

SAMPLE ACKNOWLEDGEMENT LETTER

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

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/Parent(s)

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/Parent(s)

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).

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/>).

SCHOOL BOARD PRIMER

Table of Contents

DUTY TO ADOPT/UPDATE STATUTORILY COMPLIANT SCHOOL POLICIES AND PROCEDURES.....	3
DUTY TO PUBLISH POLICIES AND PROCEDURES.....	3
DUTY TO DISTRIBUTE AND NOTIFY STUDENTS AND PARENTS OF POLICIES/PROCEDURES	3
DUTY TO DISTRIBUTE TO AND NOTIFY FACULTY AND STAFF OF POLICIES AND PROCEDURES.....	4
DUTY TO EDUCATE STUDENTS ON HARASSMENT, HAZING AND BULLYING PREVENTION AND ON POLICIES AND PROCEDURE CONTENT	4
DUTY TO DESIGNATE 2 OR MORE EMPLOYEES PER SCHOOL CAMPUS TO RECEIVE COMPLAINTS ON HARASSMENT/HAZING/BULLYING	5
GUIDANCE MEMO.....	6
SAMPLE ACKNOWLEDGEMENT LETTER	7
SAMPLE ANNOUNCEMENT OF BOARD DECISION LETTER	8
SAMPLE ANNOUNCEMENT OF BOARD DECISION LETTER	9

1. Duty to Adopt/Update Statutorily Compliant 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: Boards shall work with their Superintendents and Administrators 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.**”

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: Boards shall work with their Superintendents and Administrators annually, prior to the commencement of the school year:

- (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.*

3. Duty to Distribute and Notify Students and Parents of Policies/Procedures

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.

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

- (1) To 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).

4. Duty to Distribute to and Notify Faculty and Staff of Policies and Procedures

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).

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

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

Tip: Meeting Minutes should be taken to serve as documentation/confirmation this task is completed.

5. Duty to Educate Students on Harassment, Hazing and Bullying Prevention and on Policies and Procedure 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).

ACTION ITEM: Boards shall work with their Superintendents and Administrators annually, prior to the commencement of the school year:

- (1) To confirm their specific plan of age appropriate student instruction on both the policies and the procedures and the expectations around harassment, hazing and bullying; and
- (2) To confirm their ongoing efforts to create a school climate of tolerance and respect throughout the school year.

Tip: Meeting Minutes should be taken to serve as documentation/confirmation this task is completed.

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

School boards 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).

ACTION ITEM LATE SPRING/SUMMER: Boards shall work with their Superintendents and Administrators annually, prior to the commencement of the school year to confirm:

- (1) Their 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.

Tip: Meeting Minutes should be taken to serve as documentation/confirmation this task is completed.

7. Duty to Conduct Appeal Hearings of Policy Violation Determinations and Related Discipline Matters. 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: Boards shall work with their Superintendents to:

- (1) Review the Guidance Memorandum 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) 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 MEMO

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 arguments?

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(s)

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/Parent(s)

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/Parent(s)

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

