

1 S.16

2 Introduced by Senators Sears and Ram

3 Referred to Committee on Education

4 Date: January 12, 2021

5 Subject: Education; school discipline; School Discipline Advisory Council

6 Statement of purpose of bill as introduced: This bill proposes to create the  
7 School Discipline Advisory Council to collect and analyze data regarding  
8 school discipline in Vermont public and approved independent schools in order  
9 to inform strategic planning, guide statewide and local decision making and  
10 resource allocation, and measure the effectiveness of statewide and local  
11 policies and practices.

12 ~~An act relating to the creation of the School Discipline Advisory Council~~

*An act relating to the creation of the Task Force on School Exclusionary  
Discipline Reform*

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

14 ~~Sec. 1. FINDINGS~~

15 The General Assembly finds that:

16 (1) Nationally, millions of students are removed from the classroom  
17 each year for disciplinary reasons.

18 (2) U.S. Department of Education data reveals that in the 2013–2014  
19 school year, of the 50 million students nationally enrolled in schools:

20 ~~(A) 2.7 million received in-school suspensions,~~

1 ~~(B) 1.6 million received one out-of-school suspension;~~

2 ~~(C) 1.1 million received more than one out-of-school suspension; and~~

3 ~~(D) 111,215 were expelled.~~

4 ~~(3) Exclusionary discipline is used mostly in middle and high schools,~~

5 ~~and mostly for minor misconduct, according to the Council on State~~

6 ~~Governments' Justice Center.~~

7 ~~(4) Students who are suspended are at significantly higher risk of~~

8 ~~academic failure, of dropping out of school, and of entering the juvenile justice~~

9 ~~system according to the Council on State Governments' Justice Center.~~

10 ~~(5) Nationally, students of certain racial and ethnic groups and students~~

11 ~~with disabilities are disciplined at higher rates than their peers, beginning in~~

12 ~~preschool, as evidenced by 2013–2014 data from the U.S. Department of~~

13 ~~Education's Office for Civil Rights:~~

14 ~~(A) Black students (representing approximately 15 percent of the~~

15 ~~U.S. student population) are suspended and expelled at a rate two times greater~~

16 ~~than white students (representing approximately 50 percent of the U.S. student~~

17 ~~population).~~

18 ~~(B) Students with disabilities who have individualized education~~

19 ~~plans (IEPs) are more likely to be suspended than students without disabilities.~~

20 ~~(6)(A) According to the Agency of Education's Report on Exclusionary~~

21 ~~Discipline Response, January 2017, for the 2015–2016 school year, 3,016~~

1 ~~Vermont public school students were excluded, representing 4.7 percent of~~  
2 ~~total enrollment.~~

3 ~~(B) The Agency of Education found that students who are non-~~  
4 ~~Caucasian, participate in the free and reduced lunch program, have Section~~  
5 ~~504 or IEP plans, male, or are English Learners are over-represented in terms~~  
6 ~~of the number who experience exclusion and the number of incidents resulting~~  
7 ~~in exclusion.~~

8 ~~(C) Use of school discipline strategies, such as exclusionary~~  
9 ~~discipline, restraint, seclusion, referral to law enforcement, and school-related~~  
10 ~~arrest, varies widely throughout the State.~~

11 ~~(7) Valuable data on school discipline in Vermont is largely unavailable~~  
12 ~~and incomplete.~~

13 ~~(A) Vermont does not publicly report any discipline data on the~~  
14 ~~Agency of Education website, even if this data has been collected by schools~~  
15 ~~and districts and reported to the Agency of Education.~~

16 ~~(B) Some relevant data is not readily available from the Vermont~~  
17 ~~Agency of Education, such as the total number of school days missed by~~  
18 ~~students due to suspension or expulsion.~~

19 ~~(C) Other relevant data is not maintained by the Vermont Agency of~~  
20 ~~Education, such as data indicating whether students received educational~~

1 ~~services during suspensions, beyond federal requirements for certain students~~  
2 ~~with disabilities.~~

3 ~~(D) The public school discipline data that Vermont submitted to the~~  
4 ~~U.S. Department of Education's Civil Rights Data Collection for the~~  
5 ~~2013–2014 school year, while available, is incomplete and may be inaccurate.~~

6 ~~(8) More data on school discipline practices in Vermont is necessary to~~  
7 ~~understand what strategies are effective and to encourage the adoption of these~~  
8 ~~strategies at the local level.~~

9 Sec. 2. 16 V.S.A. § 1164 is added to read:

10 § 1164. SCHOOL DISCIPLINE ADVISORY COUNCIL; REPORT

11 (a) Creation. There is created the School Discipline Advisory Council.  
12 The Council, in consultation with the Commissioners of Corrections and of  
13 Public Safety, shall collect and analyze data regarding school discipline in  
14 Vermont public and approved independent schools in order to inform strategic  
15 planning, guide statewide and local decision making and resource allocation,  
16 and measure the effectiveness of statewide and local policies and practices.

17 (b) Membership. The Council shall be composed of the following  
18 15 members:

19 (1) the Secretary of Education or designee;

20 (2) the Commissioner for Children and Families or designee;

21 (3) the Defender General or designee,

- 1 ~~(4) the Executive Director of the State's Attorneys and Sheriffs'~~  
2 Association or designee;  
3 ~~(5) a superintendent selected by the Vermont Superintendents~~  
4 Association;  
5 ~~(6) two principals, one employed in a public or approved independent~~  
6 elementary school and one employed in a public or approved independent  
7 secondary school, selected by the Vermont Principals' Association;  
8 ~~(7) two teachers, one employed in a public or approved independent~~  
9 elementary school and one employed in a public or approved independent  
10 secondary school, selected by the Vermont-National Education Association;  
11 ~~(8) two special education teachers, one employed in a public or~~  
12 approved independent elementary school and one employed in a public or  
13 approved independent secondary school, selected by the Vermont Council of  
14 Special Education Administrators;  
15 ~~(9) the Executive Director of the Vermont Human Rights Commission~~  
16 or designee;  
17 ~~(10) the Executive Director of Vermont Legal Aid or designee; and~~  
18 ~~(11) two parents of Vermont students who have received an~~  
19 out-of-school suspension in a Vermont public or approved independent school,  
20 selected by the Secretary of Education.  
21 ~~(c) Powers and duties. The Council shall.~~

1 ~~(1) analyze current data collection definitions and practices used in~~  
2 ~~Vermont for misconduct and for disciplinary actions that result in a student's~~  
3 ~~exclusion from the classroom and develop standard definitions and practices,~~  
4 ~~as necessary for the collection of all appropriate data related to school~~  
5 ~~discipline;~~

6 ~~(2) analyze annually, on a school-district basis, the available data~~  
7 ~~regarding suspensions and expulsions from Vermont public and approved~~  
8 ~~independent schools and identify, collect, and analyze additional data~~  
9 ~~necessary to inform the work of the Council, including:~~

10 ~~(A) the total number of instances of expulsions and suspensions in~~  
11 ~~each grade operated by the district;~~

12 ~~(B) the total number of students in each grade operated by the district~~  
13 ~~who were expelled or suspended and the number of instances of expulsion~~  
14 ~~or suspension, or both, for each student;~~

15 ~~(C) the duration of each instance of expulsion and suspension;~~

16 ~~(D) the infraction for which each expulsion and suspension was~~  
17 ~~imposed; and~~

18 ~~(E) each instance of referral to local law enforcement authorities or~~  
19 ~~the juvenile justice system;~~

20 ~~(3) identify strategies, including any necessary legislative changes, to~~  
21 ~~assist schools to develop in-school solutions to school disciplinary issues, to~~

1 ensure that students' access to education is not impaired as a result of  
2 disciplinary actions, and to limit the criminal justice system's involvement in  
3 school disciplinary matters; and

4 (4) share insights and best practices with Vermont educators, school  
5 administrators, policymakers, agencies, and education and advocacy  
6 organizations.

7 (d) Report. On or before January 15, 2022, the Council shall submit a  
8 written report to the House and Senate Committees on Education and on  
9 Judiciary, the House Committee on Human Services, and the Senate  
10 Committee on Health and Welfare with its findings and any recommendations  
11 for legislative action.

12 (e) Meetings.

13 (1) The Secretary of Education shall call the first meeting of the Council  
14 to occur on or before September 1, 2021.

15 (2) The Council shall select a chair from among its members at the  
16 first meeting.

17 (3) A majority of the membership shall constitute a quorum.

18 (4) The Council shall meet not more than six times.

19 (f) Assistance. The Council shall have the administrative, technical, and  
20 legal assistance of the Agency of Education.

1 ~~(c) Compensation and reimbursement. Members of the Council shall be~~  
2 ~~entitled to per diem compensation and reimbursement of expenses as permitted~~  
3 ~~under 32 V.S.A. § 1010 for not more than six meetings. These payments shall~~  
4 ~~be made from monies appropriated to the Agency of Education.~~

5 Sec. 3. DATA COLLECTION; SECRETARY OF EDUCATION

6 (a) On or before the first meeting of the Council established in Sec. 2 of  
7 this act, the Secretary of Education shall collect and distribute to the members  
8 of the Council all readily available data on suspensions and expulsions from  
9 each Vermont public school in academic years 2013–2014 through 2018–2019,  
10 including the data specified in subdivision (c)(2) of Sec. 2.

11 (b) On or before July 1, 2022, the Secretary of Education and the State  
12 Board of Education shall incorporate the Council’s standard definitions and  
13 practices developed in subdivision (c)(1) of Sec. 2 of this act into their data  
14 collection rules and procedures and, to the extent permitted by 20 U.S.C.  
15 § 1232g (family educational and privacy rights) and any regulations adopted  
16 thereunder, shall require the collection of data as recommended by the Council  
17 beginning with the 2023–2024 school year.

18 Sec. 4. EFFECTIVE DATE

19 ~~This act shall take effect on passage.~~

*Sec. 1. FINDINGS*

*The General Assembly finds that:*

(1) Nationally, millions of students are removed from the classroom each year for disciplinary reasons.

(2) U.S. Department of Education data reveals that in the 2013–2014 school year, of the 50 million students nationally enrolled in schools:

(A) 2.7 million received in-school suspensions;

(B) 1.6 million received one out-of-school suspension;

(C) 1.1 million received more than one out-of-school suspension; and

(D) 111,215 were expelled.

(3) Exclusionary discipline is used mostly in middle and high schools, and mostly for minor misconduct, according to the Council on State Governments' Justice Center.

(4) Students who are suspended are at significantly higher risk of academic failure, of dropping out of school, and of entering the juvenile justice system according to the Council on State Governments' Justice Center.

(5) Nationally, students of certain racial and ethnic groups and students with disabilities are disciplined at higher rates than their peers, beginning in preschool, as evidenced by 2013–2014 data from the U.S. Department of Education's Office for Civil Rights.

(A) Black students, representing approximately 15 percent of the U.S. student population, are suspended and expelled at a rate two times greater than White students, representing approximately 50 percent of the U.S. student population.

(B) Students with disabilities who have individualized education plans (IEPs) are more likely to be suspended than students without disabilities.

(6)(A) According to the Agency of Education's Report on Exclusionary Discipline Response, January 2017, for the 2015–2016 school year, 3,616 Vermont public school students were excluded, representing 4.7 percent of total enrollment.

(B) The Agency of Education found that students who are non-Caucasian, participate in the free and reduced lunch program, have Section 504 or IEP plans, male, or are English Learners are over-represented in terms of the number who experience exclusion and the number of incidents resulting in exclusion.

(C) Use of school discipline strategies, such as exclusionary discipline, restraint, seclusion, referral to law enforcement, and school-related arrest, varies widely throughout the State.

(7) Valuable data on school discipline in Vermont is largely unavailable and incomplete.

(A) Vermont does not publicly report any discipline data on the Agency of Education website, even if this data has been collected by schools and districts and reported to the Agency of Education.

(B) Some relevant data is not readily available from the Vermont Agency of Education, such as the total number of school days missed by students due to suspension or expulsion.

(C) Other relevant data is not maintained by the Vermont Agency of Education, such as data indicating whether students received educational services during suspensions, beyond federal requirements for certain students with disabilities.

(D) The public school discipline data that Vermont submitted to the U.S. Department of Education's Civil Rights Data Collection for the 2013–2014 school year, while available, is incomplete and may be inaccurate.

(8) More data on school discipline practices in Vermont is necessary to understand what strategies are effective and to encourage the adoption of these strategies at the local level.

**Sec. 2. TASK FORCE ON SCHOOL EXCLUSIONARY DISCIPLINE  
REFORM; REPORT**

(a) Creation. There is created the Task Force on School Exclusionary Discipline Reform. The Task Force shall make recommendations to end suspensions and expulsions for all but the most serious student behaviors and compile data regarding school discipline in Vermont public and approved independent schools in order to inform strategic planning, guide statewide and local decision making and resource allocation, and measure the effectiveness of statewide and local policies and practices.

(b) Membership. The Task Force shall be composed of the Secretary of Education and not more than 20 members appointed by the Secretary of Education, who shall be Vermont residents and a balanced representation of the following:

- (1) educators;
- (2) school administrators;
- (3) high school students;
- (4) special educators;
- (5) parents of students;

(6) school board members; and

(7) members of community groups working in the areas of racial justice and school discipline reform.

(c) Membership diversity. The Secretary shall seek, in making appointments to the Task Force, racial diversity in membership and shall include representation of public and approved independent schools, including therapeutic schools.

(d) Powers and duties.

(1) The Task Force shall make recommendations to end suspensions and expulsions for all but the most serious student behaviors and, taking into account the Vermont Youth Risk Behavior Survey issued by the Department of Health, shall perform the following tasks:

(A) review in-school services and availability of these services in various supervisory unions, approved independent schools, and regions of the State that are available to support students who would otherwise face exclusionary discipline;

(B) recommend additional or more uniform in-school services that should be available to:

(i) students who are under eight years of age where expulsion is not permitted under 16 V.S.A. § 1162 as amended by this act; and

(ii) other students who would otherwise face exclusionary discipline;

(C) define the most serious behaviors that, after considering all other alternatives and supports, should remain eligible for suspension or expulsion;

(D) identify best practice procedures that minimize law enforcement contacts for students facing in-school or exclusionary discipline;

(E) compile, on a school-district and approved independent schools basis, the available data and the data collection processes regarding suspensions and expulsions and compile additional data necessary to inform the work of the Task Force, including:

(i) the total number of instances of expulsions and suspensions in each grade operated by the district or approved independent school;

(ii) the total number of students in each grade operated by the district or approved independent school who were expelled or suspended and the number of instances of expulsion or suspension, or both, for each student;

(iii) the duration of each instance of expulsion and suspension;

(iv) the infraction for which each expulsion and suspension was imposed;

(v) each instance of referral to local law enforcement authorities, the juvenile justice system, community justice center, State's Attorneys Offices, Department for Children and Families, or other juvenile justice-related authority;

(vi) each instance in which a civil, criminal, or juvenile citation was the consequence for a school-related infraction; and

(vii) each instance in which an excluded student received reeducational services, as well as the duration of reeducational services per day, per week, and per month;

(F) recommend changes to the types of data collected and the data collection processes regarding suspensions and expulsions, as necessary, for the collection of all appropriate data related to school discipline, including recommendations on the types of data collected and data collection processes to reflect the contribution of social determinants to instances of suspensions and expulsions; and

(G) review how other states address exclusionary discipline.

(2) All data specified in subdivision (1)(E) of this subsection shall be in disaggregated format by, at a minimum, the following subgroups and categories to the extent permitted by federal and State privacy laws and to the extent information is available:

(A) White;

(B) Black;

(C) Hispanic;

(D) American Indian/Alaskan Native;

(E) Asian, Pacific Islander/Hawaiian Native;

(F) low-income/free or reduced lunch;

(G) Limited English Proficient or English Language Learner;

(H) migrant status;

(I) students receiving special education services;

(J) students on educational plans under Section 504 of the Rehabilitation Act of 1973;

(K) gender;

(L) sexual orientation;

(M) foster care status;

(N) homeless status; and

(O) grade level.

(3) All data specified in subdivision (1)(E) of this subsection shall be cross-tabulated by, at a minimum, the following subgroups and categories to the extent permitted by federal and State privacy laws and to the extent information is available:

(A) school;

(B) school district;

(C) race;

(D) low-income/free or reduced lunch;

(E) Limited English Proficient or English Language Learner;

(F) migrant status;

(G) students receiving special education services;

(H) students on educational plans under Section 504 of the Rehabilitation Act of 1973;

(I) gender;

(J) sexual orientation;

(K) foster care status;

(L) homeless status;

(M) grade level;

(N) behavior infraction code;

(O) intervention applied, including restraint and inclusion; and

(P) educational services provided.

(e) Report. On or before November 30, 2021, the Task Force shall submit a written report to the House and Senate Committees on Education with its findings, addressing each of its duties under subsection (d), and any recommendations for legislative action. The Agency of Education shall share the report and any related insights and best practices with Vermont educators, school administrators, policymakers, agencies, and education and advocacy organizations, and shall post the report on its website.

(f) Meetings.

(1) The Secretary of Education shall call the first meeting of the Task Force to occur on or before August 1, 2021.

(2) The Task Force shall select a chair from among its members at the first meeting.

(3) A majority of the membership shall constitute a quorum.

(4) The Task Force shall meet not more than six times.

(g) Assistance. The Task Force shall have the administrative, technical, and legal assistance of the Agency of Education.

(h) Compensation and reimbursement. Members of the Task Force shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than six meetings of the Task Force.

### Sec. 3. APPROPRIATION

The sum of \$15,000.00 is appropriated from the General Fund in fiscal year 2022 to the Agency of Education for per diem and reimbursement of expenses for members of the Task Force on School Exclusionary Discipline Reform created under Sec. 2 of this act and for expenses incurred by the Task Force in carrying out its duties.

### Sec. 4. DATA COLLECTION; SECRETARY OF EDUCATION

(a) On or before the first meeting of the Task Force established in Sec. 2 of this act, the Secretary of Education shall collect and distribute to the members of the Task Force all readily available data on suspensions and expulsions from each Vermont public school and approved independent school in academic years 2013–2014 through 2018–2019, including the data specified in subdivision (d)(1)(E) of Sec. 2.

(b) On or before July 1, 2022, the Secretary of Education and the State Board of Education shall incorporate the Task Force's data collection and practices recommendations developed in subdivision (d)(1)(F) of Sec. 2 of this act into their data collection rules and procedures and, to the extent permitted by 20 U.S.C. § 1232g (family educational and privacy rights) and any regulations adopted thereunder, shall require the collection of data as recommended by the Task Force beginning with the 2023–2024 school year.

### Sec. 5. OUTCOME ANALYSIS

On or before January 15 of each year from 2025 to 2030, the Secretary of Education shall submit a written report to the House and Senate Committees on Education on suspensions and expulsions from each Vermont public school and approved independent school in the prior school year, including the data specified in subdivision (d)(1)(E) of Sec. 2.

*Sec. 6. 16 V.S.A. § 1162 is amended to read:*

*§ 1162. SUSPENSION OR EXPULSION OF STUDENTS*

*\* \* \**

*(d) Notwithstanding anything to the contrary in this chapter, a student enrolled in a public school who is under eight years of age shall not be expelled from the school; provided, however, that the school may expel the student if the student poses a threat of harm or danger to others in the school.*

*Sec. 7. REFERRALS OF TRUANCY TO THE STATE'S ATTORNEYS*

*(a) On or before September 1, 2021, each school district shall report to the Agency of Education the number of cases referred by the district or its staff to a State's Attorney for truancy under 16 V.S.A. § 1127 or 33 V.S.A. § 5309, what mitigation techniques were used by the district to engage with families prior to each referral, and the result of each referral.*

*(b) On or before December 15, 2021, the Agency of Education shall collate the reports from school districts and report the results to the General Assembly.*

*Sec. 8. EFFECTIVE DATE*

*This act shall take effect on passage.*