

AOE Testimony:

Testimony To: House Committee on Education

Respectfully Submitted by: Jess DeCarolis, Division Director, Student Pathways Division; Dr. Wendy Geller, Division Director, Data Management and Analysis Division **Date:** April 13, 2021

Bill Discussion Points

Section 1

Pertaining to 7(D)

• The Agency does not feel comfortable speaking to the accuracy of CRDC's data. However, every year at the National Center for Education Statistics Data annual forum, the AOE (along with other State Education Agencies) provides feedback to the Office of Civil Rights regarding potential improvements on how they can notify, disseminate information to, and require SU/SDs to collect and report these data.

Pertaining to (8)

• If we are already collecting these data described in (7), it would be helpful to understand what additional data, is necessary. Are these data sufficient in gaining insight into discipline practices? The AOE agrees with supporting local adoption of effective statewide strategies pertaining to data collection, reporting, and use. Currently, in support of Act 173 implementation and through a contract with WestEd, the Agency is hosting a data literacy training series. 33 SU/SDs (62% of our SU/SDs) are engaging in the work with nearly 300 participants. This supports systemic change at the local level to improve systemic outcomes at the State level.

Section 2

Pertaining to (E)(ii)-(iv)

• The AOE is unclear on this language. The Task Force would not have the authority, and it would be a violation of FERPA, to collect data directly from school districts or schools. Even if it was not a violation of federal privacy laws, there would be an outstanding question as to how and where these data would be stored and protected. This is of even greater concern when we consider it within the context of reports we receive from the Vermont Intelligence Center (and FBI) about increased cyberattacks and data breaches on schools and agencies nationwide. What would be the protections provided by a non-



governmental, non-regulatory body of these sensitive student data?

• The Agency has concerns related to student privacy as it pertains to parts i through viii. We absolutely support the intent of the bill and the desire to gain insight to ensure that students are afforded their legal right to a high-quality education that is safe, respectful, anti-racist and student-centered. However, as written, this language runs the risk of compromising student privacy, particularly as we know that reporting reasons for incidents, particularly as it applies to minors, may take the Task Force into territory such as reported incidents that result in legal action. We highly recommend that any activities of the Task Force, and subsequent actions that the AOE is asked to take, are not in conflict with laws governing civil and criminal procedure, particularly as they pertain to the juvenile justice system whose records are non-public by design.

Pertaining to (e) Report.

• This is such a critical social justice issue the AOE recommends that the Task Force be given sufficient time to engage stakeholders, navigate the complexities of data collection and reporting, and work through the intersections of education, criminal and civil law that are proposed in the current bill. While we are all looking forward to moving beyond the constraints posed by the pandemic, we know that we will be contending with the reality and the consequence of the pandemic for some years to come, particularly within our education system. We have seen how the pandemic has created challenges and delays for existing workgroups, councils, and task forces. We recommend anticipating some challenges for this group and giving them sufficient time to do their work deliberatively and fairly. If this extended timeline was to be adopted, then working through the other areas of the bill related to meeting times and compensation would need to be addressed.

	Section 1	
Drafted Language S.16	Factual Clarification	Recommended Language
		Change
(7) Valuable data on school	Discipline data are reported	(7) Valuable data on school
discipline in Vermont is	publicly via the <u>Annual</u>	discipline in Vermont is made
largely unavailable and	Snapshot and the Vermont	available <mark>annually.</mark>
incomplete.	Education Dashboard (VED).	
(A) Vermont does not	Discipline data are reported	(A) Vermont publicly reports
publicly report any discipline	publicly via the <u>Annual</u>	discipline data on the Agency
data on the Agency of	<u>Snapshot</u> and the <u>Vermont</u>	of Education website in two
Education website, even if	Education Dashboard (VED).	places: the Annual Snapshot
this data has been collected by		and the interactive Vermont
schools and districts and		Education Dashboard (VED).
reported to the Agency of		This includes data reported
Education.		by schools, subgroups, and
		aggregated State data.
(B) Some relevant data is not	The Annual Snapshot reports	(B) The Annual Snapshot
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Factual Clarifications and Recommendations



	Section 1	
Drafted Language S.16	Factual Clarification	Recommended Language
		Change
readily available from the	Disciplinary Exclusion as	reports Disciplinary
Vermont Agency of	one of its measures.	Exclusion as one of its
Education, such as the total	This indicator reflects the	measures which reflects the
number of school days missed	amount of school days missed	amount of school days
by students due to suspension	as a result of out-of-school	missed as a result of
or expulsion.	suspensions relative to the	suspensions and is reported
	number of students enrolled	as a school or SU/SD rate of
	during the school year	exclusion for all students
	selected. As exclusion rates	served. The Agency also
	fluctuate substantially	collects data on in-school
	according to grade level, a	suspensions.
	rate is calculated for each	
	grade. A school or SU/SD rate	
	represents the rate of	
	exclusion of all students	
	served by the school or SU/SD	
	of interest.	
(C) Other relevant data is not	Schools do not have to	
maintained by the Vermont	provide materials to	
Agency of Education, such as	suspended students. Title 16	
data indicating whether	§1162 says they are	
students received educational	"authorized and encouraged"	
services during suspensions,	to do so but not required. The	
beyond federal requirements	only requirement is for	
for certain students with	specific educational and	
disabilities.	related services written in an	
	IEP for students served	
	through special education,	
	and even then, this is not	
	generally required until the	
	student has been suspended	
	over 10 days, consecutive or	
	cumulative. There is no other	
	guidance about educational	
	services and there is no	
	provision to collect data as to	
	whether any services (other	
	than IEP) have been provided.	
(D) The public school	The <u>Civil Rights Data</u>	(D)The public school
discipline data that Vermont	Collection "(CRDC) is a	discipline data that the CRDC



	Section 1	
Drafted Language S.16	Factual Clarification	Recommended Language
		Change
submitted to the U.S.	biennial (i.e., every other	gathers are collected directly
Department of Education's	school year) survey required	from the universe of
Civil Rights Data Collection	by the U.S. Department of	<u>supervisory unions in</u>
for the 2013–2014 school year,	Education's (Department)	Vermont and not from the
while available, is incomplete	Office for Civil Rights (OCR)	AOE. These data are
and may be inaccurate.	since 1968. Similar to the	representative of public and
	2011–12 and 2013–14 CRDCs,	non-public school data.
	the 2015–16 CRDC collected	
	data from a universe of all	
	public local educational	
	agencies (LEA) and schools,	
	including long-term secure	
	juvenile justice facilities, charter schools, alternative	
	schools, and schools serving	
	students with disabilities. The	
	2017–18 CRDC will also	
	collect information from a	
	universe of public LEAs."	
	https://ocrdata.ed.gov/assets/	
	downloads/FAQ.pdf	
	This means that AOE as the	
	SEA doesn't have a role in the	
	CRDC's management. It is a	
	direct collection from the	
	federal to the LEA level.	
(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.		

Section 2



Drafted Language S.16	Factual Clarification	Recommended Language Change
 (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; (7) and members of community groups working in the areas of racial justice and school discipline reform. 		 (b) Membership. The Task Force shall be composed of the Secretary of Education or their designee, 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) SU/school data managers; (4) high school students; (5) special educators; (6) parents of students; (7) school board members; (8) and members of community groups working in the areas of racial justice and school discipline reform.
(d) Powers and duties.(1) The Task Force shall makerecommendations to endsuspensions andexpulsions for all but themost serious studentbehaviors and, taking intoaccount the VermontYouth Risk BehaviorSurvey issued by theDepartment of Health,shall perform thefollowing tasks:		(d) Powers and duties.(1) The Task Force shall makerecommendations to endsuspensions andexpulsions for all but themost serious studentbehaviors and, taking intoaccount the VermontYouth Risk BehaviorSurvey issued by theDepartment of Health anddata reported in theAnnual Snapshot andVermont EducationDashboard on the



Drafted Language 5.16 Factual Clarification Recommended Language Change Drafted Language 5.16 Factual Clarification Agency of Education website, shall perform the following tasks; (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; (E) use the available data on the Agency of Education website and survey SUs on their local data collection processes regarding out of school suspensions and expulsions to inform the work of the Task Force including; (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; (ii) the duration of each incidents and the data collection system would require substantial diven it comes to expulsion and suspension was imposed; (iii) the infraction for which each expulsion and suspension was imposed; (iii) the infraction as often reportable in the state of Vermont as there are not ereporting and collecting rules and procedures; (iii) the infraction, as permissible under existing reporting and collecting rules and procedures, for which each expulsion and suspension; (iv) each instance of referral to local law enforcement authorities, the iyatice center. State's			Section 2	
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(iii)instance of expulsion and suspension; which each expulsion and suspension was imposed;collection system would require substantial development work (and then field training) to collect this for all reported incidents. for all reported incidents. imposed;procedures;(iv)each instance of referral to local law enforcement authorities, the juvenile justiceWhen it comes to expulsion often reportable in the state of Vermont as there are not enough expulsions on an annual basis to publicly report those data (the number has historically been fewer than 10 incidents annually).(iii) the infraction, as permissible under existing reporting and collecting rules and procedures, for which each expulsion and suspension was imposed;(iv)each instance of referral to local law plusticeof Vermont as there are not enough expulsions on an annual basis to publicly report those data (the number has historically been fewer than 10 incidents annually).(iv) each instance of referral to local law enforcement authorities, the juvenile justice during an exclusion are not			collected for harassment	existing reporting and
and suspension; the infraction for which each expulsion and suspension was imposed;require substantial development work (and then field training) to collect this instance of expulsion and suspension;(ii) the duration of each instance of expulsion and suspension;(iv)each instance of referral to local law enforcement authorities, the juvenile justicedata, this type of event is not often reportable in the state enough expulsions on an annual basis to publicly report those data (the system, community justice center, State's Attorneys Offices, Department for Children andrequire substantial development work (and then (iii) the duration of each instance of expulsion of Vermont as there are not enough expulsions on an annual basis to publicly report those data (the suspension was imposed;(iii) the infraction, as permissible under existing reporting and collecting rules and procedures, for which each expulsion and suspension was imposed;(iv)each enter, State's Attorneys Offices, Department for Children andnumber has historically been fewer than 10 incidents annually).(iv) each instance of referral to local law enforcement authorities, the juvenile justice during an exclusion are not	(ii)	the duration of each	incidents and the data	collecting rules and
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(iv)catch instance of referral to local law enforcement authorities, the juvenile justiceoften reportable in the state of Vermont as there are not enough expulsions on an annual basis to publicly report those data (the number has historically been fewer than 10 incidents Attorneys Offices, Department for Children andoften reportable in the state of Vermont as there are not enough expulsions on an annual basis to publicly report those data (the number has historically been fewer than 10 incidents annually).permissible under existing reporting and collecting rules and procedures, for which each expulsion and suspension was imposed;(iv) each instance of referral to local law enforcement authorities, the juvenile justice during an exclusion are not(iv) each instance of referral to local law enforcement authorities, the juvenile justice		<u>imposed;</u>	_	
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enforcement authorities, the juvenile justiceof Vermont as there are not enough expulsions on an annual basis to publiclyreporting and collecting rules and procedures, for which each expulsion and suspension was imposed;system, community justice center, State'sreport those data (the number has historically been fewer than 10 incidentssuspension was imposed;Attorneys Offices, Department for Children andfewer than 10 incidents annually).(iv) each instance of referral to local law enforcement authorities, the juvenile justice system, community justice	` '			-
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juvenic justicereport those data (the number has historically been fewer than 10 incidentssuspension was imposed;Attorneys Offices, Department for Children andfewer than 10 incidents(iv) each instance of referral to local law enforcement authorities, the juvenile justiceDepartment for Children andData on education services during an exclusion are notauthorities, the juvenile justice			• •	-
system, community justice center, State'sreport those data (the number has historically been fewer than 10 incidentssuspension was imposed;Attorneys Offices, Department for Children andfewer than 10 incidents annually).(iv) each instance of referral to local law enforcement authorities, the juvenile justice system, community justice		juvenile justice		1
justice center, State's Attorneys Offices, Department for Children andnumber has historically been fewer than 10 incidents annually).(iv) each instance of referral to local law enforcement authorities, the juvenile justice system, community justice		, ,	-	suspension was imposed;
Attorneys Offices, Department for Children andfewer than 10 incidents annually).(iv) each instance of referral to local law enforcement authorities, the juvenile justice system, community justice				
Department for Children andannually).local law enforcement authorities, the juvenile justice system, community justice		,		
Children andData on education services during an exclusion are notauthorities, the juvenile justice system, community justice		2		
		-		
AQE S 16 Testimony Page 6 of 10			during an exclusion are not	



	Section 2	
Drafted Language S.16	Factual Clarification	Recommended Language Change
Families, or other juvenile justice- related authority;(v)each instance in which a civil, 	particularly in the case of out of school suspensions. They are collected when connected to a student with an IEP per federal requirement.	Changecenter, State's AttorneysOffices, Department forChildren and Families, orother juvenile justice-relatedauthority as permissiblewithin the existing rules andlaws governing the publicavailability of thisinformation;(v) each instance in which acivil, criminal, or juvenilecitation was the consequencefor a school-related infractionas permissible within theexisting rules and lawsgoverning the publicavailability of thisinformation; and(vi) each instance in which anexcluded student receivedreeducational services, as wellas the duration ofreeducational services perday, per week, and permonth;
(F) recommend changes to a types of data collected and data collection processes regarding suspensions and expulsions, as necessary, fo the collection of all appropriate data related to school discipline, including recommendations on the types of data collected and data collection processes to	<u>the</u> <u>r</u>	(F) recommend additions to the types of data collected and the data collection processes regarding suspensions and expulsions, as necessary and in accordance with federal and state rules and best practices governing appropriate data collection and reporting, for the collection of all appropriate



	Section 2	
Drafted Language S.16	Factual Clarification	Recommended Language
		Change
reflect the contribution of		data related to school
social determinants to		discipline, including
instances of suspensions and		recommendations on the
expulsions; and		types of data collected and
		data collection processes to
		reflect the contribution of
		social determinants to
		instances of suspensions and
		expulsions; and
(e)Report. On or before		(e) Report. On or before
November 30, 2021, the Task		<u>November 30, 2021 2022,</u>
Force shall submit a written		the Task Force shall
report to the House and		submit a written report to
Senate Committees on		the House and Senate
Education with its findings,		Committees on Education
addressing each of its duties under subsection (d), and any		with its findings,
recommendations for		addressing each of its
legislative action. The		duties under subsection
Agency of Education shall		<u>(d), and any</u>
share the report and any		recommendations for
related insights and best		legislative action. The
practices with Vermont		Agency of Education shall
educators, school		share the report and any
administrators, policymakers,		related insights and best
agencies, and education and		practices with Vermont
advocacy organizations, and		<u>educators, school</u> administrators,
shall post the report on its		policymakers, agencies,
website.		and education and
		advocacy organizations,
		and shall post the report
		on its website.
<u> </u>	1	<u>on no webolite.</u>

	Section 4	
Drafted Language S.16	Factual Clarification	Recommended Language
		Change
(a) On or before the first meeting of the Task Force established in Sec. 2 of		(a) At the first meeting of the Task Force established in Sec. 2 of this act, the



	Section 4	
Drafted Language S.16	Factual Clarification	Recommended Language
		Change
this act, the Secretary of		Secretary of Education or
Education shall collect		their designee shall
and distribute to the		provide an overview and
members of the Task		training to the Task Force
Force all readily available		on how to navigate the
data on suspensions and		Agency website and the
expulsions from each		readily available data
Vermont public school		collections that provide
and approved		data on out of school
independent school in		suspensions and
academic years 2013–2014		expulsions from each
through 2018–2019,		Vermont public school
<u>including the data</u>		and approved
specified in subdivision $(d)(1)(F)$ of Sec. 2		independent school in
<u>(d)(1)(E) of Sec. 2</u> .		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,		(c) On or after July 1, 2022,
the Secretary of Education		the Secretary of Education
and the State Board of		and the State Board of
Education shall		Education shall evaluate
incorporate the Task		and, to the extent
Force's data collection and		permitted by 20 U.S.C. §
practices		1232g (family educational
recommendations		and privacy rights), any
developed in subdivision		regulations adopted
<u>(d)(1)(F) of Sec. 2 of this</u>		thereunder, and any rules
act into their data		governing reporting of
collection rules and		federal data, incorporate
procedures and, to the		the Task Force's analysis
extent permitted by 20		of extant, publicly
<u>U.S.C. § 1232g (family</u>		sharable data and
educational and privacy		practices
rights) and any		recommendations
regulations adopted		developed in subdivision
thereunder, shall require		(d)(1)(F) of Sec. 2 of this
the collection of data as		<u>act into their data</u>



	Section 4	
Drafted Language S.16	Factual Clarification	Recommended Language
		Change
recommended by the Task		collection rules and
Force beginning with the		procedures and shall
<u>2023–2024 school year.</u>		recommend the collection
		of data as outlined by the
		Task Force beginning with
		the 2023–2024 school year,
		to the extent practicable
		without risk to
		maintaining existing
		federal data collection
		and reporting
		requirements.

