

**SAMPLE LETTER INTERNAL REVIEW REQUEST**

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

**RE: Acknowledging Receipt of Request for Internal Review of Initial Determination That Harassment Policy Has Not Been Violated**

I am writing to acknowledge receipt on [INSERT DATE] of your written request for an internal review of the Designee's initial determination that your son/daughter was not the target of student conduct which violated the harassment policy. Thank you for your letter.

Please be advised that my investigation will consider the sufficiency of both the investigation and its conclusions - based on a review of the school's harassment policies and procedures, and the written materials collected and reviewed by the designee. I will also speak with the designee. I will not, however, re-interview any students or other staff, or perform any independent fact finding regarding the allegations themselves. The purpose is to determine whether or not the Designee's initial determination is reasonably supported by a review of the process followed and information originally collected.

I will report to you my final determination no later than thirty days after receipt of your request for this review. Please be advised that you continue to have the right to seek an Independent Review, conducted by a qualified investigator selected by the school from a list maintained by the Vermont Agency of Education should you so choose. This request must be made within thirty days of my final determination.

Finally, please additionally be advised that 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 attached.

Please let me know if you have any questions.

Sincerely,

Superintendent

bcc: School investigative file

ENC: School HHB Policies and Procedures

**SAMPLE LETTER INTERNAL REVIEW REQUEST**

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

**RE: Announcing Receipt of Request for Internal Review of Initial Determination that Harassment Policy Was Not Violated**

I am writing to inform you that I have received a request for an internal review of [Insert Designee's Name]'s [insert date of determination] initial determination that your son/daughter's conduct did not violate the [SCHOOL NAME] harassment policy.

Please be advised that my investigation will consider the sufficiency of both the investigation and its conclusions - based on a review of the school's harassment policies and procedures, and the written materials collected and reviewed by the designee. I will also speak with the designee. I will not, however, re-interview any students or other staff, or perform any independent fact finding regarding the allegations themselves. The purpose is to determine whether or not the Designee's initial determination is reasonably supported by a review of the process followed and information originally collected. I will report to you my final determination no later than (INSERT date thirty days after receipt of request for this review).

Please be advised that upon conclusion of my investigation and receipt of my findings the complaining student/parent(s) retains the right to seek an Independent Review from an investigator of the Vermont Agency of Education should they so choose.

This remains a confidential matter and all students involved are entitled to remain free from retaliation for their participation and/or cooperation in any aspect of this investigation.

Please let me know if you have any questions.

Sincerely,

Superintendent

bcc: School investigative file

Enc: School HHB Policies and Procedures

**SAMPLE LETTER ANNOUNCING FINAL DETERMINATION**

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

**RE: Final Determination Announcement Following Initial Review of Determination Of No Harassment Policy Violation**

I am writing to report my final determination regarding the Designee's initial determination that your son/daughter was not the target of student conduct which violated the harassment policy. My review considered the sufficiency of both the investigation and its conclusions - based on the school's harassment policies and procedures. I have concluded that the initial determination that there was no violation of the harassment policy is [choose either SUPPORTED/UNSUPPORTED] by my review.

[IF SUPPORTED]. Please be advised that you may still seek an Independent Review. If you would like to pursue this option please notify me in writing no later than [INSERT DATE THAT IS thirty days from the date of this letter].

[IF UNSUPPORTED]. Although federal privacy law prevents me from discussing any specific disciplinary action taken consistent with this finding 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 to remedy its effects on victims and will take steps consistent with this finding and obligation, subject to the outcome of any appeal the student(s) may choose to exercise. Should you feel the actions taken are inadequate to correct the problem, you may seek an Independent Review. If you would like to pursue this option please notify me in writing no later than [INSERT DATE thirty days from the date of this letter].

Finally, please additionally be advised that you are entitled at any time 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 attached.

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

Sincerely,

Superintendent

bcc: School investigative file

Enc. School HHB Policies and Procedures

## **SAMPLE LETTER ANNOUNCING FINAL DETERMINATION**

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

**RE: Announcing Final Determination Following Internal Review of Determination that Harassment Policy Was Not Violated**

I am writing to report my final determination regarding an internal review of the Designee's initial determination that your son/daughter did not violate the harassment policy. My review considered the sufficiency of both the investigation and its conclusions - based on the school's harassment policies and procedures. I have concluded the initial finding that there was no violation of the harassment policy was [choose either SUPPORTED/UNSUPPORTED] by my review.

[IF SUPPORTED]. My finding that harassment did not occur is considered the school's final determination in this matter. Please note that the Complaining Student retains rights of review under state law which may subject this finding to further review. Please feel free to contact me directly with any remaining questions or concerns that you may have.

[IF UNSUPPORTED]. Having reversed the designee's determination that harassment did not occur [INSERT announce discipline and/or other remedial measures taken that affect accused student.] Please be advised that you may appeal the determination that your son/daughter violated the harassment policy and/or any related disciplinary action(s) taken, directly to the [INSERT SCHOOL NAME] school board. Should you wish to pursue this option please contact the board no later than (DATE ten calendar days from date of this letter). The board will then set the matter for a review hearing at the next scheduled board meeting to the extent practicable, but no later than thirty days from receipt of the request.

Please feel free to contact me directly with any remaining questions or concerns that you may have.

Sincerely,

Superintendent

bcc: School investigative file

Enc. School HHB Procedures

**SAMPLE ACKNOWLEDGEMENT LETTER**

**TO: Accused Student / Appellant Student/Parent**

**RE: Request for Board Level Appeal of Determination of Policy Violation And/Or Related Discipline**

On behalf of the Board I am writing to acknowledge receipt on [INSERT DATE] of your written request for a board level review of a determination that your son/daughter violated the school's [choose one] harassment/hazing/bullying policies and/or any discipline imposed as a consequence.

Please be advised that the purpose of our review will be to ascertain whether or not the decisions reached about a policy violation and/or discipline constituted an abuse of discretion by the school level fact finder. While you will be permitted to present any relevant arguments as to whether the school abused its discretion, the Board will not take any evidence or hear the testimony of witnesses. Rather, the Board will review the record of the investigation and adjudication as performed at the school level.

The Board has set this matter for review on [INSERT DATE *that is as soon as practicable, but no later than 30 days from receipt of parent's letter*], and will be held at [INSERT time and location of that hearing].

Please be reminded that this remains a confidential matter and all students involved are entitled to remain free from retaliation for their participation and/or cooperation in any aspect of this investigation.

Sincerely,

Board Chair /OR Superintendent

Bcc: School Investigative File

Enc. School HHB Policy and Procedures

**SAMPLE ANNOUNCEMENT OF BOARD DECISION LETTER**

**TO: Accused/Appellant Student/Parents**

**RE: Announcing Board Level Decision Following Appeal of Policy Violation And/Or Related Discipline**

I am writing to announce the decision of the (SCHOOL NAME) Board's (DATE OF HEARING) decision following the appeal of the School's decision that your son/daughter violated the School's Harassment/Hazing/Bullying policy and/or related discipline imposed consistent with that finding.

Following presentations made to the Board, the Board concluded that the School:

- (1) DID/DID NOT (CHOOSE ONE) abuse its discretion by concluding that harassment/hazing/bullying (CHOOSE ONE) occurred; and
- (2) DID/DID NOT (CHOOSE ONE) abuse its discretion by imposing discipline with respect to the finding that harassment/hazing/bullying (CHOOSE ONE) occurred.

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.

This remains a confidential matter and all students involved are entitled to remain free from retaliation for their participation and/or cooperation in any aspect of this investigation.

Sincerely,

BOARD CHAIR/SUPERINTENDENT

Enc. School HHB Policy and Procedures

Bcc: School Investigative File

**SAMPLE ANNOUNCEMENT OF BOARD DECISION LETTER**

**TO: Complaining Student/Parents**

**RE: Announcing Board Level Decision That Policy Violation And/Or Related Discipline Findings Constituted Abuse of Discretion**

I am writing to announce the decision of the (SCHOOL NAME) Board's (DATE OF HEARING) decision following the appeal of the School's decision that your son/daughter was the victim of student on student conduct which violated the School's Harassment/Hazing/Bullying policy and/or related discipline imposed consistent with that finding.

Following presentations made to the Board, the Board concluded that the School:

- (1) [Abused/Did Not Abuse its discretion] by concluding that harassment/hazing/bullying (CHOOSE ONE) occurred; and/but
- (2) [Abused/Did Not Abuse its discretion] by imposing discipline with respect to the finding that harassment/hazing/bullying (CHOOSE ONE) occurred.

[IF ABUSE OF DISCRETION IS FOUND IN A CASE OF ALLEGED HARASSMENT:

(IN the case of (1) Above) Please be advised that should you be dissatisfied with this determination that harassment did not occur you may seek an Independent Review. If you would like to pursue this option please notify me/the Superintendent in writing no later than [INSERT DATE THAT IS thirty days from the date of this letter].

(In the case of (2) Above) Should you feel the actions taken with respect to your claims of harassment are inadequate to correct the problem, you may seek an Independent Review. Again, if you would like to pursue this option please notify me/the Superintendent in writing no later than [INSERT DATE thirty days from the date of this letter].

This remains a confidential matter and all students involved are entitled to remain free from retaliation for their participation and/or cooperation in any aspect of this investigation.

Sincerely,

BOARD CHAIR/SUPERINTENDENT

Enc. School HHB Policy and Procedures

Bcc: School 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/>).



**SUPERINTENDENT PRIMER**

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## 1. Duty to Adopt/Update School Policies and Procedures

School Boards are charged to “develop, adopt, ensure the enforcement of, and make available harassment, hazing and bullying prevention policies that are at least as stringent as model policies developed by the Secretary of the Agency of Education.” Legal Authority: 16 V.S.A. §570(b).

**SUMMER ACTION ITEM:** Superintendents shall work with Building Administrators and School Boards annually, prior to the commencement of the school year to:

- (1) Adopt current and up to date policies and procedures. Tip: Adoption of AOE Model Policies and Procedures will satisfy this requirement. Adoption of May 2015 Revised Policies and Procedures is strongly recommended.

<http://education.vermont.gov/documents/edu-hhb-model-policy.pdf>

<http://education.vermont.gov/documents/edu-hhb-model-procedures.pdf>

Note: 16 V.S.A § 570 provides “Any school board that fails to adopt one or more of these policies shall be presumed to have adopted the most current model policy or policies published by the Secretary.”

*Tip: Documentation of all Compliance efforts should be maintained (copies of emails, mailings, meeting minutes) in a FOLDER labelled “(SCHOOL YEAR) HHB Compliance Efforts.” This should be maintained throughout the year and submitted at years’ end to Central Office.*

## 2. Duty to Publish Policies and Procedures

School Boards shall ensure complete copies of policies and procedures on harassment, hazing and bullying, are included in any publication that sets forth the comprehensive rules, procedures, and standards of conduct for the school. Legal Authority: 16 V.S.A. §570(c); 16 V.S.A. §1161a.

**SUMMER ACTION ITEM:** Superintendents shall work with Building Administrators and School Boards annually, prior to the commencement of the school year to:

- (1) Confirm that updated and current versions of policies and procedures on harassment, hazing and bullying are contained in the School Student Handbook and all related school publications. It is recommended that both policies and procedures also be made available online at the school or SU/District website.

*Tip: Documentation of all Compliance efforts should be maintained (copies of emails, mailings, meeting minutes) in a FOLDER labelled “(SCHOOL YEAR) HHB Compliance Efforts.” This should be maintained throughout the year and submitted at years’ end to Central Office.*

### **3. Duty to Notify and Distribute Policies and Procedures to Students and Parents**

School Boards are charged annually, and prior to the commencement of curricular and cocurricular activities, with providing notice of the harassment, hazing and bullying policies and procedures to students/custodial parents or guardians of students, with reference to the consequences of misbehavior for violations. Notice must be in age appropriate language and include examples of harassment, hazing and bullying. 16 V.S.A. §570(c); 16 V.S.A. §1161a; 2015 Vermont AOE Model Procedures, VIII.A.

**SUMMER ACTION ITEM:** Superintendents shall work with Building Administrators and School Boards annually, prior to the commencement of the school year to:

- (1) Confirm copies of the school's policies and procedures with reference to possible disciplinary penalties for violations are mailed to all school families before the commencement of curricular and cocurricular activities.

*Tip: The District may choose to instead announce via an August mailing the weblink address parents may use to access policies and procedures online (a suitable time would be at the same time the school's Annual Notice regarding FERPA obligations and other start of the year information are forwarded to the community in late July/early August). In this case, however, it is recommended that that same notice inform parents that they retain the right to seek - free of charge - a hard copy upon request (in order to accommodate families without reliable internet access).*

*Tip: Documentation of all Compliance efforts should be maintained (copies of emails, mailings, meeting minutes) in a FOLDER labelled "(SCHOOL YEAR) HHB Compliance Efforts." This should be maintained throughout the year and submitted at years' end to Central Office.*

### **4. Duty to Notify and Distribute Policies and Procedures to Faculty and Staff**

School Boards are charged annually, and prior to the commencement of curricular and cocurricular activities, with providing notice of harassment, hazing and bullying policies and procedures to faculty and staff. 16 V.S.A. §570(c); 2015 Vermont AOE Model Procedures, VIII.A.

**SUMMER ACTION ITEM:** Superintendents shall work with Building Principals and School Boards annually, prior to the commencement of the school year to:

- (1) Confirm distribution of updated policies and procedures to school faculty and staff before the commencement of curricular and cocurricular activities.

*Tip: Be sure to maintain copies of documentation to demonstrate this occurred.*

*Tip: Documentation of all Compliance efforts should be maintained (copies of emails, mailings, meeting minutes) in a FOLDER labelled "(SCHOOL YEAR) HHB Compliance Efforts." This should be maintained throughout the year and submitted at years' end to Central Office.*

## 5. Duty to Train Teachers and Staff

To arrange for teachers and staff to receive training in preventing, recognizing and responding to harassment, hazing and bullying. 2015 Vermont AOE Model Procedures, VIII.C.

**SUMMER ACTION ITEM:** Superintendents shall work with Building Principals and confirm to School Boards annually, prior to the commencement of the school year to:

- (1) Schedule training of teachers and staff regarding HHB policies and procedures before the commencement of curricular and cocurricular activities.
- (2) Update School Boards on status of these efforts.

*Tip: Be sure to maintain copies of documentation to demonstrate this occurred.*

*Tip: Documentation of all Compliance efforts should be maintained (copies of emails, mailings, meeting minutes) in a FOLDER labelled "(SCHOOL YEAR) HHB Compliance Efforts." This should be maintained throughout the year and submitted at years' end to Central Office.*

## 6. Duty to Educate Students on Harassment, Hazing and Bullying Prevention and on Policies and Procedures Content

School Boards are asked to use their discretion in developing and initiating age-appropriate programs to inform students about the substance of the policy and procedures in order to help prevent harassment, hazing, and bullying. School boards are encouraged to foster opportunities for conversations between and among students regarding tolerance and respect. Source: 16 V.S.A. §570(c) 2015 Vermont AOE Model Procedures, VIII.B.

**SUMMER ACTION ITEM:** Superintendents should work with Building Principals and be prepared to update School Boards annually, prior to the commencement of the school year about:

- (1) Their specific SU/School-wide plan of age appropriate student instruction on both the policies and the procedures and the expectations around harassment, hazing and bullying; and
- (2) Their ongoing efforts to create a school climate of tolerance and respect throughout the school year.
- (3) Confirm to School Boards the status of these efforts.

*Tip: Be sure to maintain copies of meeting minutes reflecting these efforts.*

*Tip: Documentation of all Compliance efforts should be maintained (copies of emails, mailings, meeting minutes) in a FOLDER labelled "(SCHOOL YEAR) HHB Compliance Efforts." This should be maintained throughout the year and submitted at years' end to Central Office.*

**7. Duty to Designate 2 or More School Employees Per School Campus to Receive Complaints on Harassment/Hazing/Bullying**

School boards/Superintendents are required to designate annually two or more persons per school campus with the responsibility of receiving and investigating complaints on harassment/hazing/bullying. Source: 16 V.S.A. §570a(a)(7); §570b(7); §570c(7); 2015 Vermont AOE Model Policy, II.2.

**ACTION ITEM LATE SPRING/SUMMER:** Superintendents should work with Building Principals and be prepared to update School Boards annually, prior to the commencement of the school year about:

- (1) The designation of at least two or more employees with the task of receiving and investigating complaints on harassment/hazing/bullying;
- (2) Publication of those assignments to students and families; and
- (3) The arrangements made to train designees in the performance of their duties, preferably prior to the commencement of the school year.

*Tip: Documentation of these efforts must be maintained.*

*Tip: Documentation of all Compliance efforts should be maintained (copies of emails, mailings, meeting minutes) in a FOLDER labelled "(SCHOOL YEAR) HHB Compliance Efforts." This should be maintained throughout the year and submitted at years' end to Central Office.*

**8. Duty to Designate an Equity Coordinator**

Superintendents are required to designate an Equity Coordinator to oversee all aspects of the implementation of the HHB Policy as it relates to the obligations imposed by federal law regarding discrimination. This role may also be assigned to one or both of the Designated Employees. 2015 Vermont AOE Model Policy, II.3.

**ACTION ITEM LATE SPRING/SUMMER:** Superintendents should work with Building Principals and be prepared to update School Boards annually, prior to the commencement of the school year about:

- (1) The designation of an Equity Coordinator with the task of overseeing all aspects of implementation of the HHB Policy as it relates to the obligations imposed by federal law regarding discrimination;
- (2) Publication of the assignment to students and families; and
- (3) The arrangements made to train Coordinators in the performance of their duties preferably prior to the commencement of the school year.

*Tip: Documentation of these efforts must be maintained.*

*Tip: Documentation of all Compliance efforts should be maintained (copies of emails, mailings, meeting minutes) in a FOLDER labelled "(SCHOOL YEAR) HHB Compliance Efforts."*

*This should be maintained throughout the year and submitted at years' end to Central Office.*

**9. Duty to Conduct Internal Reviews of School Designee Harassment Determinations That Harassment Has Not Occurred**

A complainant or parent of a complainant may request an internal review of a Designee's initial determination (following investigation) that harassment has not occurred via written request submitted to the District Superintendent. 2015 AOE Model Procedures, V.B (5/29/2015).

**SUMMER ACTION ITEM:** Superintendents should be prepared prior to the start of 2015-2016 school year to conduct internal reviews of initial designee harassment determinations by:

- (1) Understanding Scope of Review (Guidance Memorandum, Page 8-9);
- (2) Preparing draft acknowledgement letters to respond to parent requests for such reviews (See SAMPLES, Pages 10-11);
- (3) Preparing draft letters to parents to announce final decision and appeal remedies (See SAMPLE, Page 12-13).

*Tip: Please note that this right is specific to harassment determinations only. Parents of complaining students are not given the right to an internal review of hazing or bullying determinations under the Model Policy.*

## GUIDANCE MEMORANDUM

RE: SUPERINTENDENT INTERNAL REVIEW OF INITIAL DETERMINATIONS THAT NO VIOLATION OF HARASSMENT POLICY OCCURRED

Q: What triggers the right to an internal review by a Complaining Student/Parent?

Complaining Students/Parents may seek an internal review ONLY of an initial determination by a Designee that the harassment policy was NOT violated is eligible. Determinations related to hazing and/or bullying are not subject to this review. Conversely, complaints about the sufficiency of the remedies (discipline or otherwise) instituted following a determination of harassment are not subject to an internal review. **Finally, it should be emphasized that the complainant/parent may instead seek an independent review and is not required to seek an internal review first.**

Q: How does a Student/Parent seek such a review?

The 2015 Model Procedures are silent. It must therefore be assumed that in the absence of an individual school's procedure providing guidance on this point that an oral or written request by a parent to a Superintendent would be acceptable. It is therefore advised that individual schools state explicitly in their procedures that receipt of a written request is required in order to have the ability to confirm the receipt of such a request.

Q: Is there a time limit to a Student/Parent right to seek such a review?

Again, the 2015 Model Procedures are silent. It must therefore be assumed that in the absence of an individual school's procedure providing guidance on this point that there is no time limitation. It is therefore advised that individual schools state explicitly in their procedures that receipt of a written request is required within a certain time frame (time frames of no less than ten days and up to no more than thirty days would likely be appropriate) in order to provide closure on these subjects.

Q: Who conducts the internal review?

The 2015 Model Procedures speak of a request being submitted to the Superintendent but do not state explicitly whether the review must be done by the Superintendent, only that it is an "internal" review. It is advised that individual schools state explicitly in their procedures that internal reviews shall be conducted by the Superintendent or his/her designee, but in no case shall be performed by the original designee/investigator in that case.

Q: What is the scope of this review?

Again, the 2015 Model Procedures are silent. It is therefore advised that individual schools state explicitly in their procedures that the scope of this review will be a consideration of the school's initial investigation in light of the current policies and procedures, through a review of the documentation collected and created by the investigator and an interview of the investigator. It should state explicitly that there will not be new fact finding of the allegations themselves by the Superintendent and that no witnesses will be interviewed, other than the Designee. Rather the purpose is to determine whether or not the Designee's initial determination of no

harassment is reasonably supported by a review of the process followed and information originally collected.

Q: When does the review need to be completed by?

**The 2015 Model Procedures state the review must be completed within thirty days of the request for the review, unless special circumstances are present and documented.** If this deadline is not going to be met, it is advised that the Superintendent contact the Complaining Student/Parent in writing in advance of that deadline that it will not be met, the reasons for the delay, and the anticipated completion date.



**SAMPLE LETTER INTERNAL REVIEW REQUEST**

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

**RE: Acknowledging Receipt of Request for Internal Review of Initial Determination That Harassment Policy Has Not Been Violated**

I am writing to acknowledge receipt on [INSERT DATE] of your written request for an internal review of the Designee's initial determination that your son/daughter was not the target of student conduct which violated the harassment policy. Thank you for your letter.

Please be advised that my investigation will consider the sufficiency of both the investigation and its conclusions - based on a review of the school's harassment policies and procedures, and the written materials collected and reviewed by the designee. I will also speak with the designee. I will not, however, re-interview any students or other staff, or perform any independent fact finding regarding the allegations themselves. The purpose is to determine whether or not the Designee's initial determination is reasonably supported by a review of the process followed and information originally collected.

I will report to you my final determination no later than thirty days after receipt of your request for this review. Please be advised that you continue to have the right to seek an Independent Review, conducted by a qualified investigator selected by the school from a list maintained by the Vermont Agency of Education should you so choose. This request must be made within thirty days of my final determination.

Finally, please additionally be advised that 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 attached.

Please let me know if you have any questions.

Sincerely,

Superintendent

bcc: School investigative file

ENC: School HHB Policies and Procedures

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

**RE: Announcing Receipt of Request for Internal Review of Initial Determination that Harassment Policy Was Not Violated**

I am writing to inform you that I have received a request for an internal review of [Insert Designee's Name]'s [insert date of determination] initial determination that your son/daughter's conduct did not violate the [SCHOOL NAME] harassment policy.

Please be advised that my investigation will consider the sufficiency of both the investigation and its conclusions - based on a review of the school's harassment policies and procedures, and the written materials collected and reviewed by the designee. I will also speak with the designee. I will not, however, re-interview any students or other staff, or perform any independent fact finding regarding the allegations themselves. The purpose is to determine whether or not the Designee's initial determination is reasonably supported by a review of the process followed and information originally collected. I will report to you my final determination no later than (INSERT date thirty days after receipt of request for this review).

Please be advised that upon conclusion of my investigation and receipt of my findings the complaining student/parent(s) retains the right to seek an Independent Review from an investigator of the Vermont Agency of Education should they so choose.

This remains a confidential matter and all students involved are entitled to remain free from retaliation for their participation and/or cooperation in any aspect of this investigation.

Please let me know if you have any questions.

Sincerely,

Superintendent

bcc: School investigative file

Enc: School HHB Policies and Procedures

**SAMPLE LETTER ANNOUNCING FINAL DETERMINATION**

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

**RE: Final Determination Announcement Following Initial Review of Determination Of No Harassment Policy Violation**

I am writing to report my final determination regarding the Designee's initial determination that your son/daughter was not the target of student conduct which violated the harassment policy. My review considered the sufficiency of both the investigation and its conclusions - based on the school's harassment policies and procedures. I have concluded that the initial determination that there was no violation of the harassment policy is [choose either SUPPORTED/UNSUPPORTED] by my review.

[IF SUPPORTED]. Please be advised that you may still seek an Independent Review. If you would like to pursue this option please notify me in writing no later than [INSERT DATE THAT IS thirty days from the date of this letter].

[IF UNSUPPORTED]. Although federal privacy law prevents me from discussing any specific disciplinary action taken consistent with this finding 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 to remedy its effects on victims and will take steps consistent with this finding and obligation, subject to the outcome of any appeal the student(s) may choose to exercise. Should you feel the actions taken are inadequate to correct the problem, you may seek an Independent Review. If you would like to pursue this option please notify me in writing no later than [INSERT DATE thirty days from the date of this letter].

Finally, please additionally be advised that you are entitled at any time 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 attached.

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

Sincerely,

Superintendent

bcc: School investigative file

Enc. School HHB Policies and Procedures

**SAMPLE LETTER ANNOUNCING FINAL DETERMINATION**

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

**RE: Announcing Final Determination Following Internal Review of Determination that Harassment Policy Was Not Violated**

I am writing to report my final determination regarding an internal review of the Designee’s initial determination that your son/daughter did not violate the harassment policy. My review considered the sufficiency of both the investigation and its conclusions - based on the school’s harassment policies and procedures. I have concluded the initial finding that there was no violation of the harassment policy was [choose either SUPPORTED/UNSUPPORTED] by my review.

[IF SUPPORTED]. My finding that harassment did not occur is considered the school’s final determination in this matter. Please note that the Complaining Student retains rights of review under state law which may subject this finding to further review. Please feel free to contact me directly with any remaining questions or concerns that you may have.

[IF UNSUPPORTED]. Having reversed the designee’s determination that harassment did not occur [INSERT announce discipline and/or other remedial measures taken that affect accused student.] Please be advised that you may appeal the determination that your son/daughter violated the harassment policy and/or any related disciplinary action(s) taken, directly to the [INSERT SCHOOL NAME] school board. Should you wish to pursue this option please contact the board no later than (DATE ten calendar days from date of this letter). The board will then set the matter for a review hearing at the next scheduled board meeting to the extent practicable, but no later than thirty days from receipt of the request.

Please feel free to contact me directly with any remaining questions or concerns that you may have.

Sincerely,

Superintendent

bcc: School investigative file

Enc. School HHB Procedures

## **10. Duty to Facilitate Board Level Appeals of HHB Policy Violation Determinations and Related Discipline Matters**

Any person determined to have engaged in act(s) of harassment, hazing and/or bullying **may appeal** the determination and/or any related disciplinary action(s), **directly to the school board of the school district.** Source: 2015 AOE Model Procedures (V) (Rights of Accused Students)

**SUMMER ACTION ITEM:** Superintendents, annually and prior to the start of the school year, should work with their School Boards to:

- (1) Review the Guidance Memorandum with all Boards so that they are familiar with and prepared to conduct the Board level reviews.
- (2) Prepare draft letters to respond to parent requests for Board level appeals (SEE SAMPLE) and to announce outcomes of those appeals (SEE SAMPLE).
- (3) Work with Building Principals to respond to request by Accused Student/Family requests for Access to Investigative Reports/Findings.
- (4) Ensure Boards schedule Appeal hearings in a timely manner.
- (5) Arrange, when appropriate, for additional legal training and guidance of Boards on the conduct of these hearings.

*Tip: Note that this right extends to students deemed to have violated any of the policies of harassment, hazing, or bullying. It is not limited, as the internal review right is, to harassment matters.*

## GUIDANCE MEMORANDUM

RE: BOARD APPEAL OF POLICY VIOLATION DETERMINATIONS AND RELATED DISCIPLINE

Q: How will the session be conducted?

In executive session as it relates to a student discipline matter.

Q: Can the accused/accused parents see the documentary record before the hearing?

They are entitled to request any relevant information, documents, materials related to the investigation and related finding that can be redacted and de-identified in compliance with Family Education Rights and Privacy Act. If a document may not be redacted in compliance with FERPA, the school administrator may seek written and dated signed consent of the alleged victim's family in order to disclose the requested information. Confidentiality of students, including the complaining student, shall be maintained throughout the appeal process.

Q: Will The Board hear evidence from witnesses?

**No.** The Board will only review the written record created by the Designee and/or Superintendent of the investigation and decisions taken at the school level. Accordingly, the Board will neither require, nor have the power to require, an alleged victim or his/her Parents to attend the Hearing.

Q: May the parent or school present their argument?

Either side may present arguments as to whether the findings and decisions taken at the school level constituted an abuse of discretion.

Q: Will The Board give deference to school's action below?

**Yes.** School level findings are to be given great weight and school boards are not to "retry" the case. (AOE Guidance Memo 5/29/15). The Board should also consider that where Student conduct constitutes a violation of the policy, a school is required by law to take steps "reasonably calculated to prevent" any reoccurrence and to remedy its effects on the victim(s). Finally, the Board must keep in mind that while a school conducts its initial investigation, it may in some cases be obligated to take interim measures to protect the safety of a student from serious physical or emotional harm.

Q: How will The Board make and announce its decision?

The Board will retire to deliberative session – out of the presence of the parties - to consider the matter and reach a final decision. The Board Chair shall arrange to contact Party representatives with the decision by phone, with a follow up announcement to occur in writing (See Sample Announcement Letter).

**SAMPLE ACKNOWLEDGEMENT LETTER**

**TO: Accused Student / Appellant Student/Parent**

**RE: Request for Board Level Appeal of Determination of Policy Violation And/Or Related Discipline**

On behalf of the Board I am writing to acknowledge receipt on [INSERT DATE] of your written request for a board level review of a determination that your son/daughter violated the school's [choose one] harassment/hazing/bullying policies and/or any discipline imposed as a consequence.

Please be advised that the purpose of our review will be to ascertain whether or not the decisions reached about a policy violation and/or discipline constituted an abuse of discretion by the school level fact finder. While you will be permitted to present any relevant arguments as to whether the school abused its discretion, the Board will not take any evidence or hear the testimony of witnesses. Rather, the Board will review the record of the investigation and adjudication as performed at the school level.

The Board has set this matter for review on [INSERT DATE *that is as soon as practicable, but no later than 30 days from receipt of parent's letter*], and will be held at [INSERT time and location of that hearing].

Please be reminded that this remains a confidential matter and all students involved are entitled to remain free from retaliation for their participation and/or cooperation in any aspect of this investigation.

Sincerely,

Board Chair /OR Superintendent

Bcc: School Investigative File

Enc. School HHB Policy and Procedures

**SAMPLE ANNOUNCEMENT OF BOARD DECISION LETTER**

**TO: Accused/Appellant Student/Parents**

**RE: Announcing Board Level Decision Following Appeal of Policy Violation And/Or Related Discipline**

I am writing to announce the decision of the (SCHOOL NAME) Board's (DATE OF HEARING) decision following the appeal of the School's decision that your son/daughter violated the School's Harassment/Hazing/Bullying policy and/or related discipline imposed consistent with that finding.

Following presentations made to the Board, the Board concluded that the School:

- (1) DID/DID NOT (CHOOSE ONE) abuse its discretion by concluding that harassment/hazing/bullying (CHOOSE ONE) occurred; and
- (2) DID/DID NOT (CHOOSE ONE) abuse its discretion by imposing discipline with respect to the finding that harassment/hazing/bullying (CHOOSE ONE) occurred.

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.

This remains a confidential matter and all students involved are entitled to remain free from retaliation for their participation and/or cooperation in any aspect of this investigation.

Sincerely,

BOARD CHAIR/SUPERINTENDENT

Enc. School HHB Policy and Procedures

Bcc: School Investigative File



**SAMPLE ANNOUNCEMENT OF BOARD DECISION LETTER**

**TO: Complaining Student/Parents**

**RE: Announcing Board Level Decision That Policy Violation And/Or Related Discipline Findings Constituted Abuse of Discretion**

I am writing to announce the decision of the (SCHOOL NAME) Board's (DATE OF HEARING) decision following the appeal of the School's decision that your son/daughter was the victim of student on student conduct which violated the School's Harassment/Hazing/Bullying policy and/or related discipline imposed consistent with that finding.

Following presentations made to the Board, the Board concluded that the School:

- (1) [Abused/Did Not Abuse its discretion] by concluding that harassment/hazing/bullying (CHOOSE ONE) occurred; and/but
- (2) [Abused/Did Not Abuse its discretion] by imposing discipline with respect to the finding that harassment/hazing/bullying (CHOOSE ONE) occurred.

IF ABUSE OF DISCRETION IS FOUND IN A CASE OF ALLEGED HARASSMENT:

(IN the case of (1) Above) Please be advised that should you be dissatisfied with this determination that harassment did not occur you may seek an Independent Review. If you would like to pursue this option please notify me/the Superintendent in writing no later than [INSERT DATE THAT IS thirty days from the date of this letter].

(In the case of (2) Above) Should you feel the actions taken with respect to your claims of harassment are inadequate to correct the problem, you may seek an Independent Review. Again, if you would like to pursue this option please notify me/the Superintendent in writing no later than [INSERT DATE thirty days from the date of this letter].

This remains a confidential matter and all students involved are entitled to remain free from retaliation for their participation and/or cooperation in any aspect of this investigation.

Sincerely,

BOARD CHAIR/SUPERINTENDENT

Enc. School HHB Policy and Procedures

Bcc: School Investigative File

## **11. Duty to Maintain Copies of Investigation Files and Related Materials and Correspondence**

The Superintendent and/or school administrator shall assure that a record of any complaint, its investigation and disposition as well as any disciplinary or remedial action taken following completion of the investigation, is maintained by the District in a confidential file accessible only to authorized persons. All investigation records 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 District/Supervisory Union Central Office for at least six years after the investigation is completed. 2015 Vermont AOE Procedures (“Confidentiality and Record Keeping”).

**ACTION ITEM/ONGOING:** Superintendents must work with their administrators annually to:

- (1) Ensure that Designated Employees and Equity Coordinators maintain copies of all investigation records, and all related correspondence and other documentation, including disciplinary and other evidence of remedial action taken following the completion of an investigation, **for at least six years;**
- (2) Forward at the conclusion of **each school year** full and complete copies of those records maintained by the Designated Employees and Coordinators on to the Central Office, that the Central Office maintains those records for at least six years.

## **12. 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:** Superintendents must work with their administrators annually to:

- (1) Confirm training for teachers and administrators on 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) Confirm training for staff, teachers and administrators that the involvement of and/or reports to DCF do not relieve staff, teachers and administrators of their obligations to timely pursue and complete an investigation upon receipt of notice which may constitute harassment, hazing and/or bullying.

*Tip: Be sure to maintain copies of documentation to demonstrate this occurred.*

*Tip: Documentation of all Compliance efforts should be maintained (copies of emails, mailings, meeting minutes) in a FOLDER labelled “(SCHOOL YEAR) HHB Compliance Efforts.” This should be maintained throughout the year and submitted at years’ end to Central Office.*

### **13. 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 principal shall report the alleged conduct to the Superintendent, and the Superintendent shall report the alleged conduct to the Secretary.

**SUMMER ACTION ITEM:** Superintendents must work with their administrators annually to:

- (1) Confirm training for administrators on the ongoing and separately independent duty to report to the Superintendent 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 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.

*Tip: Be sure to maintain copies of documentation to demonstrate this occurred.*

*Tip: Documentation of all Compliance efforts should be maintained (copies of emails, mailings, meeting minutes) in a FOLDER labelled "(SCHOOL YEAR) HHB Compliance Efforts." This should be maintained throughout the year and submitted at years' end to Central Office.*

### **14. 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 ITEM:** Superintendents must work with their administrators annually to:

- (1) Confirm training for teachers and administrators on the 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).
- (2) Confirm training for staff, teachers and administrators that the involvement and/or reports made to the local police do not relieve staff, teachers and administrators of their

obligations to timely pursue and complete an investigation upon receipt of notice which may constitute harassment, hazing and/or bullying.

*Tip: Be sure to maintain copies of documentation to demonstrate this occurred.*

*Tip: Documentation of all Compliance efforts should be maintained (copies of emails, mailings, meeting minutes) in a FOLDER labelled "(SCHOOL YEAR) HHB Compliance Efforts." This should be maintained throughout the year and submitted at years' end to Central Office.*

