

Microsoft Teams Virtual Meeting
Call In: 1-802-828-7667
Conference ID: 215 044 032#

DRAFT MEETING MINUTES

Committee Members Present: Xusana Davis (Chair); Lynn Currier Stanley (Vice Chair); Sarah Robinson, Amanda Garces, Heather Lynn, Chelsea Myers, Jay Nichols, Sparks, Jeff Francis,

AOE: Heather Bouchey, Tom Faris, David Kelley, Meghan Jaird, Maureen Gaidys

Members of the public/others: Pam,

Note Taker: Amanda Garces

Next steps:

- Everyone is requested to fill out the survey from Xusana. Responses will remain anonymous unless group members wish to identify themselves in one of the answers. This survey will assist Xusana in understanding how to enhance the group experience to be more productive and effective.
- Xusana will compile a side-by-side, quick table indicating her assessment of our current status, accompanied by a visual aid to help the group comprehend our progress on our assigned tasks and legislation.
- Heather Lynn will present a follow-up, focusing on the training and guidance for the group.
- Others are encouraged to share insights on how guidance in schools translates directly to on-the-ground implementation in schools.
- Jay will share the PowerPoint presentation of the survey he conducted for the field.
- There is a need to establish a shared understanding of whether the issues stem from policy, language, implementation, or a combination of these factors. Lynn has volunteered to facilitate a conversation around identifying these problems.
- Data collection will be presented by David Kelly.

Questions that should be answered at some point.

- 1) What is the actual law?
- 2) How do school districts and administrators perceive the law?
- 3) Is there a disconnect between these perceptions?
- 4) What specific guidance is provided? What are they required to do?
- 5) Do we require clearer legislative language or better guidance?

Welcome & Introductions

The meeting convened 10:05

Call to Order/Amendments to Agenda/Introductions

Sparks requested to add to the agenda a point about the process and how the group operates.

Review and Approve [Minutes for September 11, 2023](#) .

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| Motion: Motion to approve the meeting notes from September 11th, 2023 |
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| Moved by: Sarah Robinson Seconded by: Lynn Stanley |
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In favor:

Xusana Davis (Chair); Lynn Currier Stanley (Vice Chair); Sarah Robinson, Amanda Garces, Heather Lynn, Chelsea Myers, Jay Nichols, Sparks, Jeff Francis, **Opposed**

by:

Motion Passed: yes

Xusana shared the enabling statute that established this working group and outlined the powers and duties assigned to the group for study. This includes examining the current protections for students regarding harassment and discrimination, along with making recommendations for legislative action. Specifically, the group is tasked with examining the severe and pervasive standard, compulsory attendance, and the resources necessary for schools to create harassment prevention initiatives and support systems for students who have encountered harassment. Our responsibility is to provide comprehensive advice for legislative action, primarily at the state level.

Opportunity for Public to be Heard.

Pam wanted to bring to the Group's attention a racist incident that occurred at U 32 middle and high school last week. She inquired about the group's guidelines for schools in handling such incidents. At her daughter's school, someone vandalized lockers with swastikas and the N word, which has been deeply distressing. Pam expressed dissatisfaction with the administration's response, which was only a general email.

As far as Pam knows, the student responsible isn't facing expulsion. She is concerned about the safety of other students, particularly those from BIPOC and Jewish faith backgrounds. She's unsure about the adequacy of the administration's actions. Pam is seeking guidance on how this working Group will advise districts and schools in addressing what she considers a hate crime, a sentiment echoed by other parents, although not acknowledged as such by the administration.

Representative Borrows: speaking as a Vermonter, a parent, a school board chair and state representative of the Windsor one district.

read the following:

The Vermont Advisory Council to the US Commission on Human Rights issued a report on racial harassment years ago, in which one of the recommendations that was made was a statewide coordinated effort to combat racism in our schools. Years later, this did not happen. In fact, racially motivated bullying and harassment has not decreased in the time since the report was released. It has increased, but how do we even know whether these

data are accurate since they must rise to the level of severe and pervasive in order to be even taken into account?

The distinction between bullying and harassment is vague and does not reflect the experiences of students of color, students with disabilities, and students who identify as LGBTQIA. These are students who report being subjected to actions by their peers that are intended to ridicule, humiliate or intimidate them on a repeated basis. And that have substantially interfered with their right to access to education when we consider students who are being harassed, please let us not limit our evidence to slipping grades to absences. Both of these are evidence, but in the case of students may be irrelevant to those being harassed. I can tell you from my own experience of being harassed from my partner's experience of being harassed from my two children's ongoing experience being harassed, that grade performance and attendance often have nothing to do with enduring harassment.

The total, totality of harassing behavior is being completely ignored. A person with intersecting identities must prove severe or pervasive harassment on each separate Basis. A person who has been harassed by multiple people at the same time must prove severe or pervasive harassment on each separate basis. A single act, that is severe does not pass muster. These are all tragic flaws in how we willfully ignore the actual pervasiveness of harassment in our schools, which are a state public good.

All Vermonters of all ages should be able to expect to be treated with respect and dignity. The way students are treated in our schools sets them up for life. What messages? Is our state sending to our students that they belong among us?, that they will be treated with respect and dignity?, or that they're valued less than the system trying to protect itself? Do we want them to remain in Vermont after they've graduated from our education system? Have we shown them indeed, that we want them to be their whole selves here? Or have we shown them that we care but that we don't care enough to make them whole? And what exactly do we expect to happen if we don't prioritize them over everything else? Please, please employ the courage to make the changes that have been suggested by our Office of Racial Equity, our Human Rights Commission, by countless Vermont students over the years. We need to take big and significant strides on the path to dignity for all Vermonters.

Severe or Pervasive Amanda Garces

- Shared a segment of I am from here [I am from here — KCP \(kingdomcounty.org\)](https://kingdomcounty.org)
- **Amanda** shared that the state eliminated the severe or pervasive in housing, employment, and places of public accommodation except in our education statute.
- Amanda focused on 16 V.S.A. § 570f § 570f. Harassment; notice and response. And shared this document. [Amanda Garces Document](#) Amanda shared the following points from that document:
- A segment of "I am from here, I am from here" was shared - KCP (kingdomcounty.org).
- Amanda highlighted that the state removed the severe or pervasive standard in housing, employment, and places of public accommodation, except in our education statute.
- Amanda focused on 16 V.S.A. § 570f, which addresses harassment, notice, and response, sharing the above document.

- She outlined several key points from the document, emphasizing that the school must recognize that certain conduct may constitute harassment and should promptly investigate to determine its occurrence.
- In discussions, concerns were raised regarding the perceived impact leading to a school-to-prison pipeline due to disciplinary actions. Amanda clarified that this statute does not dictate a disciplinary path but instead directs schools to prevent misconduct from escalating to harassment by implementing the plan detailed in Subdivision 1161a(a)(6) of this title, which refers to the discipline statute.
- Amanda emphasized that the statute, 16 V.S.A. 570f, does not mandate specific disciplinary actions or the use of restorative justice.
- She stressed that educational institutions must take swift and appropriate remedial action if alleged conduct is noticed, in line with the statute.
- Amanda pointed out the conditions necessary for a student to prevail in a claim filed pursuant to this section, underlining the requirements related to unwelcome conduct and its impact on a student's equal access to educational opportunities.
- Amanda shared recommendations from state law for alignment, suggesting a revision to the definition of harassment in 16 V.S.A. 1126 A 26)(A) to eliminate the stringent criteria of "substantially undermining educational performance," aiming for a definition that highlights conduct objectively undermining a student's education or access to school resources.
- She argued that the requirement of "educational performance" sets a high bar, which might not consider the experiences of some students, particularly citing research indicating its adverse effects on Black students in middle and high schools.
- Amanda referenced additional studies that supported the concerns expressed on the ground regarding these issues.
- **Heather Lynn** pointed out that the current definition does not exclusively focus on cases where educational performance is probably affected. She explained that the definition allows for six different possibilities, any one of which, when combined with conduct based on or motivated by a protected category, would be sufficient. The conduct may intend to affect a victim's access or school performance or create a hostile environment. If intent or proof of intent is lacking, the behavior's actual impact on access to resources or school performance, or the potential to create a hostile environment, can still constitute a violation.
- Heather provided an example: if a student directs offensive remarks based on her national origin, and despite achieving straight A's, she avoids certain areas in school, it could be considered a case where access to resources is affected. Even if personally unaffected, an ordinary average student might experience a hostile environment. This emphasizes that the definition does not demand subjective proof but objectively intimidating, hostile, or offensive environment.
- Heather stressed that school responses aren't solely based on statutory language but on the definition of peer harassment and the AOE model procedures, which mandate prompt reporting and investigation based on the belief, not proof, that behavior might violate the policy.

- Heather emphasized the importance of school personnel investigating cases they reasonably believe might violate the policy, training them on the various possibilities, which don't require proof of actual educational impact but rely on an objective standard. She advises not solely relying on self-reporting by students but also consulting teachers for insights during investigations for follow-up and support.
- She underlined that there's a lower threshold for the trigger of investigation and reports and that the preponderance of evidence standard is brought in at the end of the process, emphasizing that it's not necessary to find reduced grades or attendance to determine a violation of the harassment definition.
- Regarding bullying, Heather suggested a review of its definition, indicating that the standard for in-school behaviors is easily met without requiring an impact analysis.
- Heather suggested a compromise language she will be willing to endorse: "For definition of sexual harassment - which is the ONLY policy and statute definition of prohibited harassment of students to contain the language severe and pervasive language in the policy definition: I would propose: "A hostile environment exists where the harassing conduct [DELETE: is severe, persistent or pervasive so as to deny] denies or limits the students ability to participate in or benefit from the educational program on the basis of sex."

Discussion on this topic:

- The current system isn't serving students well. Why is this the case? Things aren't functioning optimally for schools, school staff, and administrators who feel burdened by the existing system's response mechanisms.
- Education needs more resources to address racism, as recommended in a report from 20 years ago. It's essential to aid administrators and teachers in understanding where these legal boundaries lie and consistently implementing them with integrity.
- If investigations don't align with these definitions, they might still identify disruptive behavior in the educational environment, warranting a response, even if it's not labeled with a statutory name. However, this demands resources and time, which understaffed administrators lack but earnestly require.
- It's suggested that the proposed changes aren't unnecessary but rather beneficial if schools are promptly guided on what these definitions entail.
- Overwhelmed administrators are doing their best, but they need more resources. There's a lot of focus on paperwork instead of providing practical resources to schools. Until the state starts supporting schools in that manner, this issue will persist.
- The law is potentially inclusive enough, but its effective implementation is a challenge.

- Training is needed not only for administrators but also for students. They need education on what constitutes harassment and its impact.
- Concerns were raised about potential harm from legislative changes, including free speech implications and increased expulsions. Lowering the standard might lead to more investigations and potential lawsuits.

Discussion on process:

- Sparks highly recommends that if the group is extended to ensure that individuals not directly in school operations, should understand how schools handle this work. There are designated employees conducting investigations almost daily.
- Lynn proposes that due to our limited number of meetings, it's crucial to delve deeply into problem identification. Where are the sticking points? Is it with the policy, the implementation, or the understanding of the policy? Once we pinpoint these issues, the focus should be on addressing them, providing a platform to communicate needed changes to the legislature.
- Amanda emphasizes the importance of ensuring that everyone is actively listening and understanding each other's perspectives. Having a mediator who can help everyone comprehend different viewpoints would be beneficial.
- Xusana believes a more effective conversation about school and student needs is possible once the group establishes a clear understanding of the desired policy changes. Determining necessary resources depends on the recommended policy alterations, focusing on matters like severe or pervasive standards, compulsory attendance, and other policy concerns, then addressing resource allocation.
- Sparks states moving forward requires certain actions, such as offering training sessions for those unaware of school-related training, hearing from students and administrators, and identifying the core issue to resolve concerning severe and pervasive standards.
- Sparks emphasizes the importance of allowing different opinions without fear of shame or bullying. He asks how the group will navigate disagreements, especially among individuals fearing being labeled racist or cowards. He stresses the common goal of benefiting students, families, and schools and expresses concern about the group's ability to operate effectively if members are inhibited by fear.
- Xusana echoes Sarah's point about not needing consensus but instead providing a comprehensive delineation of all the issues for the legislature to consider. Multiple

proposals can be presented, emphasizing the importance of offering a range of solutions.

Adjourn

The meeting adjourned at 10:59 a.m.

Meeting Minutes recorded by: Amanda Garces

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