I (as either a school administrator or employee/teacher), tell the police about student conduct that may violate the law without parental consent?

**Conduct witnessed firsthand** that may be considered a criminal act may be reported by you to law enforcement. Such a report does not violate a Student's rights under the Family Education Rights and Privacy Act. FERPA applies to the disclosure of education records and of information derived from education records. FERPA does not prohibit a school official from disclosing information about a student that is obtained through the school official's personal knowledge or observation and not from the student's education records.

Q: I have participated, either directly as the investigator, or indirectly, as someone who was interviewed by the investigator or who provided information to the investigator, in the school's response to a complaint of a violation of the HHB policy. Can I tell the police about information I either provided, learned about or obtained during that process?

Unless you have personal knowledge or observation of a student's conduct, such information learned during the investigation may constitute an "educational record" regarding the student or student(s) involved as defined by the Family Education Rights and Privacy Act, 34 C.F.R. Part 99, and may not be disclosed without prior parent approval to law enforcement.

Q: What if the police subpoenas the information?

If you are served a lawfully issued subpoena you may disclose information without parental consent. However, if the subpoena requires production at a future date which would allow you to alert the parent that you have been served with the subpoena, you should inform them of the subpoena, of your intention to comply, and their right to seek legal remedies to prevent such compliance. (See Form Letter Page 33).

Q: Is there any time that I can disclose information that may constitute an "educational record" without a subpoena or parental consent?

Disclosure MAY occur in connection with an emergency if the disclosure is necessary to protect the health or safety of the student or other individuals.

**SAMPLE LETTER NOTIFYING PARENT OF RECEIPT OF SUBPOENA SEEKING STUDENT RECORDS**

Dear Parent of Student Whose Records are Sought:

I am writing to inform you that a subpoena seeking educational records of your child was served upon the [SCHOOL NAME], with a compliance date of [DATE]. A copy of that subpoena has been enclosed with this letter.

I am writing to you to provide you with knowledge of the subpoena so that you may, if you wish, seek to prevent the production of your [CHILD’S] educational records directly from the court by filing a motion (request) to prevent disclosure of the educational records. If you intend to do so, please be aware that the school must comply with the subpoena by [SAME DATE]. Accordingly, please let me know if you will seek to prevent the disclosure.

**Please be aware that for as long as the subpoena remains in force the school is obligated to comply with its terms. In the absence of any order from the court preventing disclosure the school will be obligated to produce your [CHILD’s] records on [SAME DATE].**

Feel free to contact me with any questions. Thank you for your attention to this matter.

Sincerely,

(Signed)

School Administrator

Enclosure: Copy of Subpoena

Cc: Investigative File

