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## TESTIMONY

**Testimony To:** House Committee on Education

**Respectfully Submitted by:** Ted Fisher, Director of Communications and Legislative Affairs

**Subject:** **S.138 – An act related to school safety**

**Date:** April 13, 2023

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Thank you for the opportunity to provide testimony on S.138 – An act related to school safety. I am speaking today on behalf of the Agency of Education, and the Administration on the Administration's proposals to codify existing best practice on school safety in Vermont's education system into law; establishing a framework that will better allow the Agency, and our partners at the Department of Public Safety and in the field, to ensure that all Vermont schools are safe, and ultimately reduce the likelihood of targeted violence in Vermont schools.

We all share this goal, ensuring that Vermont schools are safe, healthy and welcoming learning environments for all students. We have much to be proud of, through the leadership of Vermont school systems, as well as the state, we have provided significant resources and support to Supervisory Unions (SU/SDs) and independent schools alike over the past several years. I want to, in particular, express my gratitude to our colleagues and friends at the Department of Public Safety, our partners in the Vermont School Safety Center, for their work to secure and provide funding, technical resources, and support to Vermont schools.

Our goal with this legislation is to build on that strong work, and take it a step further, by making sure that what is already accepted best practice is codified in law. This will allow us to make sure that no school, for any reason, provides less than the best, most up to date practices to their students, staff and entire learning community.

### **General Comments on the Senate Passed Version**

With this bill, we are seeking to make best practice law. The Administration requested, and the Senate passed, four provisions that further this goal.

1. Requiring robust school and district policies on school safety drills, including options based response drills (Sec. 1)
2. Requiring that school systems develop, adopt, and regularly update robust emergency operations plans that work for their school or SU/SD (Sec. 2)
3. Requiring adoption of best practice access control and visitor management practices (Sec. 3)



4. Requiring adoption and implementation of Behavioral Threat Assessment teams, with appropriate policies for their use (Sec.4)

The administration fully stands behind the senate passed versions of three of the four sections, and appreciates the work and time devoted by your senate colleagues. We have concerns about one section (Sec.4), which I would like to devote the majority of my time to today.

To be clear, nearly all Vermont schools have by and large already adopted all four of these policies, and have been very attentive to school safety matters. They have worked hard, and assiduously adopted best practice, engaged in planning workshops with state and federal experts, and exercised those policies. This is not a question of doing something new, nor it is a question of resources, training, or technical assistance. We are asking to make what the field is already doing law, with the goal of providing strengthening the oversight function of AOE's purpose.

As former Secretary French noted in his testimony at the beginning of the session, adding these requirements in law will allow the AOE to provide better oversight of support, and ensure that any districts or schools not currently using best practice in any of these areas to access the resources and support they need to come up to standard. We are asking you to create a minimum requirement that will allow us to better support the field in their efforts to keep students safe. The AOE intends to do this through the District Quality Standards undergoing rulemaking, as well as the quality assurance process we are developing to complement it.

## **Comments on Sec. 4 – Behavioral Threat Assessment Teams**

The Agency of Education does not support the Senate passed version of Section 4, on the use of Behavioral Threat Assessment Teams, for a single reason. We believe, strongly, that the use of Behavioral Threat Assessment Teams (BTAs) must be required in law, and ask that you return to the language proposed by the Administration, or similar, which requires a policy on the use of behavioral threat assessment teams, with appropriate safeguards.

With that said, we are very sensitive to concerns about the use of these teams, in particular concerns about how use of the teams interacts with existing requirements for student discipline, as well as how we support students with disabilities. The AOE strongly agrees with these concerns, but believes that making this a requirement is the better approach, because it will allow the state to exercise better oversight over how these teams are used, and to issue stronger guidance for their use. It is important to emphasize the sole appropriate role for these teams, to assess identified threats of targeted violence to ensure that Vermont students, educators, and staff are not at risk of injury or death. That is their sole purpose, and if they identify instances where other supports or processes are more appropriate, those cases should be passed along to the right individual or group to support a student.

## **Importance of a Statutory Requirement**

There are several reasons why enacting a mandate will help us not only keep students safe, but ensure that BTAs are used appropriately:

1. A great proportion of schools already use BTAs, and are unlikely to cease doing so with the passage of the senate passed language. We believe that doing so would be both politically untenable, and judged by schools as unwise, given the primary role of BTAs to respond to and avert the most significant and dangerous of school threats. Adding additional safeguards or requirements, absent a mandate will be both difficult to enforce, and also place undo burdens on an education system that is grappling with never before seen challenges, from workforce to student mental health.
2. Requiring BTAs, with appropriate safeguards, will allow the AOE to not only ensure schools are adequately supported in use of them, but also enforce proper use under national best practices. The requirement will also allow the AOE and the Vermont School Safety Center to issue appropriate and high-quality guidance that emphasizes proper use of BTAs, and ensure teams are well versed in their roles, receive adequate training in their role, as bias training and other supportive resources.

### **Specific Comments on Sec. 4 Language**

As noted above, the AOE and the Administration request that the committee return the BTA language to a requirement, to better allow us to implement best practices with fidelity. The Agency welcomes a conversation about how to appropriately ensure that the teams are used appropriately, and is willing to work on language that will support the dual intent of safeguarding students learning and wellbeing while keeping them safe in school. We have heard, as you have, concerning anecdotes that, to us, sound like inappropriate misuse or lack best practice implementation.

Additionally, we have concerns about subsection (b), and respectfully believe that it does not achieve the intended purpose as contemplated by your colleagues in the other body. We suggest addressing this concept in intent language, more generally. (b) could be read as giving a new, separate process apart from the due process protections provided in 16 VSA 1162. The AOE opposes a “work around” to the existing discipline process, and believes that it would have dangerous implications for supporting students through fair and well-articulated disciplinary process.

Finally, the AOE and the Administration strongly support the data collection requirement outlined in subsection (d). we are aware the committee has heard about BTAs potentially used incorrectly. This case information can paint an incomplete picture. Without more data, we cannot identify the effective vs problematic uses of BTAs. While any incident of misuse is highly concerning, the data fails to capture incidences where BTAs are used correctly. Furthermore, because the role of BTAs is preventative, there is a negative relationship with lack of available data on incidences. Establishing a body of data on use of BTAs will provide valuable insights on patterns of use, help the State identify trends and areas of weakness in practice, and allow us to better target training, technical assistance, and oversight functions.

It is unfortunate that in today's climate of threats to schools that BTAs are necessary. But they are. Whether or not all SU/SDs are required by law to follow the same assessment process, all SU/SDs will still have the need and responsibility to make safety decisions when a potential threat of targeted violence is identified. AOE believes we should require a uniform approach, uniform training and uniform data reporting for these decision-making processes rather than leaving each SU/SD to figure it out on their own.