



VCSEA Testimony to House Education Committee Re: H.830 April 12, 2016

VCSEA is deeply committed to a safe school environment for all students. Only in an environment where safety and a sense of belonging are present can academic, social and behavioral learning thrive.

VCSEA recommends increasing bullying prevention.

Bullying is a serious issue and must not be taken lightly. Swift investigation and intervention are supported by VCSEA. However, the best method of addressing bullying is through prevention. H.830 is nearly entirely dedicated to response and reaction. Speedy and targeted response is important. However, we can address the issue most successfully through preventative strategies in our schools. Creating a system of support for all students through Positive Behavior Intervention Supports and other such systemic approaches brings change to both students and adults through common expectations of respectful and responsible behaviors and increasingly targeted supports when universal level supports and teaching are not successful.

VCSEA recommends that bullying remain a student to student definition and that employee misconduct be addressed through complaint and investigation policies through school districts separate from bullying determinations.

The language in H.830 that bullying definitions be extended to adults suggests an inappropriate context for considering unprofessional conduct with regard to school employees. If and when adults have inappropriate or unprofessional behaviors toward students those issues should be addressed through complaints and investigations within the context of an individual's employment. This should not wait until it is repeated over time as suggested by a bullying definition. Schools need to have complaint policies which have investigations, responses and appeals associated with those circumstances. Bullying legislation is the wrong place to address these concerns.

There are already a significant number of laws/regulations/supports that cover and protect students from adults. These include reports to the principal, superintendent and school boards. If those are unsuccessful administrative complaints to AOE, Office of Civil Rights, required reporting to DCF when abuse or neglect is suspected and Licensing through AOE and the Vermont Standards Board for Professional Educators are all appropriate avenues of complaint.

VCSEA recommends that complaints filed in regard to adult behavior be the responsibility of the school district only if the individual at the center of the complaint is an employee or contracted service provider for the school district.

It is important that schools be held to a standard to which they can reach. Therefore, adults addressed within the context of the complaint process mentioned above must be within the purview of the school district to implement discipline.

The five-day requirement for investigations to be completed is much more difficult if you are interviewing adults off site, and these adults do not necessarily have an obligation to cooperate or even participate in the investigation.

VCSEA recommends that appeals with regard to bullying and complaints regarding unprofessional conduct be appealed based on procedural violations and do not revisit factual findings made by the administration. Should procedural violations be found, the issue should be returned to the administration to resolve the procedural violations in any given case.

Our court appeals process in Vermont and across the nation is focused on procedural reviews and not on a review of facts. This too should be the appeal review for bullying complaints and other complaints of the school district. Appeal processes should be limited to procedural review and with findings of inappropriate procedural implementation; the cases should be sent back to the administration to resolve the procedural errors.

The independent review provision doesn't seem to provide a threshold for what would be a justifiable request for review. It seems that students/families could request a review for nearly any finding they disagreed with, and then the school needs to fund the independent investigator. Without such a threshold the costs could be prohibitive. There is significant potential for abuse in using this mechanism within H.830 as proposed to seek alternative school placements.

Additional Considerations:

Existing Policies and Procedures of May 29, 2015

A tremendous amount of work by the AOE with input from a variety of stakeholders is documented in the Model Harassment, Hazing and Bullying (HHB) Prevention Policies of May, 2015. This policy and model procedures are streamlined for increased ease in access and implementation. In addition, an HHB Toolkit to support implementation of the model policy and procedures throughout school in Vermont was also developed as a training and support tool for superintendents, principals, school board members and designees to address the relevant statutes and duties inherent in implementing the policies and procedures. These policies and tools already comprehensively address the great majority of items identified in H.830.

Discipline for Students with Disabilities:

In addition to the HHB policy guidelines, procedures and toolkit there exists a comprehensive set of state and federal regulations that specifically provide protections for students with disabilities within the disciplinary framework. These rules cover both students with disabilities (and suspected disabilities) identified under the Individuals with Disabilities Education Act (IDEA) and those students protected under Section 504 of the Rehabilitation Act of 1973.

Foundation Skills for Adults in Schools:

Improving school climate through staff and student support and training is critical to the prevention of bullying. De-escalation training for staff, knowledge of ones' own values, triggers, biases in interacting with students who are engaged in self-defeating behaviors is critical to productive interactions. Understanding the child's psychological world, how kids behave under stress, the nature of power struggles and counter aggression are all important to maintaining productive relationships with children who are reactive, angry and striking out. The art of listening to children and working with bystanders to support victims of bullying is at the heart of bullying prevention work. This educational work rather than increasing the number of laws is critical to making a lasting impact on bullying in schools.