

## 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.

**Factual Clarifications and Recommendations**

	Section 1	
<a href="#"><u>Drafted Language S.16</u></a>	Factual Clarification	Recommended Language Change
<u>(7) Valuable data on school discipline in Vermont is largely unavailable and incomplete.</u>	Discipline data are reported publicly via the <a href="#"><u>Annual Snapshot</u></a> and the <a href="#"><u>Vermont Education Dashboard (VED)</u></a> .	<u>(7) Valuable data on school discipline in Vermont is <b>made</b> available <b>annually</b>.</u>
<u>(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.</u>	Discipline data are reported publicly via the <a href="#"><u>Annual Snapshot</u></a> and the <a href="#"><u>Vermont Education Dashboard (VED)</u></a> .	<u><b>(A) Vermont publicly reports</b> discipline data on the Agency of Education website <b>in two places: the Annual Snapshot and the interactive Vermont Education Dashboard (VED). This includes data reported by schools, subgroups, and aggregated State data.</b></u>
<u>(B) Some relevant data is not</u>	The Annual Snapshot reports	<u><b>(B) The Annual Snapshot</b></u>

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<p><u>readily available from the Vermont Agency of Education, such as the total number of school days missed by students due to suspension or expulsion.</u></p>	<p><u><a href="#">Disciplinary Exclusion as one of its measures.</a></u></p> <p>This indicator reflects the amount of school days missed as a result of out-of-school suspensions relative to the number of students enrolled during the school year selected. As exclusion rates fluctuate substantially according to grade level, a 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.</p>	<p><u><a href="#">reports Disciplinary Exclusion as one of its measures which reflects the amount of school days missed as a result of suspensions and is reported as a school or SU/SD rate of exclusion for all students served. The Agency also collects data on in-school suspensions.</a></u></p>
<p><u>(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.</u></p>	<p>Schools do not have to provide materials to suspended students. Title 16 §1162 says they are “authorized and encouraged” to do so but not required. The only requirement is for specific educational and 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.</p>	
<p><u>(D) The public school discipline data that Vermont</u></p>	<p>The <u><a href="#">Civil Rights Data Collection</a></u> “(CRDC) is a</p>	<p><u>(D)The public school discipline data <b>that the CRDC</b></u></p>

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<p><u>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.</u></p>	<p>biennial (i.e., every other school year) survey required by the U.S. Department of Education’s (Department) Office for Civil Rights (OCR) since 1968. Similar to the 2011–12 and 2013–14 CRDCs, 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.”</p> <p><a href="https://ocrdata.ed.gov/assets/downloads/FAQ.pdf">https://ocrdata.ed.gov/assets/downloads/FAQ.pdf</a></p> <p>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.</p>	<p><b><u>gathers are collected directly from the universe of supervisory unions in Vermont and not from the AOE. These data are representative of public and non-public school data.</u></b></p>
<p>(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.</p>		
	<b>Section 2</b>	

<u>Drafted Language S.16</u>	Factual Clarification	Recommended Language Change
<p>(b) <u>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:</u></p> <ol style="list-style-type: none"> <li>(1) <u>educators;</u></li> <li>(2) <u>school administrators;</u></li> <li>(3) <u>high school students;</u></li> <li>(4) <u>special educators;</u></li> <li>(5) <u>parents of students;</u></li> <li>(6) <u>school board members;</u></li> <li>(7) <u>and members of community groups working in the areas of racial justice and school discipline reform.</u></li> </ol>		<p>(b) <u>Membership. The Task Force shall be composed of the Secretary of Education <b>or their designee</b>, and not more than 20 members appointed by the Secretary of Education, who shall be Vermont residents and a balanced representation of the following:</u></p> <ol style="list-style-type: none"> <li>(1) <u>educators;</u></li> <li>(2) <u>school administrators;</u></li> <li>(3) <b><u>SU/school data managers;</u></b></li> <li>(4) <u>high school students;</u></li> <li>(5) <u>special educators;</u></li> <li>(6) <u>parents of students;</u></li> <li>(7) <u>school board members;</u></li> <li>(8) <u>and members of community groups working in the areas of racial justice and school discipline reform.</u></li> </ol>
<p>(d) <u>Powers and duties.</u></p> <ol style="list-style-type: none"> <li>(1) <u>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:</u></li> </ol>		<p>(d) <u>Powers and duties.</u></p> <ol style="list-style-type: none"> <li>(1) <u>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 <b>and data reported in the Annual Snapshot and Vermont Education Dashboard on the</b></u></li> </ol>

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		<u>Agency of Education website</u> , shall perform the following tasks:
(E) <u>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:</u>		<b><u>(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:</u></b>
(ii) <u>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;</u>  (ii) <u>the duration of each instance of expulsion and suspension;</u> (iii) <u>the infraction for which each expulsion and suspension was imposed;</u> (iv) <u>each instance of referral to local law enforcement authorities, the juvenile justice system, community justice center, State's Attorneys Offices, Department for Children and</u>	With regard to required reporting on the reason for an incident (e.g., was the incident motivated by Race, Religion, or sexual orientation), currently this information is collected in a variable called "Category." <b>It is important to note that these data are only collected for harassment incidents and the data collection system would require substantial development work (and then field training) to collect this for all reported incidents. When it comes to expulsion data, this type of event is not 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).</b> Data on education services during an exclusion are not	(ii) <u>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, <b>as permissible under existing reporting and collecting rules and procedures;</b></u>  (ii) <u>the duration of each instance of expulsion and suspension;</u>  (iii) <u>the infraction, <b>as permissible under existing reporting and collecting rules and procedures,</b> for which each expulsion and suspension was imposed;</u>  (iv) <u>each instance of referral to local law enforcement authorities, the juvenile justice system, community justice</u>

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<p><u>Families, or other juvenile justice-related authority;</u></p> <p>(v) <u>each instance in which a civil, criminal, or juvenile citation was the consequence for a school-related infraction; and</u></p> <p>(vi) <u>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;</u></p>	<p>collected on suspension, but the majority of suspensions occur for 1 to 3 days and it may be difficult to stand up alternative services quickly for that short of a time, particularly in the case of out of school suspensions. They are collected when connected to a student with an IEP per federal requirement.</p>	<p><u>center, State’s Attorneys Offices, Department for Children and Families, or other juvenile justice-related authority <b>as permissible within the existing rules and laws governing the public availability of this information;</b></u></p> <p><u>(v) each instance in which a civil, criminal, or juvenile citation was the consequence for a school-related infraction <b>as permissible within the existing rules and laws governing the public availability of this information;</b> and</u></p> <p><u>(vi) 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;</u></p>
<p><u>(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</u></p>		<p><u>(F) recommend <b>additions</b> to the types of data collected and the data collection processes regarding suspensions and expulsions, as necessary <b>and in accordance with federal and state rules and best practices governing appropriate data collection and reporting,</b> for the collection of all appropriate</u></p>

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<u>reflect the contribution of social determinants to instances of suspensions and expulsions; and</u>		<u>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</u>
<u>(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.</u>		<u>(e) Report. On or before November 30, <del>2021</del> <b>2022</b>, 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.</u>

	<b>Section 4</b>	
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<u>(a) On or before the first meeting of the Task Force established in Sec. 2 of</u>		<u>(a) <b>At the</b> first meeting of the Task Force established in Sec. 2 of this act, the</u>



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

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<u>recommended by the Task Force beginning with the 2023–2024 school year.</u>		<u>collection rules and procedures and <del>shall</del> <b>recommend</b> the collection of data as <b>outlined</b> by the Task Force beginning with the 2023–2024 school year, <b>to the extent practicable without risk to maintaining existing federal data collection and reporting requirements.</b></u>