

May 3, 2023

Re: H.461 Harassment Amendment

My name is Marc B. Schaubert. I'm a Windham County rep on the Vermont School Boards Association Board, a former member of the River Valleys Unified School District Board and the Executive Director of the Coalition for Vermont Student Equity. But today I'm speaking only for myself, not for any organization.

What I'd like to share with you is about my evolution of thinking on this topic. When I first read the proposed language I thought, as I'm sure many of you have, that the change makes sense so schools have a greater ability to investigate and handle harassment complaints and students have greater recourse.

I've listened carefully to the discussions and testimony in Senate Education, House General & Housing and House Education. I've had visceral reactions to the experiences of students that have been shared with you and they are upsetting and anger me. There should be no room in our schools for any type of hazing, harassment, intimidation or bullying. These behaviors simply are not acceptable.

What gave me pause on whether this is the best way to address these issues, was hearing the testimony from those on the ground, working in and with our schools as well as the lawyers who have the knowledge and experience to understand the interactions between labor law and state & federal education law. I think it's really important to acknowledge that unlike a workplace or housing environment, the education statutes are bolstered by a mandatory policy and a requirement to have procedures, which the schools are legally required to abide by and follow. I believe we are currently lacking the oversight of our schools that's necessary to ensure compliance with adopted policies and procedures.

Students aren't employees. Students don't serve at the will of their employer. As I've heard Legislative Council say, you can't fire a student. The equivalent action would be suspension or expulsion. The education legal environment is much more complicated than that of labor or housing.

When I sit down to consider an issue, I look at the effects on the system as a whole. I consider what is best for all students and whether the changes will have a long term positive impact on the system for both current students and future students.

This amendment won't help prevent these incidents but lowering the standards the schools are held to, not the standards to which students are held, would be opening them up to expensive and time consuming litigation that would only be taking away the very resources our schools need to provide a safe and healthy learning environment... and without doing the necessary work to improve the environment to reduce the number of incidents that happen.

We can't just legislate or litigate our way out of the problems we're seeing in our schools regarding hazing, harassment and bullying. We can only educate our way out of it. Schools aren't courts of law. Teachers and administrators aren't and should not be expected to be police officers.

I do have a few suggestions that I'd like to share. They fall into 2 buckets, oversight and education:

1. The AOE must rebuild its oversight division. They need to have boots on the ground, conducting audits and following through to ensure policies and procedures that are in place, are being implemented properly. My understanding is that this is work the department of education used to do.
 - a. Some of the concerns you're hearing come down to schools not following through with their own policies and it must be the AOE, in their oversight role, that corrects this.
2. Our schools clearly are not doing a good enough job of teaching tolerance, kindness, respect and maybe most important, empathy. If someone can't put themselves in other people's shoes, they won't be able to have any understanding of what others are feeling. The legislature should create a mandatory curriculum for PreK-12 that teaches and reinforces these concepts and through experiential learning, shows kids at all ages about empathy.
 - a. In addition, beyond the training given by VISBIT, our teachers and staff need to be trained how to handle situations as they happen in front of them, on a personal level. The VISBIT training is on the legal processes, not the human interactions.
 - b. I also believe that a system wide change from punitive reactionary policies to restorative practices is needed. We see it being implemented in pockets throughout the state, but not system wide.

What I've shared with you in no way should be interpreted as my saying harassment isn't a huge problem and that we shouldn't do everything in our power to change the culture in our schools. We need a systemic change in attitudes. I urge you to take a step back and instead of pushing through this amendment at the very end of the session, take time to look at the whole system, statutes through curriculum... and come up with a holistic plan. I don't believe application of labor law, no matter how much the words on the page seem to make sense, is going to make the difference that many of those advocating for it, believe it will.

Thank you for your time and this opportunity to share my thoughts with you.

Marc Bernard Schaubert
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