

Policy on the Prevention of Bullying of Students

The Rochester School District/Independent School recognizes that all students should have a safe, orderly, civil and positive learning environment.¹ Bullying is a form of dangerous and disrespectful behavior that will not be permitted or tolerated. Bullying may involve a range of misconduct that, based on the severity, will warrant corrective action and/or discipline. Behaviors that do not rise to the level of bullying may still be subject to intervention and/or discipline under another section of the discipline plan or policy.

For the purposes of this policy, “bullying” is defined as any overt act or combination of acts, including an act conducted by electronic means, directed against a student by another student or group of students and which:

- A. is repeated over time;
- B. is intended to ridicule, humiliate, or intimidate the student; and
- C. either:
 - a. occurs during the school day on school property, on a school bus or at a school-sponsored activity; or
 - b. does not occur during the school day on school property, on a school bus, or at a school-sponsored activity and can be shown to pose a clear and substantial interference with another student’s right to access educational programs.²

Examples of bullying include:

- Name-calling and verbal taunts
- Physical threats or actual physical harm
- Off-campus text messages or social media posts that ridicule or intimidate to the extent that the targeted student is not able to fully access the school’s programs

In order to be bullying, incidents such as the ones described above must be *repeated over time, directed at a particular student, and intended to ridicule, humiliate or intimidate.*

In some cases, acts of bullying may constitute unlawful harassment, where the conduct is based on or motivated by a student’s or student’s family member’s actual or perceived:

Race	Sexual Orientation
Creed	Gender Identity
Color	Marital Status
National Origin	Disability
Sex	

Any allegations of harassment will be addressed under the _____ School District’s Policy on the Prevention of Harassment of Students.

¹ 16 V.S.A. §570(a)

² 16 V.S.A. §11(a)(32)

Reporting Bullying Complaints

The principal or headmaster of each school in the Rochester School District/Independent School will annually designate two employees to receive complaints of bullying and harassment. The names and contact information for those designated employees can be found

For the purposes of this policy, “school employee” means any person employed directly by or retained through a contract with the District/Independent School, an agent of the school, a school board member/member of the board of trustees, a student teacher, an intern, or a school volunteer. “Agent of the school” includes supervisory union staff.

- A. Student reporting: any student who believes that s/he has been bullied under this policy, or who witnesses or has knowledge of conduct that s/he reasonably believes might constitute bullying, is encouraged to report the conduct to a designated employee or to any other school employee.
- B. School employee reporting: Any school employee who witnesses conduct that s/he reasonably believes might constitute bullying shall take reasonable action to stop the conduct and to prevent its recurrence and shall immediately report it to a designated employee. Any school employee who directly receives information about conduct that might constitute bullying shall immediately report it to a designated employee.
- C. Parent reporting: Any parent or legal guardian/custodian who witnesses conduct that s/he reasonably believes might constitute bullying or who reasonably believes his/her child or ward is being bullied should promptly report the conduct to a designated employee or any school employee.
- D. Documentation of the report: If the complaint is oral, the designated employee shall reduce the complaint to writing, including the time, place, and nature of the alleged conduct, and the identity of the complainant, alleged perpetrator(s), and any witnesses.
- E. False complaint: Any person who knowingly makes a false accusation regarding bullying may be subject to disciplinary action up to and including suspension and expulsion with regard to students, or up to and including discharge with regard to employees. There shall be no adverse action taken against a person for reporting a complaint of bullying when the person has a good faith belief that bullying occurred or is occurring.
- F. Confidentiality and Record Keeping: The privacy of the complainant, the accused individual, and the witnesses shall be maintained consistent with the Districts’ obligations to investigate, to take appropriate action, and to comply with laws governing the disclosure of student records or other applicable discovery or disclosure obligations.

Response to a Bullying Complaint

For the purposes of this policy “school administrator” means a superintendent, principal/head of school/technical center director, or his/her designee.

- A. Notification: Upon receipt of a complaint of bullying the designated employee will immediately notify the school administrator of the complaint. If either the complainant or the accused individual is under the age of 18, his or her parent(s) or guardian(s) shall

be promptly notified that a complaint of bullying has been filed and be provided with a copy of this policy.

- B. **Investigation:** Unless special circumstances are present and documented, such as reports to the Department for Children and Families (“DCF”) or the police, school vacations, or other witness absence/unavailability, the school administrator shall:
- a. No later than **one school day** after the filing of the complaint with a designated employee initiate or cause to be initiated, an investigation of the allegations. The school administrator shall assign a person to conduct the investigation; nothing herein shall be construed to preclude the school administrator from assigning him/herself or a designated employee as the investigator.
 - b. No later than **five school days** from the filing of the complaint with the designated employee, the investigator shall submit a written determination to the school administrator. The report shall include a statement of the findings of the investigator as to whether the allegations have been substantiated, and as to whether the alleged conduct constitutes bullying.
- C. **Consequences for Violations of This Policy**³
- a. If, after investigation, the school finds that the alleged conduct occurred and that it constitutes bullying, the school may take prompt and appropriate disciplinary and shall take remedial action reasonably calculated to stop the bullying and prevent any recurrence of bullying. Examples of remedial action include: mediation between the parties, education and counseling for the bully, and safety planning.
 - b. Violators of the bullying policy shall - based on relevant surrounding facts and circumstances, including but not limited to a consideration of prior instances of similar behavior and the student’s overall disciplinary history - be subject to the following potential discipline and/or remedial action(s):
 - i. Awareness/Education/Counseling;
 - ii. Acts of restitution;
 - iii. In-school suspension;
 - iv. Out of school suspension; or,
 - v. Expulsion.
 - c. Safety Planning⁴
 - i. A safety plan shall be developed in all instances where a student has been the target of bullying that results in physical harm and/or the student is known to be expressing suicidal ideation as a result of bullying. A safety plan shall not be considered a substitute for in-school procedures and policies that apply to students experiencing mental health crises.
 - ii. A safety plan should be considered in instances where the targeted student is known to have difficulty accessing the educational programs at the school as a result of bullying.
 - iii. A safety plan may include such measures as checking in with the target and his/her parents on a regular basis, identifying a safe in-school person for the target to seek out when s/he feels threatened, informing teachers to

³ 16 V.S.A. § 570c(5).

⁴ Not required by law, but considered best practice to prevent recurrence of harm.

pay particular attention to interactions/ dynamics between identified students and rearranging the schedule of the perpetrator, and providing additional supervision in areas ordinarily subject to lesser supervision (e.g., lunchroom, playground).

- D. Parental notification: Upon completion of the investigation, the school administrator will notify the parent(s) or guardian of the complainant and accused individual(s) of the outcome of the investigation. In cases where the school determines that bullying has occurred, a school administrator may seek a waiver of the confidentiality rights of the perpetrator(s) in order to inform the complainant of any specific disciplinary action taken.
- E. Appeal of Discipline Decisions: A person determined to be in violation of this policy and subjected to disciplinary action under it may appeal the determination and/or the disciplinary action(s) taken in the same manner as other disciplinary actions, in accordance with the District's disciplinary policy, applicable statutes, or collective bargaining agreements.

Reporting to Other Agencies

- A. Reports to Department of Children and Families: When a complaint made pursuant to this policy 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. If the victim is over the age of 18 and a report of abuse is warranted, the report shall be made to Adult Protective Services in accordance with 33 V.S.A. § 6901 et seq.
- B. Reports to law enforcement⁵: Information obtained and documented by school administration regarding the school's response to notice of student conduct that may constitute bullying may constitute an "educational record" regarding the student or student(s) involved as defined by the Family Education Rights and Privacy Act.⁶ Accordingly, such information may not be disclosed to local law enforcement without prior parent approval except in response to a lawfully issued subpoena⁷, or in connection with an emergency if disclosure is necessary to protect the health or safety of the student or other individuals.⁸
 - a. Nothing in this policy shall preclude persons from reporting incidents and/or conduct witnessed first-hand that may be considered to be a criminal act to law enforcement officials.⁹ Such conduct includes but is not limited to: physical attacks resulting in bodily harm, assault, and simple assault.
- C. Continuing Policy to Investigate: Reports made to either DCF or law enforcement shall not be considered to absolve the school administrators of their obligations under this policy to pursue and complete an investigation upon receipt of notice of conduct which may constitute bullying.

⁵ 16 V.S.A. § 570c(4).

⁶ 20 U.S.C. § 1232g(a)(4)(A).

⁷ 34 C.F.R. § 99.31(a)(9)(ii).

⁸ 34 C.F.R. § 99.36(c) (requiring proof of an "articulable and significant threat to the health and safety of others). There is no affirmative obligation imposed by the health and safety exception requiring disclosure by the school district under these circumstances, only the option for disclosure. Id.

⁹ Id.

Dissemination of Information, Training, and Data Reporting

- A. Notice to parents and employees: Annually, prior to the commencement of curricular and co-curricular activities, the School District/Independent School shall provide notice to custodial parents or guardians, staff members, and contracted employees of its prohibition against bullying, the procedures concerning reporting and investigating bullying and the possible disciplinary consequences for bullying.
- B. Notice to students: The superintendent shall develop and initiate age-appropriate programs to annually inform students about the substance of the policy and procedures in order to help prevent bullying. Notice to students shall be in age appropriate language and will include examples of bullying. Such notice shall inform students and parents that bullying that *does not* occur during the school day, on school property, on a school bus, or at a school-sponsored event still may be subject to disciplinary action, pursuant to 16 V.S.A. §§ 11(a) (32) and 1162(a)(3), if the misconduct can be shown to pose a clear and substantial interference with another student's equal access to educational programs.

Notice to parents and students shall state that any student who knowingly makes false accusations regarding bullying may be subject to disciplinary action.

- C. Training: The superintendent shall implement training for school staff within the context of an annual professional development program. Such training shall be designed to enable staff to prevent, recognize, and respond to bullying.
- D. Date reporting: The Rochester School District/Independent School delegates the responsibility of data collection to *[provide title of person]*. S/he shall collect data on the number of reported incidents of bullying and the number of incidents that have been verified and shall make such data available to the Vermont Department of Education.