



**Vermont Council of Special Education Administrators**  
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**Testimony to Senate Education Committee**  
**S. 67 – Proposal to create a School Discipline Advisory Council**

**Background and Context Information:**

VCSEA acknowledges and appreciates the research and commitment that went into creating the document “Kicked Out! Unfair and Unequal Student Discipline in Vermont’s Public Schools” Shining a light on discipline data is important for the goal of timely, appropriate and student centered discipline. Each district addresses discipline concerns daily and often struggles in this arena where easy answers are few despite a strong commitment to equality of educational access.

We know that children from poverty, those who have disabilities and those representing minorities are at risk across school and community environments. Schools function within the culture and are products of that culture. While working daily to minimize the impact of disability, poverty and discrimination no school can do this work without the support of the community. The stresses of poverty, food insecurity, divorce, substance abuse, domestic violence, and discrimination cause many children to have great difficulty in regulating their emotions and behavior. Addressing these issues is the task of the whole community. Balancing safe, consistent and equitable learning environments with fair and appropriate disciplinary processes responsive to the needs of the students involved is often a delicate one.

For example, IEP Teams struggle with the legal question of whether the inappropriate behavior was related to the disability or not with differing decisions flowing from the answer to that question. Was the IEP in place to address anticipated challenging behaviors? And if so, was that plan fully implemented? These questions are asked when suspension is considered for a student with a disability. The answers lead to decisions about discipline and educational interventions to protect the student’s educational opportunity.

Complex variables abound; and each day lost to education is important and must be considered. The 8000 days of school lost when students are suspended or expelled cited by Mr. Diaz in his report “Kicked Out!” represents roughly .06% of the school days in a year. Currently there are about 78,000 students in Vermont schools with an average school year totaling 175 days representing a total of 13, 650,000 student days. Is the loss of 8000 days a concern? Yes. Is there value in addressing this issue? Yes.

The comment early in Mr. Diaz report indicated that the rate of exclusionary discipline has increased since 1974 from 3.7 % of the national student population to 6.8% in 2006. He comments that some have ascribed this increase to the wave of “stricter, zero tolerance style discipline policies that encourage exclusion for minor or non-violent offenses.” (p. 4)

Yet in 1974, prior to the Education of All Handicapped Children Act of 1975, literally millions of students with disabilities were completely excluded from schools. The students with disabilities who would not have been admitted to public schools in 1974 are overwhelmingly educated in the public schools of today. The comparison of public school populations in 1974 with 2006 with regard to discipline is therefore a limited one.

**VCSEA Recommendations:**

- **VCSEA supports the creation of a School Discipline Advisory Council to address the current status of school discipline in Vermont** since improving the accuracy of the discipline data reporting is of value in making

improvements. Tracking the degree to which students continue to receive educational services when subject to in school or out of school discipline across grades, disability, economic status and race would be critical. In order to accomplish this task the AOE requires the staffing and technology to do so.

- VCSEA also supports the inclusion of our **independent schools** in collecting and monitoring the data since there are many Vermont students enrolled in these schools with public education dollars. Negotiating the rights of students within those schools can be a complex undertaking.
- VCSEA requests that the Committee consider **two special education administrators** instead of two special education teachers since the administrators are frequently intimately involved in the required disciplinary processes that impact students with disabilities. Special education administrators would generally have broader experience with school discipline across schools, ages and circumstances than would a teacher in one school and limited grade range.
- **Since 2007 VCSEA has seen an enormous shift in managing school climate and challenging behaviors in many Vermont schools.** The introduction of Multi-tiered System of Supports (MTSS) including Positive Behavior Intervention Support (PBIS) and Response to Instruction and Intervention (RTII) spearheaded by the DOE/AOE has brought a deeper understanding of the connection between behavior and academic achievement within the education community. Improving first instruction in academic areas and behavior has resulted in improvements in both in those schools that implement these multi-tiered practices with fidelity. PBIS is implemented in 45% of the schools in Vermont and represented in at least one school in 85% of the supervisory unions. The data system, School-Wide Information Systems (SWIS) that is a part of PBIS implementation allows for a detailed knowledge of the where, when, who and what of behaviors taking place within a school, class or with an individual student. This has allowed for much more targeted interventions whether with a whole school or grade or within a particular class. Also, the data allows for a deeper understanding of why certain students experience problem behaviors – time of day, under what circumstances and which locations and which staff and students are involved. This data creates an opportunity for schools to design targeted interventions with greater effectiveness. These practices have a national track record and should be examined and considered for further expansion.
- **The passage and implementation of Act 166** guaranteeing a high quality prekindergarten experience for ten hours per week for 35 weeks to three and four year old is a powerful tool for providing all children with the education, social skills and behavior supports needed for success. Such prekindergarten experiences bode well for the future.
- **VCSEA supports access to equitable and necessary quality mental health care for children and families.** Given the increase in costs of special education services associated with rising mental health challenges for children, we encourage focused attention on this topic. Coordinated services with community providers, designated agencies, and schools are critical to establishing and ensuring quality treatment and services. All children must have access to mental health services at the level of care required to address their needs. Medicaid, as well as private insurance carriers, must be required to provide coverage at a level commensurate with a child's and families' identified clinical need. This is true for any child with a mental health diagnosis and is particularly important for students who are reaching a severity where special education eligibility is present due to emotional and behavioral disabilities. The collaboration between mental health, substance abuse treatment and education agencies and insurance carriers must be a focus for the Discipline Advisory Council. Collectively, we must resolve the inequity in regional capacity for mental health services for children and families across our state. This is important to ensure that all children have their needs met, waitlists of mental health services are a thing of the past, and families and children with mental health needs have a responsive, timely and equitable level of care comparable to what we provide under our healthcare system. This would provide a major contribution to addressing discipline concerns within our schools. Cuts to mental health services shift costs to schools.
- **Substance abuse within families and by individual students must also be acknowledged and addressed within both the discipline and treatment framework** if schools are to be able to do their educational work effectively.