

1 H.771

2 Introduced by Committee on Education

3 Date:

4 Subject: Education; technical corrections

5 Statement of purpose: This bill proposes to make miscellaneous technical
6 corrections and other amendments to education law in Title 16.

7 An act relating to making technical corrections and other miscellaneous
8 changes to education law

9 It is hereby enacted by the General Assembly of the State of Vermont:

10 * * * Technical Corrections * * *

11 Sec. 1. 16 V.S.A. § 212 is amended to read:

12 § 212. COMMISSIONER'S DUTIES GENERALLY

13 The commissioner shall execute those policies adopted by the state board in
14 the legal exercise of its powers and shall:

15 * * *

16 (12) Distribute at his or her discretion upon request to approved
17 independent schools appropriate forms and materials relating to the ~~Vermont~~
18 ~~state basic competency program~~ school quality standards for elementary and
19 secondary pupils.

20 * * *

1 Sec. 2. 16 V.S.A. § 261a(a) is amended to read:

2 § 261a. DUTIES OF SUPERVISORY UNION BOARD

3 (a) Duties. The board of each supervisory union shall:

4 * * *

5 (7) employ a person or persons qualified to provide financial and student
6 data management services for the supervisory union and the member districts;

7 * * *

8 Sec. 3. 16 V.S.A. § 429 is amended to read:

9 § 429. LOANS

10 ~~The Notwithstanding subsection 4029(b) of this title, a school board may~~
11 ~~draw orders for loans without interest to the ~~town~~ town's general fund and the~~
12 ~~board of selectmen town selectboard may draw orders for loans without~~
13 ~~interest to the ~~town~~ school district fund, the loans to be secured by ~~notes signed~~~~
14 ~~by the board of selectmen or the school directors as the case may be and~~
15 ~~stipulating the terms agreed upon between the board of school directors and the~~
16 ~~board of selectmen. The notes shall be payable on demand or mature within~~
17 ~~three months from date of issue~~ a note signed by both the selectboard and the
18 school board that stipulates mutually agreeable terms and conditions. A note
19 shall be payable not more than 90 days after its issuance and shall be payable
20 on demand anytime within the 90-day term. The school board shall report all
21 loans to the department pursuant to subsection 4029(f) of this title. For

1 purposes of this section, “town” and “selectboard” shall have the same
2 meaning as they have in 1 V.S.A. § 139.

3 Sec. 4. 16 V.S.A. § 821 is amended to read:

4 § 821. SCHOOL DISTRICT TO MAINTAIN PUBLIC ELEMENTARY
5 SCHOOLS OR PAY TUITION

6 (a) Elementary school. Each school district shall ~~provide, furnish, and~~
7 maintain one or more approved schools within the district in which elementary
8 education for its resident pupils in kindergarten through grade six is provided
9 unless:

10 (1) ~~The~~ the electorate authorizes the school board to provide for the
11 elementary education of the pupils ~~residing in the district~~ by paying tuition in
12 accordance with law to one or more public elementary schools in one or more
13 school districts;

14 (2) ~~The~~ the school district is organized to provide only high school
15 education for its pupils; or

16 (3) ~~Otherwise provided for by the general assembly~~ provides otherwise.

17 (b) ~~Kindergarten program. Each school district shall provide public~~
18 ~~kindergarten education within the district. However, a school district may pay~~
19 ~~tuition for the kindergarten education of its pupils:~~

20 (1) ~~at one or more public schools under subdivision (a)(1) of this~~
21 ~~section; or~~

1 ~~(2) if the electorate authorizes the school board to pay tuition to one or~~
2 ~~more approved independent schools or independent schools meeting school~~
3 ~~quality standards, but only if the school district did not operate a kindergarten~~
4 ~~on September 1, 1984, and has not done so afterward. [Repealed.]~~

5 (c) Notwithstanding subsection (a) of this section, without previous
6 authorization by the electorate, a school board ~~without previous authorization~~
7 ~~by the electorate~~ in a district that operates an elementary school may pay
8 tuition for elementary pupils who reside near a public elementary school in an
9 adjacent district upon request of the pupil's parent or guardian, if in the board's
10 judgment the pupil's education can be more conveniently furnished there due
11 to geographic considerations. Within 30 days of the board's decision, a parent
12 or guardian who is dissatisfied with the decision of the board under this
13 subsection may request a determination by the commissioner, who shall have
14 authority to direct the school board to pay all, some, or none of the pupil's
15 tuition and whose decision shall be final.

16 (d) Notwithstanding ~~subsection (a)~~ subdivision (a)(1) of this section, the
17 electorate of a school district that does not maintain an elementary school may
18 grant general authority to the school board to pay tuition for an elementary
19 pupil at an approved independent elementary school or an independent school
20 meeting school quality standards pursuant to sections 823 and 828 of this
21 chapter upon notice given by the pupil's parent or legal guardian before
22 April 15 for the next academic year.

1 Sec. 5. 16 V.S.A. § 1166(a) is amended to read:

2 (a) In this section, ~~the terms “to school” and “firearm”~~ shall have the same
3 meaning that ~~the terms have in the~~ it has in 18 U.S.C. § 921 and “school” shall
4 have the same meaning that it has in 20 U.S.C. § 7151(f). However, ~~the a~~
5 school board may expand the definitions provided they remain consistent with
6 federal law.

7 Sec. 6. REPEAL

8 16 V.S.A. §§ 1381–1385 (appointment of medical inspectors; appropriation
9 to state board of education) are repealed.

10 * * * Joint Contract Schools; Technical Corrections * * *

11 Sec. 7. 16 V.S.A. § 3447 is amended to read:

12 § 3447. SCHOOL BUILDING CONSTRUCTION-STATE BONDS; CITY
13 AS SCHOOL DISTRICT

14 The state treasurer may issue bonds under 32 V.S.A. chapter 13 ~~of Title 32~~
15 in such amount as may from time to time be appropriated to assist incorporated
16 school districts, joint contract ~~school districts~~ schools, town school districts,
17 union school districts, regional technical center school districts, and
18 independent schools meeting school quality standards which serve as the
19 public high school for one or more towns or cities, or combination thereof, and
20 which both receive their principal support from public funds and are conducted
21 within the state under the authority and supervision of a board of trustees, not
22 less than two-thirds of whose membership is appointed by the selectboard of a

1 town or by the city council of a city or in part by such selectboard and the
2 remaining part by such council under the conditions and for the purpose set
3 forth in sections 3447-3456 of this title. A city shall be deemed to be an
4 incorporated school district within the meaning of sections 3447-3456 of this
5 title.

6 Sec. 8. 16 V.S.A. § 4015 is amended to read:

7 § 4015. SMALL SCHOOL SUPPORT

8 (a) In this section:

9 * * *

10 (6) "School district" means a town, city, incorporated, interstate, or
11 union school district or a joint contract school district established under
12 subchapter 1 of chapter 11 of this title.

13 * * *

14 Sec. 9. 16 V.S.A. § 572(d) is amended to read:

15 (d) Unless the school districts ~~which~~ that are parties to the contract have
16 agreed upon a different method of allocating board members that is consistent
17 with law, the allocation of the board members shall be as ~~follows~~ provided in
18 this subsection. The school district ~~having~~ with the largest number of pupils
19 attending the joint, contract, or consolidated school shall have three members
20 on the joint board. Each other school district shall have at least one member
21 on the joint board, and its total membership shall be determined by dividing
22 the number of pupils from the school district with the largest enrollment by

1 three, rounding off the quotient to the nearest whole number, which shall be
2 called the “factor” and by then dividing the pupil enrollment of each of the
3 other school districts by the “factor,” rounding off this quotient to the nearest
4 whole number, this number being the number of school directors on the joint
5 board from each of the other school districts. Pupil enrollment for the purpose
6 of determining the number of members on the joint board to which each school
7 district is entitled shall be taken from the school registers on January 1 of the
8 calendar year in which the school year starts. ~~Such~~ The joint board shall
9 annually select from among ~~the its~~ members ~~thereof a chairman~~ a chair and a
10 clerk and shall also select a treasurer from among the treasurers of the
11 contracting districts.

12 * * * Prekindergarten Rules * * *

13 Sec. 10. 16 V.S.A. § 829(1) is amended to read:

14 (1) To ensure that, before a school district begins or expands a
15 prekindergarten education program that intends to enroll students who are
16 included in its average daily membership, the district engage the community in
17 a collaborative process that includes an assessment of the need for the program
18 in the community and an inventory of the existing service providers; provided,
19 however, if a district needs to expand a prekindergarten education program in
20 order to satisfy federal law relating to the ratio of special needs children to
21 children without special needs and if the law cannot be satisfied by any one or
22 more qualified service providers with which the district may already contract,

1 then the district may expand an existing school-based program without
2 engaging in a community needs assessment.

3 Sec. 11. PREKINDERGARTEN EDUCATION; RULES

4 The state board of education shall amend its rules before January 1, 2013 to
5 reflect the requirements of Sec. 10 of this act.

6 * * * Harassment, Hazing, and Bullying * * *

7 Sec. 12. REPEAL

8 16 V.S.A. 565 (harassment and hazing prevention policies) is repealed.

9 Sec. 13. 16 V.S.A. chapter 9, subchapter 5 is added to read:

10 Subchapter 5. Harassment, Hazing, and Bullying

11 § 570. HARASSMENT, HAZING, AND BULLYING PREVENTION

12 POLICIES

13 (a) State policy. It is the policy of the state of Vermont that all Vermont
14 educational institutions provide safe, orderly, civil, and positive learning
15 environments. Harassment, hazing, and bullying have no place and will not be
16 tolerated in Vermont schools. No Vermont student should feel threatened or
17 be discriminated against while enrolled in a Vermont school.

18 (b) Prevention policies. Each school board shall develop, adopt, ensure the
19 enforcement of and make available in the manner described under subdivision
20 563(1) of this title harassment, hazing, and bullying prevention policies that
21 shall be at least as stringent as model policies developed by the commissioner.

1 (c) Notice. Annually, prior to the commencement of curricular and
2 cocurricular activities, the school board shall provide notice of the policy and
3 procedures developed under this subchapter to students, custodial parents or
4 guardians of students, and staff members, including reference to the
5 consequences of misbehavior contained in the plan required by section 1161a
6 of this title. Notice to students shall be in age-appropriate language and should
7 include examples of harassment, hazing, and bullying. At a minimum, this
8 notice shall appear in any publication that sets forth the comprehensive rules,
9 procedures, and standards of conduct for the school. The school board shall
10 use its discretion in developing and initiating age-appropriate programs to
11 inform students about the substance of the policy and procedures in order to
12 help prevent harassment, hazing, and bullying.

13 (d) Duties of the commissioner. The commissioner shall:

14 (1) develop and, from time to time, update model harassment, hazing,
15 and bullying prevention policies; and

16 (2) establish an advisory council to review and coordinate school and
17 statewide activities relating to the prevention of and response to harassment,
18 hazing, and bullying. The council shall report annually in January to the state
19 board and the house and senate committees on education. The council shall
20 include:

21 (A) the executive director of the Vermont Principals' Association or
22 designee;

1 (B) the executive director of the Vermont School Boards Association
2 or designee;

3 (C) the executive director of the Vermont Superintendents
4 Association or designee;

5 (D) the president of the Vermont-National Education Association or
6 designee;

7 (E) the executive director of the Vermont Human Rights Commission
8 or designee;

9 (F) the executive director of the Vermont Independent Schools
10 Association or designee; and

11 (G) other members selected by the commissioner.

12 (e) Definitions. In this subchapter:

13 (1) “Educational institution” and “school” mean a public school or an
14 approved or recognized independent school as defined in section 11 of this
15 title.

16 (2) “Organization,” “pledging,” and “student” have the same meanings
17 as in subdivisions 140a(2), (3), and (4) of this title.

18 (3) “Harassment,” “hazing,” and “bullying” have the same meanings as
19 in subdivisions 11(a)(26), (30), and (32) of this title.

20 (4) “School board” means the board of directors or other governing
21 body of an educational institution when referring to an independent school.

1 § 570a. HARASSMENT

2 (a) Policies and plan. The harassment prevention policy required by
3 section 570 of this title and its plan for implementation shall include:

4 (1) A statement that harassment, as defined in subdivision 11(a)(26) of
5 this title, is prohibited and may constitute a violation of the public
6 accommodations act as more fully described in section 14 of this title.

7 (2) Consequences and appropriate remedial action for staff or students
8 who commit harassment. At all stages of the investigation and determination
9 process, school officials are encouraged to make available to complainants
10 alternative dispute resolution methods, such as mediation, for resolving
11 complaints.

12 (3) A procedure that directs students, staff, parents, and guardians how
13 to report violations and file complaints.

14 (4) A description of the circumstances under which harassment may be
15 reported to a law enforcement agency.

16 (5) A procedure for investigating reports of violations and complaints.
17 The procedure shall provide that, unless special circumstances are present and
18 documented by the school officials, an investigation is initiated no later than
19 one school day from the filing of a complaint and the investigation and
20 determination by school officials are concluded no later than five school days
21 from the filing of the complaint with a person designated to receive complaints
22 under subdivision (7) of this section. All internal reviews of the school's

1 initial determination, including the issuance of a final decision, shall, unless
2 special circumstances are present and documented by the school officials, be
3 completed within 30 days after the review is requested.

4 (6) A description of how the school board will ensure that teachers and
5 other staff members receive training in preventing, recognizing, and
6 responding to harassment.

7 (7) Annual designation of two or more people within the institution to
8 receive complaints and a procedure for publicizing those people's availability.

9 (8) A procedure for publicizing the availability of the Vermont human
10 rights commission and the federal Department of Education's Office of Civil
11 Rights and other appropriate state and federal agencies to receive complaints of
12 harassment.

13 (9) A statement that acts of retaliation for the reporting of harassment or
14 for cooperating in an investigation of harassment are unlawful pursuant to
15 9 V.S.A. § 4503.

16 (b) Independent review.

17 (1) A student who desires independent review under this subsection
18 because the student is either dissatisfied with the final determination of the
19 school officials as to whether harassment occurred or believes that, although a
20 final determination was made that harassment occurred, the school's response
21 was inadequate to correct the problem shall make such request in writing to the
22 headmaster or superintendent of schools. Upon such request, the headmaster

1 or superintendent shall initiate an independent review by a neutral person
2 selected from a list developed jointly by the commissioner of education and the
3 human rights commission and maintained by the commissioner. Individuals
4 shall be placed on the list on the basis of their objectivity, knowledge of
5 harassment issues, and relevant experience.

6 (2) The independent review shall proceed expeditiously and shall consist
7 of an interview of the student and the relevant school officials and review of
8 written materials involving the complaint maintained by the school or others.

9 (3) Upon the conclusion of the review, the reviewer shall advise the
10 student and the school officials as to the sufficiency of the school's
11 investigation, its determination, the steps taken by the school to correct any
12 harassment found to have occurred, and any future steps the school should
13 take. The reviewer shall advise the student of other remedies that may be
14 available if the student remains dissatisfied and, if appropriate, may
15 recommend mediation or other alternative dispute resolution.

16 (4) The independent reviewer shall be considered an agent of the school
17 for the purpose of being able to review confidential student records.

18 (5) The costs of the independent review shall be borne by the public
19 school district or independent school.

20 (6) Nothing in this subsection shall prohibit the school board from
21 requesting an independent review at any stage of the process.

1 (7) Evidence of conduct or statements made in connection with an
2 independent review shall not be admissible in any court proceeding. This
3 subdivision shall not require exclusion of any evidence otherwise obtainable
4 from independent sources merely because it is presented in the course of an
5 independent review.

6 (8) The commissioner may adopt rules implementing this subsection.

7 § 570b. HAZING

8 The hazing prevention policy required by section 570 of this title and its
9 plan for implementation shall include:

10 (1) A statement that hazing, as defined in subdivision 11(a)(30) of this
11 title, is prohibited and may be subject to civil penalties pursuant to subchapter
12 9 of chapter 1 of this title.

13 (2) A procedure that directs students, staff, parents, and guardians how
14 to report violations and file complaints.

15 (3) A procedure for investigating reports of violations and complaints.

16 (4) A description of the circumstances under which hazing may be
17 reported to a law enforcement agency.

18 (5) Appropriate penalties or sanctions or both for organizations that or
19 individuals who engage in hazing and revocation or suspension of an
20 organization's permission to operate or exist within the institution's purview if
21 that organization knowingly permits, authorizes, or condones hazing.

1 (6) A description of how the school board will ensure that teachers and
2 other staff members receive training in preventing, recognizing, and
3 responding to hazing.

4 (7) Annual designation of two or more people within the institution to
5 receive complaints and a procedure for publicizing those people's availability.

6 § 570c. BULLYING

7 The bullying prevention policy required by section 570 of this title and its
8 plan for implementation shall include:

9 (1) A statement that bullying, as defined in subdivision 11(a)(32) of this
10 title, is prohibited.

11 (2) A procedure that directs students, staff, parents, and guardians how
12 to report violations and file complaints.

13 (3) A procedure for investigating reports of violations and complaints.

14 (4) A description of the circumstances under which bullying may be
15 reported to a law enforcement agency.

16 (5) Consequences and appropriate remedial action for students who
17 commit bullying.

18 (6) A description of how the school board will ensure that teachers and
19 other staff members receive training in preventing, recognizing, and
20 responding to bullying.

1 Sec. 14. IMPLEMENTATION

2 School boards shall adopt and implement bullying prevention policies as
3 required by Sec. 13 of this act no later than January 1, 2013.

4 * * * Special Education Advisory Council * * *

5 Sec. 15. 16 V.S.A. § 2945(a) is amended to read:

6 (a) There is created an advisory council on special education that shall
7 consist of ~~47~~ 19 members. All members of the council shall serve for a term of
8 three years or until their successors are appointed. Terms shall begin on
9 April 1 of the year of appointment. A majority of the members shall be either
10 individuals with disabilities or parents of children with disabilities.

11 (1) ~~Fifteen~~ Seventeen of the members shall be appointed by the
12 governor with the advice of the commissioner of education. Among the
13 gubernatorial appointees shall be:

14 * * *

15 (J) a representative from the state child welfare department
16 responsible for foster care; ~~and~~

17 (K) special education administrators; and

18 (L) two at-large members.

19 (2) In addition, two members of the general assembly shall be
20 appointed, one from the house of representatives and one from the senate. The
21 speaker shall appoint the house member and the committee on committees
22 shall appoint the senate member.

1 Sec. 16. IMPLEMENTATION

2 The governor shall appoint the two at-large members required by Sec. 15,
3 16 V.S.A. § 2945(a)(1)(L), of this act on or before July 1, 2012, provided that
4 the initial term of one member shall end on March 31, 2014 and the initial term
5 of the other member shall end on March 31, 2015.

6 * * * Prekindergarten-16 Council; Afterschool Programs * * *

7 Sec. 17. 16 V.S.A. § 2905(b) is amended to read:

8 (b) The council shall be composed of:

9 * * *

10 (15) a member of the senate, who shall be selected by the committee on
11 committees and shall serve until the beginning of the biennium immediately
12 after the one in which the member is appointed; ~~and~~

13 (16) a member of the faculty of the Vermont State Colleges, the
14 University of Vermont, or a Vermont independent college selected by United
15 Professions AFT Vermont, Inc.; and

16 (17) a representative of after-school, summer, and expanded learning
17 programs selected by the Vermont Center for Afterschool Excellence.

18 * * * Regional Technical Center School Districts;

19 Unorganized Towns, Grants, and Gores * * *

20 Sec. 18. 16 V.S.A. § 1572(b)(1) is amended to read:

21 (1) The makeup of the governing board. At least 60 percent of the board
22 members shall be elected by direct vote of the voters, or chosen from member

1 school district boards by the member school district boards, or a combination
2 of the two. If the board is to have additional members, who may constitute up
3 to 40 percent of the board, the additional members shall be appointed by the
4 elected and chosen members from member school district boards for the
5 purpose of acquiring expertise in areas they consider desirable. The appointed
6 members may be selected from nominations submitted by the regional
7 workforce investment board or other workforce organizations, or may be
8 chosen without nomination by an organization. Notwithstanding any provision
9 of law to the contrary, a resident of an unorganized town, grant, or gore that
10 sits within the regional technical center school district who is otherwise
11 eligible to vote under 17 V.S.A. § 2121 may vote for the board members and
12 may be elected to or appointed as a member of the governing board;

13 * * * Effective Date * * *

14 Sec. 19. EFFECTIVE DATE

15 This act shall take effect on passage.