

VOORHEESVILLE CENTRAL SCHOOL DISTRICT

HARASSMENT, HAZING, OR BULLYING

The Board of Education is committed to providing an educational and working environment that promotes respect, dignity and equality. The Board recognizes that harassment, hazing, or bullying are detrimental to student learning and achievement. These behaviors interfere with the mission of the district to educate its students and disrupt the operation of the schools. Such behaviors affect not only the students or employees who are the target but also those individuals who participate in and witness such acts.

To this end, the Board condemns and strictly prohibits all forms of harassment, hazing, or bullying on school grounds; school buses; and at all school-sponsored activities, programs, and events including those that take place at locations outside the district.

For the purposes of this policy, the terms “harassment”, “hazing”, or “bullying” collectively shall refer, but not be limited to, any intentional written, verbal, or electronic communication or physical act which intimidates or threatens another on the basis of race, color, national origin, creed, religion, marital status, sex, age, sexual orientation, disability, socio-economic status, class, club affiliation, or other distinguishing characteristic (including any other characteristic protected by law).

If the harassment is of a sexual nature, policy/regulation 0110-R provides additional information and clarification on the district’s responsibilities in this area.

In order for the Board to effectively enforce this policy and to take prompt corrective measures, it is essential that all victims and persons with knowledge of harassment, hazing, or bullying report such behavior immediately to the Building Principal or Director of Special Education or their designee. The district will promptly investigate all complaints, formal or informal, oral or written. To the extent possible, all complaints will be treated in a confidential manner, although limited disclosure may be necessary to complete a thorough investigation.

If, after appropriate investigation, the district finds that a student, an employee, district officer, district appointee, or a third party has violated this policy, prompt corrective action will be taken in accordance with the applicable collective bargaining agreement, district policy, and state law.

All complainants and those who participate in the investigation of a complaint have the right to be free from retaliation of any kind. However, if a false complaint is lodged, appropriate discipline of the complainant may follow according to the discretion of the Superintendent.

The Superintendent of Schools shall maintain and implement regulations for reporting, investigating, and remedying allegations of harassment, hazing, or bullying. These regulations are to be attached to this policy. In addition, training programs shall be established for students and employees to raise awareness of the issues surrounding harassment and to implement preventative measures to help reduce incidents of harassment, hazing, or bullying.

This policy shall be posted in a prominent place in each district facility and shall also be published in student registration materials; student, parent, and employee handbooks; and other appropriate school publications.

One year following Board approval and then periodically as needed, a committee of administrators, teachers, parents, and students shall be convened to review this policy's effectiveness and compliance with applicable state and federal law, and to recommend revisions to the Board.

Cross-ref: 011 0, Sexual Harassment 5300, Code of Conduct

Ref: Americans with Disabilities Act, 42 U.S.C. §12101 *et seq.*
 Title VI, Civil Rights Act of 1964, 42 U.S.C. §2000d *et seq.*
 Title VII, Civil Rights Act of 1964, 42 U.S.C. §2000e *et seq.*; 34 CFR § 100 *ci seq.*
 Title IX, Education Amendments of 1972, 20 U.S.C. §1681 *et seq.*
 §504, Rehabilitation Act of 1973, 29 U.S.C. §794
 Individuals with Disabilities Education Law, 20 U.S.C §§1400 *et seq.*
 Executive Law §290 *et seq.* (New York State Human Rights Law)
 Education Law §§313(3), 3201, 3201-a
Davis v. Monroe County Board of Education, 526 U.S. 629 (1999)
Gebser v. Lago Vista Independent School District, 524 U.S. 274 (1998)
Faragher v. City of Boca Raton, 524 U.S. 775 (1998)
Burlington Industries v. Ellerth, 524 U.S. 742 (1998)
Oncale v. Sundowner Offshore Services, Inc., 523 U.S. 75 (1998)
Franklin v. Gwinnett County Public Schools, 503 U.S. 60 (1992)
Mentor Savings Bank, FSB v. Vinson, 477 U.S. 57 (1986)

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HARASSMENT, HAZING & BULLYING REGULATION

This regulation sets forth detailed guidelines for reporting, investigating, and remedying allegations of harassment, hazing, or bullying.

Definitions

“Harassment” means any intentional written, verbal, or electronic communication, or physical act including but not limited to one shown to be motivated by race, color, national origin, creed, religion, marital status, sex, age, sexual orientation, disability, socio-economic status, class, club affiliation, or other distinguishing characteristic (including any other characteristic protected by law) when the intent of conduct or communication:

- Interferes with a student’s academic performance or participation in school-sponsored activities or an employee’s work performance;
- Creates an intimidating, hostile, or offensive educational or work environment;
- Harms a student or employee or damages the property of a student or employee;
- Places a student or employee in reasonable fear of physical harm or damage to his/her property; or
- Has the effect of substantially disrupting the orderly operation of the school.

“Bullying” is a form of harassment that consists of inappropriate persistent behavior including threats or intimidation of others, treating others cruelly, terrorizing, coercing, or habitual put-downs and/or badgering others.

“Hazing” is a form of harassment which involves committing an act against a student or coercing a student into committing an act that creates a risk of emotional, physical, or psychological harm to a person, in order for the student to be initiated into or affiliated with a student organization or club, or for any other purpose. The fact that the victim may consent to the act does not excuse the behavior or lessen the offense.

Unacceptable Conduct

Unacceptable conduct is to be determined within the elementary school, middle school, and high school buildings in a way that is consistent with the current District Guidelines.

Reporting Complaints

Any victim or person with knowledge of harassment, hazing, and/or bullying by a student, district employee, or third party related to the school should report the complaint to the Building Principal, Director of Special Education, or their designee as soon as possible after the incident so that it may be effectively investigated and resolved. Individuals are encouraged to submit the complaint in writing; however, the complaint may be filed orally.

In order to assist investigators, individuals should document the harassment, hazing, and/or bullying as soon as it occurs and with as much detail as possible including: the nature of the incident(s); dates, times, and places it has occurred; name of perpetrator(s); witnesses to the incident(s); and the victim's response to the incident.

Confidentiality

It is district policy to respect the privacy of all parties and witnesses to complaints of harassment, hazing, and/or bullying. To the extent possible, the district will not release the details of a complaint or the identity of the complainant or the individual(s) against whom the complaint is filed to any third parties who do not need to know such information. However, because an individual's need for confidentiality must be balanced with the district's legal obligation to provide due process to the accused, to conduct a thorough investigation, or to take necessary action to resolve the complaint, the district retains the right to disclose the identity of parties and witnesses to complaints in appropriate circumstances to individuals with a need to know. The staff member responsible for investigating complaints will discuss confidentiality standards and concerns with all complainants.

If a complainant requests that his/her name not be revealed to the individual(s) against whom a complaint is filed, the staff member responsible for conducting the investigation shall inform the complainant that:

1. the request may limit the district's ability to respond to his/her complaint;
2. district policy and federal law prohibit retaliation against complainants and witnesses;
3. the district will attempt to prevent any retaliation; and
4. the district will take strong responsive action if retaliation occurs.

If the complainant still requests confidentiality after being given the notice above, the investigator will take all reasonable steps to respect such request in investigating and responding to the complaint as long as doing so does not preclude the district from responding effectively to the harassment, hazing, and/or bullying and preventing the harassment, hazing, and/or bullying of other students or employees.

Investigation and Resolution Procedure

A. Initial (Building-level) Procedure

The Building Principal, Director of Special Education, or their designee shall conduct a preliminary review when they receive an oral or written complaint of harassment, hazing, or bullying, or if they observe harassment, hazing, or bullying. Whenever a complaint of harassment, hazing, and/or bullying is received, whether verbal or written, it will be subject to a preliminary review and investigation as set forth in this regulation. Except in the case of severe or criminal conduct, the Building Principal, Director of Special Education, or their designee should make all reasonable efforts to resolve complaints informally at the school level. The goal of informal investigation and resolution procedures is to end the harassment, hazing, and/or bullying and obtain a prompt and equitable resolution to a complaint.

As soon as possible but no later than three working days following receipt of a complaint, the Building Principal, Director of Special Education, or their designee should begin an investigation of the complaint according to the following steps – not necessarily in the order below:

1. Interview the victim and document the conversation. Instruct the victim to have no contact or communication regarding the complaint with the alleged harasser, hazer, and/or bully. Ask the victim specifically what action he/she wants taken in order to resolve the complaint. Refer the victim, as appropriate, to school social workers, school psychologists, crisis team managers, other school staff, or appropriate outside agencies for counseling services.
2. Review any written documentation of the harassment, hazing, and/or bullying prepared by the victim. If the victim has not prepared written documentation, request that the victim do so, providing alternative formats for individuals with disabilities and small children, who have difficulty writing and need accommodation.
3. Interview the alleged harasser, hazer, and/or bully regarding the complaint and inform the alleged harasser, hazer, and/or bully that if the objectionable conduct has occurred, it must cease immediately. Document the conversation. Provide the alleged harasser, hazer, and/or bully an opportunity to respond to the charges in writing.
4. Instruct the alleged harasser, hazer, and/or bully to have no contact or communication regarding the complaint with the victim and to not retaliate against the victim. Warn the alleged harasser, hazer, and/or bully that if he/she makes contact with or retaliates against the victim, he/she will be subject to immediate disciplinary action.
5. Interview any witnesses to the conduct which is the subject of the complaint. Where appropriate, obtain a written statement from each witness. Caution each witness to keep the complaint and his/her statement confidential.
6. Review all documentation and information relevant to the complaint.

7. Use appropriate informal methods to resolve the complaint, including but not limited to:
 - * suggesting mediation as a potential means of resolving the complaint;
 - * discussion with the accused harasser, hazer, and/or bully, informing him/her of the district's policies and indicating that the behavior must stop;
 - * suggesting counseling and/or sensitivity training;
 - * conducting training for the department or school in which the behavior occurred, calling attention to the consequences of engaging in such behavior;
 - * requesting a letter of apology to the complainant;
 - * writing letters of caution or reprimand; and/or
 - * separating the parties.
8. Parent/Student/Employee Involvement and Notification
 - a. Parents of student victims and accused students shall be notified within one school day of allegations that are serious or involve repeated conduct.
 - b. The parents or advocates of students who file complaints will be interviewed and kept apprised of both informal and formal investigation and resolution procedures.
 - c. If either the victim or the accused is a disabled student receiving special education services under an IEP or section 504/Americans with Disabilities Act accommodations, the Committee on Special Education will be consulted to determine the degree to which the student's disability either caused or is affected by the harassment, hazing, or bullying, or policy violation. In addition, due process procedures required for persons with disabilities under state and federal law shall be followed.
 - d. Submit a copy of all investigation and interview documentation to the Superintendent.
 - e. Report back to both the victim and the accused, notifying them in writing, and also in person as appropriate, regarding the outcome of the investigation and the action taken to resolve the complaint. Instruct the victim to report immediately if the objectionable behavior occurs again or if the alleged harasser, hazer, and/or bully retaliates against him/her.

- f. Notify the victim that if he/she desires further investigation and action, he/she may request a district level investigation by contacting the Superintendent of Schools.
- g. Where incidents involve violations of civil rights, notify the victim of his/her right to register complaints with the U.S. Department of Education's Office for Civil Rights and/or a private attorney. Employees also have the right to register complaints with the federal Equal Employment Opportunity Commission and the New York State Division of Human Rights. Nothing in these regulations shall be construed to limit the right of the complainant to file a lawsuit in either state or federal court.

If the initial investigation results in a determination that harassment, hazing, and/or bullying did occur, the investigator will promptly notify the Superintendent, who shall then take prompt disciplinary action in accordance with district policy, any applicable collective bargaining agreement, and the law.

If a complaint received by the Building Principal, Director of Special Education, or their designee contains evidence or allegations of serious or extreme harassment, hazing, or bullying, or of such acts which would shock the conscience of a reasonable person, the complaint shall be referred promptly to the Superintendent. In addition, where the Building Principal, Director of Special Education, or their designee has a reasonable suspicion that the alleged harassment, hazing, or bullying incident involves criminal activity, he/she should immediately notify the Superintendent, who shall then contact the school attorney and appropriate child protection law enforcement authorities. Where criminal activity is alleged or suspected by a district employee, the accused employee shall be suspended pending the outcome of the investigation, consistent with all contractual or statutory requirements.

Any party who is not satisfied with the outcome of the initial investigation by the Building Principal, Director of Special Education, or their designee may request a district-level investigation by submitting a written complaint to the Superintendent within 30 days.

B. District-level Procedures

The Superintendent shall promptly investigate and resolve all harassment, hazing, or bullying complaints that are referred to him/her, as well as those appealed to the Superintendent following an initial investigation by the Building Principal, Director of Special Education, or their designee. In the event the complaint involves the Superintendent, the complaint shall be filed with or referred to the Board President, who shall refer the complaint to a trained investigator not employed by the district.

The district level investigation should begin as soon as possible but not later than three working days following receipt of the complaint by the Superintendent or Board President.

In conducting the formal district level investigation, the district will endeavor to use individuals who have received formal training regarding such investigations or that have previous experience investigating such complaints.

If a district investigation results in a determination that harassment, hazing, or bullying did occur, prompt corrective action will be taken to end the misbehavior. Where appropriate, district investigators may suggest mediation as a means of exploring options of corrective action and informally resolving the complaint.

No later than 30 days following receipt of the complaint, the Superintendent (or in cases involving the Superintendent, the Board-appointed investigator) will notify the victim and alleged perpetrator, in writing, of the outcome of the investigation. If additional time is needed to complete the investigation or take appropriate action, the Superintendent or Board-appointed investigator will provide all parties with a written status report within 30 days following receipt of the complaint.

Retaliation Prohibited

Any act of retaliation against any person who opposes harassment, hazing, and/or bullying, or who has filed a complaint, is prohibited and illegal, and therefore subject to disciplinary action. Likewise, retaliation against any person who has testified, assisted, or participated in any manner in an investigation, proceeding, or hearing of harassment, hazing, and/or bullying complaint is prohibited. For purposes of this policy, retaliation includes but is not limited to: verbal or physical threats, intimidation, ridicule, bribes, destruction of property, spreading rumors, stalking, harassing phone calls, and any other form of harassment. Any person who retaliates is subject to immediate disciplinary action, up to and including suspension or termination.

Discipline/Penalties

Any individual who violates this policy by engaging in prohibited harassment, hazing, or bullying will be subject to appropriate disciplinary action. Disciplinary measures available to school authorities include, but are not limited to the following:

Students: Discipline may range from a reprimand up to and including suspension from school, to be imposed consistent with the student conduct and discipline policy and applicable law.

Employees: Progressive discipline may range from a warning up to and including termination, to be imposed consistent with all applicable contractual and statutory rights.

Volunteers: Penalties may range from a warning up to and including loss of volunteer assignment.

Vendors: Penalties may range from a warning up to and including loss of district business.

Other individuals: Penalties may range from a warning up to and including denial of future access to school property.

False Complaints

False or malicious complaints of harassment, hazing, and/or bullying may result in corrective or disciplinary action taken against the complainant.

Training

All students and employees shall be informed of this policy in student and employee handbooks and student registration materials. A poster summarizing the policy shall also be posted in a prominent location at each school. All secondary-school student-body officers shall receive district training about the policy at the beginning of each school year.

All new employees shall receive information about this policy and regulation at new employee orientation. At least once a year, all employees shall receive information about this policy and regulation, and the district's commitment to a harassment-free, hazing-free, and bullying-free environment. Administrative employees who have specific responsibilities for investigating and resolving complaints of harassment, hazing, or bullying shall receive yearly training on this policy, regulation, and related legal developments.

Principals in each school and program directors shall be responsible for informing students and staff on a yearly basis of the terms of this policy and regulation, [including but not limited to: the procedures for filing a complaint; procedures for investigating and resolving complaints; general issues surrounding harassment, harassment, hazing and bullying; the rights and responsibilities of students and employees; and the impact of harassment, hazing, or bullying on the victim and the bystander.]

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