

Dear Xusana,

The following represents feedback from Heather Lynn (VSBA representative), Jay Nichols (VPA representative), and Chelsea Myers (VSA representative).

In this feedback, where the text splits between the two proposals, we have edited Chelsea's original text by incorporating Amanda's text and adding new language. Amanda's text is in **red**, Chelsea's original draft language is left as is, and new additions to the text are in **green** any removal of text by a strikethrough (except in one case where the strikethrough indicates removal from statute, it is noted in a comment). Any comments to provide rationale are included in the comment feature.

A couple of broad comments:

We do not feel comfortable including the recommendations that we did not have an opportunity to discuss (for e.g. recomposition of the HHB Council) or had no votes to indicate preference from the Working Group.

We strongly urge the Working Group to stay within its stated charge.

The mention of S.103 is confusing as it is a reference to historical drafts of what is now Act 80 of 2023. This would not be easy to follow for the general public.

Please let us know if we can answer any questions.

Best,

Heather Lynn
Chelsea Myers
Jay Nichols

Report from the Working Group on Student Protections from Harassment and Discrimination in Schools

January 16, 2024

Background

The Working Group on Student Protections from Harassment and Discrimination in Schools was established in Act 29 of 2023, setting forth the following powers and duties:

“(c) Powers and duties. The Working Group shall study the current protections for students against harassment and discrimination in schools and make recommendations for legislative action to ensure Vermont students have the appropriate protections from harassment and discrimination. In conducting its analysis, the Working Group shall consider and make recommendations on the following issues:

- (1) eliminating the severe and pervasive standard for harassment and discrimination for students in educational institutions;*
- (2) compulsory educational attendance requirements for students who have been victims of harassment;*
- and*
- (3) the resources required for schools to develop harassment prevention initiatives as well as supports for students who have experienced harassment.”*

~~The Working Group on Student Protections from Harassment and Discrimination, created per [Act 29 of 2023 Section 5a](#), studies and gives recommendations for how to address harassment and discrimination experienced by students. The Working Group will cease to exist on February 1, 2024.~~

~~The specific charges of the Working Group on Student Protections from Harassment and Discrimination were to study the current protections for students against harassment and discrimination in schools and make recommendations for legislative action to ensure Vermont students have the appropriate protections from harassment and discrimination. It was tasked to consider making recommendations on the following issues:~~

Chelsea	Amanda
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- ~~(1) eliminating the severe and pervasive standard for harassment and discrimination for students in educational institutions;~~
- ~~(2) compulsory educational attendance requirements for students who have been victims of harassment; and~~
- ~~(3) the resources required for schools to develop harassment prevention initiatives as well as support for students who have experienced harassment.~~

~~The group first met on [Date] and met XX times before submitting this report on January 16, 2024.~~

Working Group Composition

Working Group Members: Heather Bouchey, AOE, **Interim** Secretary of Education; Amanda Lucia Garces, Vermont Human Rights Commission (HRC), Director of Policy, Education and Outreach; Sarah Robinson, Vermont Network Against Domestic & Sexual Violence, Deputy Director; Rebecca McBroom, Vermont-NEA, General Counsel; Heather Lynn, Vermont School Boards Association (VSBA) ~~Attorney~~; Jay Nichols, Vermont Principals' Association (VPA), Executive Director; Chelsea Myers, Vermont Superintendents Association (VSA), Associate Executive Director; Courage V Pearson, Director of Organizing, Outright VT, Executive Director; Xusana Davis, Executive Director of Racial Equity; Lynn Stanley-Currier, Vermont Chapter of the National Association of Social Workers (NASW), Executive Director; Cammie Naylor, Vermont Legal Aid (VLA); Henri Sparks, Harassment, Hazing, and Bullying Prevention Advisory Council (HHB), Chair.

Working Group Process

Chelsea	Amanda
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In a series of meetings, the Working Group delved into various perspectives, receiving input from principals, students, and caregivers provided through public comment and surveys.

The Working Group independently proposed potential recommendations based on the charges set forth in the law – the language around severe and pervasive, compulsory attendance requirements, and supports for schools and students. Individuals who made recommendations presented those recommendations to the group for discussion. After the discussion, Working Group members were given four votes to vote for their top priorities. Votes could be distributed however the working group members saw fit. Recommendations from that voting process that received priority votes from Working Group members are presented [herein](#).

~~In a series of meetings, the Working Group delved into various perspectives, gathering input from principals, students, and caregivers. We spent multiple sessions grasping the core issue and devising the best way forward, considering school liability and student protection.~~

~~This report incorporates feedback from various stakeholders, legislative considerations, and proposed reforms. It navigates through the strengths, challenges, and potential improvements within Vermont's existing school harassment response system. The following sections detail the perspectives of school leaders and caregivers, as well as the challenges faced by principals, providing valuable insights for informed decision-making:~~

~~The Vermont Principals Association surveyed XX principals. A summary of the findings is as follows:~~

~~Pros of the Current System According to School Principals:~~

- ~~● Effective and streamlined process.~~
- ~~● High quality training on legal requirements.~~
- ~~● Useful, and user friendly templates and tool kits~~

~~Cons of Current System According to School Leaders – Major Themes:~~

- ~~● One size fits all policies are especially challenging for elementary schools.~~
- ~~● Need for more educational and restorative options, and less punitive measures for younger kids.~~
- ~~● Time consuming process, posing a major burden.~~
- ~~● Developmentally inappropriate language.~~
- ~~● Overwhelming for educators not trained as investigators and judges.~~

	<ul style="list-style-type: none"> ● VSBIT letters are hard for parents to understand. ● Administrators are overwhelmed with legal responsibilities. ● Misuse of terms like harassment and bullying. ● Lack of behavior changes despite legal protection. ● Confidentiality barriers. ● Principals are caught in the middle and are unable to focus on culture because they are burdened with investigative roles.
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Recommendations

Recommendations are presented by the specific charge set out in the law and **where appropriate** ordered from the highest to the lowest number of votes.

Charge 1: Eliminating the severe and pervasive standard for harassment and discrimination for students in educational institutions.

Chelsea	Amanda
<p>The Working Group dedicated substantial time to grappling with the complexities of this issue and the different perspectives. The School Board Association and the Network Against Domestic Violence presented a proposal to address our charge <u>to eliminate the severe and pervasive standard.</u></p> <p>The Working Group members reached an agreement on a recommendation that would amend the Vermont Peer Harassment Statute (16 V.S.A. § 11(a)(26)(B)(i) to explicitly prohibit sexual harassment which constitutes a 'hostile environment', employing language which eliminates the severe and pervasive standards which currently exists in the AOE Model Policy for the Prevention of Hazing, Harassment, and Bullying.</p> <p>These proposals are detailed below:</p>	<p>The Working Group dedicated substantial time to grappling with the complexities of this issue and the different perspectives. The School Board Association and the Network Against Domestic Violence presented a proposal to address our charge. Unfortunately, due to time constraints, there was not enough opportunity to fully grasp the language introduced in the last legislative session aimed at removing barriers for students facing harassment, particularly concerning the severe and pervasive standard and its alignment with educational performance. Despite this, there was consensus among Working Group members to propose an amendment to the Vermont Harassment Statute 16 V.S.A. § 11(a)(26)(B)(i) explicitly prohibiting "Hostile Environment" Sexual Harassment.</p>

A. Proposed Amendments to Vermont Peer Harassment Statute 16 V.S.A. § 11(a)(26)(B)(i) To Explicitly Prohibit “Hostile Environment” Sexual Harassment

1. *Context: Existing Vermont Law and Vermont Agency of Education Policy*

Vermont law currently prohibits harassment of students in Vermont schools as follows:

Harassment means an incident or incidents of verbal, written, visual, or physical conduct including any incident conducted by electronic means based on or motivated by a student’s or a student’s family member’s actual or perceived race, creed, color, national origin, marital status, sex, sexual orientation, gender identity, or disability that has the purpose or effect of objectively and substantially undermining and detracting from or interfering with a student’s educational performance or access to school resources or creating an objectively intimidating, hostile, or offensive environment.”

16 V.S.A. § 11(a)(26)(A).

The law, often referred to as the “peer harassment statute” continues to identify a few explicit subcategories of harassment, including “sexual harassment.” The statute, however, only prohibits one category or “type” of sexual harassment - that which is traditionally known to be “quid pro quo” conduct - where it satisfies the following definition:

(i) Sexual harassment, which means conduct that includes unwelcome sexual advances, requests for sexual favors and other verbal, written, visual, or physical conduct of a sexual nature when one or both of the following occur:

~~Recommendations for Statutory Change~~

~~The Working Group is proposing that 16 V.S.A. §11(a)(26)(B)(i) be amended to explicitly provide statutory protection for students from “hostile environment” sexual harassment from both students and school employees and that it do so without reference to the terms “severe, persistent or pervasive” as follows (underlined text are additions):~~

~~.....~~

~~(26)(A) “Harassment” means an incident or incidents of verbal, written, visual, or physical conduct, including any incident conducted by electronic means, based on or motivated by a student’s or a student’s family member’s actual or perceived race, creed, color, national origin, marital status, sex, sexual orientation, gender identity, or disability that has the purpose or effect of objectively and substantially undermining and detracting from or interfering with a student’s educational performance or access to school resources or creating an objectively intimidating, hostile, or offensive environment.~~

~~(26)(B) “Harassment” includes conduct that violates subdivision (A) of this subdivision (26) and constitutes one or more of the following:~~

~~(i) _____ Sexual harassment, which means conduct that includes unwelcome sexual advances, requests for sexual favors and other verbal, written, visual, or physical conduct of a sexual nature and any of the following:~~

(I) Submission to that conduct is made either explicitly or implicitly a term or condition of a student's education.

(II) Submission to or rejection of such conduct by a student is used as a component of the basis for decisions affecting that student.

Vermont's Peer Harassment Statute 16 V.S.A. §11(a)(26)(B)(i).

The statute does not, however, prohibit sexual harassment which could constitute a "hostile environment."

In creating the Model Policy for the Prevention of Harassment, Hazing and Bullying (2015) ("Model Policy") the Vermont Agency of Education ("AOE") expanded the protections with respect to sexual harassment for students beyond that provided by Vermont law. It prohibits sexually harassing behaviors directed towards students which could constitute either the current statutory definition of "quid pro quo" or, alternatively a prohibition for conduct occurring between students or non-employee third parties which constitute a "hostile environment." The policy definition, set forth immediately below, does so within the bold underlined italicized text:

"...unwelcome conduct of a sexual nature, that includes sexual violence/sexual assault, sexual advances, requests for sexual favors, and other verbal, written visual or physical conduct of a sexual nature, and includes situations when one or both of the following occur:

i. Submission to that conduct is made either explicitly or implicitly a term or condition of a student's education, academic status, or progress; or

~~(a) When one or both of the following occur:~~

~~(I) Submission to that conduct is made either explicitly or implicitly a term or condition of a student's education. —~~

~~(II) Submission to or rejection of such conduct by a student is used as a component of the basis for decisions affecting that student.~~

~~(b) A hostile environment is created. A hostile environment exists where the harassing conduct denies or limits the student's ability to participate in or benefit from the educational program on the basis of sex.~~

~~Members of the Working Group on Student Protections from Harassment and Discrimination in Schools have considered and heard concerns regarding the impact of the terms "so pervasive" and "so severe" and the use of single/multiple instances concepts on this liability standard. The proposal made by VSBA and the Network Against Domestic Violence regarding 16 V.S.A. §570f, "Harassment; notice and response," had no consensus among Working Group members.~~

~~Proposed Statutory Change by VSBA and the Network Against Domestic Violence:~~

~~Propose that the statute be amended as follows (new language underlined, removed language struck)~~

ii. Submission to or rejection of such conduct by a student is used as a component of the basis for decisions affecting that student.

Sexual harassment may ALSO include student-on-student conduct or conduct of a non-employee third party that creates a hostile environment. A hostile environment exists where the harassing conduct is severe, persistent or pervasive so as to deny or limit the student's ability to participate in or benefit from the educational program on the basis of sex.

Source: AOE 2015 Model Policy Part IV.G(1).(Definitions). (UNDERLINED BOLD ITALICIZED TEXT GOES BEYOND STATUTORY DEFINITION).

This additional policy language denotes AOE's additional protections for students from sexual harassment constituting a "hostile environment." That definition, however, in turn, raised concerns for some members of the working group in that it:

- (1) contains the terms "severe, persistent or pervasive;"
- (2) is arguably unsupported by Vermont statute.

2. Summary of Working Group Discussion

The Working Group on Student Protections From Harassment and Discrimination in Schools (hereinafter "Working Group") explored through multiple meetings the AOE's Model Policy's definition of "hostile environment/sexual harassment" and in particular the impacts its inclusion of the terms "severe, persistent or pervasive" have had on its application within Vermont K-12 institutions and its ramifications for Vermont students. While there remains disagreement among members on the impact those terms have on the scope of the protection actually provided to Vermont students, it can be conceded that the objected-to language - originally

~~16 V.S.A. §570f "Harassment; notice and response"....~~

~~(c) To prevail in an action alleging unlawful harassment filed pursuant to this section and V.S.A. chapter 139, the plaintiff shall prove both of the following:~~

~~(1) The student was subjected to unwelcome conduct based on the student's or the student's family member's actual or perceived membership in a category protected by law by 9 V.S.A. § 4502.~~

~~(2) The conduct was either:~~

~~(A) for multiple instances of conduct, so pervasive that when viewed from an objective standard of a similarly situated reasonable person, it substantially and adversely affected the targeted student's equal access to educational opportunities or benefits provided by the educational institution; or~~

~~(B) for a single instance of conduct, so severe that when viewed from an objective standard of a similarly situated reasonable person, it substantially and adversely affected the targeted student's equal access to educational opportunities or benefits provided by the educational institution.~~

~~When viewed from an objective standard of a similarly situated reasonable person, the targeted student's equal access to educational opportunities or benefits provided by the~~

developed within the context of employment law to govern the conduct of adults in very different circumstances than an educational environment for students many if not most of whom are minors - may result in a misapplication and the unnecessary restriction of the protections intended by the AOE's Model Policy. In such instances the language operates to reduce or eliminate protections intended for Vermont students by the Agency policy. Additionally, the AOE's Model Policy prohibition against "hostile environment" sexual harassment currently lacks Vermont statutory support.

3. *Recommendations for Statutory Change*

Accordingly, (**"a majority of the Working Group" OR "the Working Group"**) recommends that 16 V.S.A. §11(a)(26)(B)(i) be amended to explicitly provide statutory protection for students from "hostile environment" sexual harassment from both students and school employees, and that it do so without reference to the terms "severe, persistent or pervasive" - as follows (underlined text are additions):

16 V.S.A. §11. Classifications and Definitions.

(a)

....

(26)(A) "Harassment" means an incident or incidents of verbal, written, visual, or physical conduct, including any incident conducted by electronic means, based on or motivated by a student's or a student's family member's actual or perceived race, creed, color, national origin, marital status, sex, sexual orientation, gender identity, or disability that has the purpose or effect of objectively and substantially

~~educational institution was substantially and adversely affected.~~

~~Other members of the Working Group, including The Human Rights Commission, views this change as removing the term "severe or pervasive" but still leaving students vulnerable and with lower protections. The current recommendation in S.103, suggested a change in the definition of harassment. By deleting the requirement that harassment "substantially" impact a student's educational performance." This recommendation is informed by years of expertise in school cases and research, such as the study conducted by Chavous, T. M., Rivas-Drake, D., Smalls, C., Griffin, T., & Cogburn, C. (2008).~~

~~According to Chavous and colleagues' research on Black middle and high school students in a middle class, suburban school district, showed that boys generally reported more teacher and peer racial discrimination than girls did. These experiences had negative impacts on academic engagement indicators among boys, including grade performance, self concept, and school importance values. For girls, racial discrimination was associated with fewer indicators of academic engagement but more negative psychological adjustment outcomes. The findings suggest that Black boys experiencing racial discrimination at school are at heightened risk for school disengagement, while Black girls may be less vulnerable to the negative impacts of these experiences on academic engagement, albeit with psychological costs¹.~~

¹ Chavous et al. (2008). "Gender Matters, Too: The Influences of School Racial Discrimination and Racial Identity on Academic Engagement Outcomes among African American Adolescents

undermining and detracting from or interfering with a student's educational performance or access to school resources or creating an objectively intimidating, hostile, or offensive environment.

(26)(B) "Harassment" includes conduct that violates subdivision (A) of this subdivision (26) and constitutes one or more of the following:

(i) Sexual harassment, which means conduct that includes unwelcome sexual advances, requests for sexual favors and other verbal, written, visual, or physical conduct of a sexual nature and any of the following:

(a) When one or both of the following occur:

(I) Submission to that conduct is made either explicitly or implicitly a term or condition of a student's education.

(II) Submission to or rejection of such conduct by a student is used as a component of the basis for decisions affecting that student.

(b) A hostile environment is created. A hostile environment exists where the harassing conduct denies or limits the student's ability to participate in or benefit from the educational program on the basis of sex.

The proposed amendment to 16 V.S.A. §11(a)(26) acts to codify protections already applied and provided to Vermont students in Vermont schools from sexual harassment via the AOE's Model Policy since 2015. The proposed amendment would additionally

~~In addition, S.103 also sought to clarify the statutes by amending to read as follows:~~

~~ADD (C) Notwithstanding any judicial precedent to the contrary, the conduct described in this subdivision (a)(26) need not be severe or pervasive to constitute harassment. In determining whether conduct constitutes harassment:~~

~~The determination shall be made on the basis of the record as a whole, according to the totality of the circumstances, and a single incident may constitute harassment. Incidents that may be harassment shall be considered in aggregate with varying types of conduct and conduct based on multiple characteristics viewed in totality rather than in isolation.~~

~~(iii) Conduct may constitute unlawful harassment, regardless of whether:~~

~~(I) the complaining student is the person being harassed; (II) the complaining student acquiesced or otherwise submitted to or participated in the conduct; (III) the conduct is also experienced by others outside the protected class involved in the conduct; (IV) the complaining student was able to continue the student's education or access to school resources despite the conduct; (V) the conduct resulted in a physical or psychological injury; (VI) the conduct occurred outside the complaining student's school. (iv) Behavior that a reasonable person with the same protected characteristic would consider to be a petty slight or trivial inconvenience shall not constitute harassment pursuant to this subdivision (a)(26).~~

remove from the Model Policy’s sexual harassment definition the terms “*severe, persistent and pervasive*” and in so doing remove employment law concepts which were not drafted nor developed in the context of appropriate standards/protections intended for Vermont students. Finally, it clarifies that the conduct of staff and other school personnel, when directed at students, are covered by its prohibitions.

The group received a proposal on January 16, 2024, that it make a recommendation to the legislature to additionally amend 16 V.S.A. §11(a)(26) to add an additional section (C) that would explain how the statutory harassment definition should be interpreted and applied, there was insufficient time for members to engage in collaborative discussion and consider at length what the recommendation would mean for students, parents, and schools. Additionally, some members of the group expressed concern that consideration of this additional proposal falls outside of the charge set forth in the enacting legislation establishing the Working Group.

B. Proposed Amendment to the Standard Applied to Peer Harassment Civil Suit Claims under the Vermont Public Accommodations Act

1. Context: Existing Vermont Law

Vermont law currently provides students a right of recovery for money damages through a civil action brought against their Vermont school for educational harm resulting from acts of harassment. Recovery, however, is limited to cases satisfying the standards as set forth in 16 V.S.A. §570f, and contains the terms “*severe and pervasive*” and its related multiple/single instances construct.

16 V.S.A. §570f. “Harassment; notice and response” states in pertinent part:

...

~~Some members of the Working Group including the Human Rights Commission still support these statutory amendments to Title 16 as proposed by S.103.~~

(c) To prevail in an action alleging unlawful harassment filed pursuant to this section and 9 V.S.A. chapter 139, the plaintiff shall prove both of the following:

(1) The student was subjected to unwelcome conduct based on the student's or the student's family member's actual or perceived membership in a category protected by law by 9 V.S.A. § 4502.

(2) The conduct was either:

(A) **for multiple instances of conduct, so pervasive** that when viewed from an objective standard of a similarly situated reasonable person, it substantially and adversely affected the targeted student's equal access to educational opportunities or benefits provided by the educational institution; or

(B) **for a single instance of conduct, so severe** that when viewed from an objective standard of a similarly situated reasonable person, it substantially and adversely affected the targeted student's equal access to educational opportunities or benefits provided by the educational institution. (Emphasis added)

Summary of Working Group Discussion

~~Members of the Working Group on Student Protections From Harassment and Discrimination in Schools have considered and heard concerns regarding the impact of the terms "so pervasive" and "so severe" and the use of single/multiple instances concepts contained within Section 570f's liability standard. Again, members were not in agreement on the legal impact of those terms. Nevertheless, the members agree their inclusion may have the unintended effect of unduly limiting and circumscribing protections aimed at students by importing concepts and limitations developed~~

~~within the context of employment claims for adults. Removal of these terms and the conceptual structure of single/multiple instances eliminates unnecessary restrictions on the intended protections for Vermont students.~~

2. *State of 570f Recommendations for Statutory Change*

~~Accordingly, (“a majority of the Working Group” OR “the Working Group”) recommends that the statute be amended as follows to (new language underlined, removed language struck):~~

VSBA and the Network Against Domestic Violence offered the following proposal for the Working Group’s consideration with respect to amending Section 570f’s Civil Suit Statute:

16 V.S.A. §570f “Harassment; notice and response”

....

(c) To prevail in an action alleging unlawful harassment filed pursuant to this section and 9 V.S.A. chapter 139, the plaintiff shall prove both of the following:

(1) The student was subjected to unwelcome conduct based on the student’s or the student’s family member’s actual or perceived membership in a category protected by law by 9 V.S.A. § 4502.

(2) ~~The conduct was either:~~

~~(A) for multiple instances of conduct, so pervasive that when viewed from an objective standard of a similarly situated reasonable person, it substantially and adversely affected the targeted student’s equal~~

~~access to educational opportunities or benefits provided by the educational institution; or~~

~~(B) for a single instance of conduct, so severe that when viewed from an objective standard of a similarly situated reasonable person, it substantially and adversely affected the targeted student's equal access to educational opportunities or benefits provided by the educational institution.~~

When viewed from an objective standard of a similarly situated reasonable person, the targeted student's equal access to educational opportunities or benefits provided by the educational institution was substantially and adversely affected.

~~Other Members of the Working Group, including the Human Rights Commission, views while acknowledging this change as removing the terms "severe or pervasive," expressed concern that but it retains still leaving students vulnerable and with lower protections. The current recommendation in S.103, suggested a change in the definition of harassment. By deleting the requirement that harassment "substantially" impacts a student's educational performance." in order to prevail in a civil suit for damages against a Vermont school.~~

While the group received a proposal on January 16, 2024, that it make a recommendation to the legislature to additionally remove language such as "substantially" from Vermont statutes, there was insufficient time for members to engage in collaborative discussion and consider at length what the recommendation would mean for students, parents, and schools. Additionally, some members of the group expressed concern that consideration of this additional proposal falls outside of the charge set forth in the enacting legislation establishing the Working Group.

Charge 2: Compulsory educational attendance requirements for students who have been victims of harassment.

Chelsea	Amanda
<p>The Working Group discussed compulsory educational attendance requirements for students who have been victims of harassment and the challenge faced when students do not feel safe returning to school. No recommendations were prioritized by the Working Group regarding this charge. However, members agreed on the need to have flexibility in the tools used for reentry into educational spaces. The Working Group recommends that the Agency of Education compile best practices for reentry into education spaces, tools for districts to consider, and resources for families to understand the process and their options (please see below for more detail in Recommendation 3 of Charge 3, Part 1).</p> <p>It is recommended that due consideration be given to cases where students may be facing mental disabilities that impact on their ability to attend school. It is important to emphasize that the intention is not to penalize victims of harassment or discrimination by compelling their attendance when they are not emotionally prepared. Likewise, there was discussion about being cautious not to create a situation where students are inadvertently missing out on educational opportunities and activities due to unaddressed issues. Striking a balance that supports the well-being of students while ensuring their access to education remains a priority.</p> <p><u>The working group recommends the following:</u></p> <p><u>Nuanced Compulsory Attendance:</u> Recognizing the diversity of student needs, we the Working Group recommends that AOE provide guidance/best practice documents to the field explaining how existing compulsory statutes can be leveraged to a nuanced approach to</p>	<p>The Working Group deliberate on the mandatory attendance requirements for students who have experienced harassment and the associated challenges when students do not feel secure returning to school. In response to this issue, a sub-committee was established and conducted multiple public comment periods to gain deeper insights. Despite a relatively low turnout for the hearing, one particularly impactful story resonated, corroborating experiences shared by members of the working group. The toll on mental health due to bullying and harassment is profoundly debilitating for many students.</p> <p>It is recommended that due consideration be given to cases where students may be facing mental disabilities that impact on their ability to attend school. It is important to emphasize that the intention is not to penalize victims of harassment or discrimination by compelling their attendance when they are not emotionally prepared. Likewise, there was discussion about being cautious not to create a situation where students are inadvertently missing out on educational opportunities and activities due to unaddressed issues. Striking a balance that supports the well-being of students while ensuring their access to education remains a priority.</p> <p>The working group recommends the following:</p> <p><u>Nuanced Compulsory Attendance:</u> Recognizing the diversity of student needs, we propose a nuanced approach to compulsory attendance. A one-size-fits-all strategy is insufficient; instead, we advocate for attendance requirements that consider individual circumstances, ensuring a more effective response to diverse attendance challenges.</p> <p><u>Responsive Guidance Documents:</u></p>

~~compulsory attendance. A one-size-fits-all strategy is insufficient; instead, we advocate for attendance requirements that consider individual circumstances, ensuring a more effective response to diverse attendance challenges.~~

Responsive Guidance Documents:

To better address instances of harm, the Working Group urges AOE to create guidance documents that emphasize the importance of tailored responses for all students struggling with safety and emotional issues and that ~~should be made available by the AOE~~ schools will be provided with resources and protocols to respond effectively to bullying and harassment, acknowledging the unique aspects of each case. Guidance documents should also reflect best practices for re-entry into education spaces. It should emphasize emotional, academic, and social support to facilitate a successful reintegration process for returning students.

~~To better address instances of harm, guidance documents that emphasize the importance of tailored responses should be made available by the AOE. Schools will be provided with resources and protocols to respond effectively to bullying and harassment, acknowledging the unique aspects of each case. Guidance documents should also reflect best practices for re-entry into education spaces. It should emphasize emotional, academic, and social support to facilitate a successful reintegration process for returning students.~~

Charge 3 (Part 1): The resources required for schools to develop harassment prevention initiatives and support for students who have experienced harassment.

Recommendation 1. Explore and fund alternative staffing solutions that will ~~offload~~ acknowledge and address the administrative responsibility burdens this work imposes on of school-building instructional leaders, such as principals. Staffing solutions should be flexible in nature to accommodate different district and school configurations. The Working Group noted that positive approaches to HHB prevention, investigation, and staff training should be collaborative and might require a team approach.

The Working Group heard extensively from all members that the considerable requirements of the existing Hazing, Harassment, and Bullying policies detract from school administrators' ability to fulfill their role as instructional leaders while families and children involved in these processes do not feel supported when they must interact with the processes. Further, all Working Group members agree that greater emphasis on education and prevention efforts is necessary. Proactive approaches will provide greater support to all within schools, especially our children, rather than a reactive system. Fulfilling these needs might require the reconfiguration of existing roles, a district-wide coordinator, or other innovative approaches to creating a safe and welcoming environment for all students. Individuals/teams assigned to or hired would focus on the following:

- (a) supporting education efforts with students on behavior expectations related to but not limited to, hazing, harassment, and bullying.
- (b) training building staff on issues related to hazing, harassment, and bullying; and
- (c) performing all Hazing, Harassment, and Bullying investigations.

As important as reconsidering staffing around HHB is, any mandates regarding staffing changes need to be funded, so as not to create greater pressures on already stressed school budgets and personnel.

Of note, the Working Group also briefly discussed the current definition of School Administrator in the Agency of Education Policy. The push for greater flexibility and innovation in staffing around HHB investigations would benefit from a more clear and flexible definition of School Administrator in the AOE Policy.

Recommendation 2. ~~Dedicated district-wide funding for primary prevention efforts (for e.g. programs to support social and emotional learning, inclusion, and belonging) and HHB investigation efforts.~~

Working Group members recognized the need for targeted investment ~~toward the prevention of~~ to prevent Harrassment and Discrimination in schools. ~~Efforts~~ Investments discussed included programs to support school climates. ~~social and emotional learning, inclusion, and belonging that are integrated into all facets of schooling.~~ The Working Group also discussed the considerable cost and time commitment of the current HHB process and recommends that the legislature consider targeted funding for both prevention and investigation.

Recommendation 3. Agency of Education creates a set of guidance documents that includes but is not limited to topics of [1] best practices for re-entry into educational spaces, [2] discussion about how to move from a punitive to a restorative justice frame in responding to HHB issues, and [3] guidance on differentiated responses for complainants and accused students.

The Working Group discussed the ~~considerable~~ need for statewide leadership from the Agency of Education to share best practices and to support school districts in their prevention efforts. School districts cannot and should not need to operate in silos across the state on this important and challenging issue.

Charge 3 (Part 2): Supports for students who have experienced harassment.

Recommendation 1. Stronger support for community-based partnerships between community organizations and schools (these include community-based domestic and sexual violence organizations, Community Justice Centers, caregiver groups, etc.). ~~and increase mental health designated agencies and schools, where possible and appropriate, prevention and crisis support.~~

Stronger support is needed to build community-based partnerships between community organizations and schools (including community-based domestic and sexual violence organizations, Community Justice Centers, caregiver groups, etc.). ~~AND to increase resources for mental health care through designated agencies and in schools where possible and appropriate for prevention and crisis support.~~

~~The culture of a school will reflect the culture of the community if community members are fully integrated into the programs and social life of the school. Community ies, as we know, have resources and expertise that can and should~~ augment school services and support ~~schools in providing non-discriminatory access for Vermont students in schools.~~ Schools cannot and should not be islands unto themselves. ~~The~~ committee encourages schools to ~~receive the resources they need to~~ fully map out their community assets with an eye toward ~~mental and physical health supports, respecting ethnic and cultural diversity, and promoting professional development, trauma-informed and crisis-intervention care, and collaborations with existing caregiver groups.~~ These efforts, in turn, will also help identify the broader needs within a community. Further, a statewide asset map, created by AOE, would help identify the resources and support systems within the state that might be expanded to better address needs in Vermont where there are resource deficits.

In coordination with school-based ~~social worker(s)~~ ~~professionals~~ trained and skilled in community outreach, teams can be developed to organize and coordinate programs with community organizations and individuals to best serve the needs of students at any given time or in any situation. Funding at the state level to develop and maintain these ~~education support teams~~ ~~partnerships~~ will be necessary.

We envision schools that create a culture of belonging and connectedness. When students are connected to supportive adults and communities, they are less likely to bully and harass others, and when confronted by bullying or harassment, they are more resilient ~~in the face of it and recover more quickly from its effects.~~

~~We envision schools that, by design, bring the community and its resources into the school to improve and expand the reach of school programs.~~ Schools and children benefit when students' academic and cocurricular pursuits, family cultures, and social and civic interests are mirrored and supported by the actions of others.

~~We envision schools that prioritize the prevention of harassment, suicide, violence, discrimination, drug use, and other forms of avoidable personal and social harm.~~ Education support teams, as recommended in the Education Quality Standards Manual, can be

multifaceted in their approach to addressing and preventing the challenges that interfere with a student's ability to access a high-quality, creative, respectful, and rigorous education.

Recommendation 2. Add capacity to mental health designated agencies to support schools in mental health crisis prevention and support.

Mental health designated agencies provide critical partnerships with schools to help with mental health crisis prevention and support. In some cases, the capacity of designated agencies has not been able to keep up with the evolving mental health needs of students. These agencies provide professional support that might be outside the scope of school-based professionals and/or schools cannot hire school-based professionals that fit the needs of all of their students due to the critical staffing shortage. Many of the extreme and disruptive behaviors that students in schools are exhibiting are directly related to the mental health crisis exacerbated by the pandemic and persist today.

<p><u>Chelsea</u></p> <p><u>Other Legislative Action</u></p>	<p><u>Amanda</u></p> <p><u>Other Legislative Action to Ensure Vermont Students' Protections from Harassment and Discrimination</u></p>
<p><i>Ensure that continued HHB work is done in concert with the other related work happening in schools.</i></p> <p>The Working Group discussed and prioritized the need to understand how prevention and investigation efforts related to Hazing, Harrassment, and Bullying relate to other initiatives happening in Vermont Education (for e.g. Behavioral Threat Assessment under Act 29 of 2023).</p> 	<p>The Working Group discussed and prioritized the need to understand how prevention and investigation efforts related to Hazing, Harrassment, and Bullying relate to other initiatives happening in Vermont Education (for e.g. Behavioral Threat Assessment under Act 29 of 2023).</p> <p>Recommendations are as follow:</p> <p><u>Broadening the School Administrator Definition</u></p> <p>One key legislative action to enhance student protections involves broadening the School Administrator definition. This expansion aims to provide school districts with more options for effectively managing and overseeing the Harassment, Hazing,</p>

and Bullying (HHB) as well as the Title IX process. By diversifying the roles within the School Administrator category, the legislation seeks to address the complexities of handling harassment and discrimination issues within educational institutions.

Defining Protection in Positive Terms

Define protection in positive terms and build the framework from there. This approach ensures a proactive stance in safeguarding students from harassment and discrimination. By establishing clear and positive definitions, the legislation aims to create a foundation that fosters a safe and inclusive environment for all Vermont students.

Expanding the HHB Council

Legislative efforts also focus on expanding and enhancing the existing HHB Council. This expansion involves incorporating a more diverse representation, including parents and caregivers, students, administrators, and other stakeholders who can contribute valuable perspectives. By broadening the composition of the HHB Council, the legislation aims to strengthen its efficacy in addressing and preventing harassment and discrimination issues within the education system.

Integration of HHB Work with Related School Initiatives

Ensuring a comprehensive approach, legislative action proposes that continued HHB work be conducted in coordination with other related initiatives within schools. This includes but is not limited to threat assessments, restorative justice approaches, and MTSS. By aligning HHB efforts with broader school strategies, the legislation aims to create a cohesive and integrated framework for addressing various challenges related to student well-being and safety.

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