



To: Vermont House Committee on Education
Attn: Ms. Rowan Hawthorne, Committee Assistant

From: Chris Dodge, Principal
Swanton Elementary School

Date: May 2, 2023

Re: S.103 - An Act Relating to Amending the Prohibitions Against Discrimination

Honorable Committee Members,

With appreciation for your commitment to Vermont's children, I offer the following in response to the proposed amendments to Bill S.103, *An Act Relating to Amending the Prohibitions Against Discrimination*.

I have been privileged to serve as a Vermont educator for nearly 27 years, first as an elementary classroom teacher, then a school counselor and, for the past 17 years, as a school administrator. In my current role as principal of Swanton Elementary School, I work with over 100 staff and more than 600 students on a preschool through sixth grade campus with two buildings. In each of my aforementioned roles, ensuring the physical and emotional wellbeing of students has been, and continues to be paramount, as is building a school community of belonging and safety.

As you are aware, the House General Affairs Committee has approved an amendment to S.103 that would lower the bar for the substantiation of student-to-student harassment, effectively expanding this proposed legislation from adults and their employers and applying the same language and standard to school children. The result of such action will be tremendously burdensome on school personnel and counterproductive for students.

As amended, S.103 removes the requirement that student-to-student conduct substantially interferes with a child's educational access or performance, or creates an intimidating, hostile or offensive environment, before being substantiated as harassment. By removing this higher bar,

nearly any incident of misbehavior, no matter how insignificant, could require an hours-long investigatory process that already removes professionals such as principals, counselors and teachers from their essential instructional, therapeutic and administrative duties for large amounts of time, even with the current higher standard for substantiation of harassment. The “teachable moment,” quite arguably the most important part of addressing student behavior, particularly for young elementary children, would easily become lost in the tedium of an unwarranted, unnecessary, and all-consuming legal process given the proposed amendments, thereby potentially removing the essential instruction that would most effectively prevent the misbehavior from recurring in the future. The lower bar potentially perpetuates the problem by suspending highly effective and efficient informal redress of behaviors by skilled school professionals and replaces those opportunities with daunting and ongoing legal processes that do little to change student behavior and protect the rights of students. The amount of time that would be spent on minor behaviors would be substantially disproportionate to any positive outcome.

The proposed amendments to S.103 would likely place such a significant staffing burden on Vermont schools that additional personnel would almost assuredly be required to conduct the countless unnecessary and warrantless harassment investigations that would result each and every day from minor and often trivial behaviors, particularly at the elementary level. In an era of extremely difficult staffing for Vermont schools, filling these additional staffing positions and training new investigators would likely prove difficult to impossible, and would result in a significant undue financial hardship on Vermont’s educational system. All the while, these behaviors are far more appropriately addressed through social-emotional instruction and restorative practices in a “teachable moment” and do not require an undue depletion of administrative and other professional resources via an exhaustive investigatory process. In the end, the proposed lower bar for substantiating harassment would become counterproductive, channeling resources away from the teaching of desperately needed social skills and into a bureaucratic process with very little direct benefit to children or impact on future behavior. At the same time, the process also removes administrators from the many other essential elements of their work, such as teacher supervision, ensuring high-quality instruction, and building family and community relationships. Ultimately, I fear these types of changes would perpetuate professional staff and administrative turnover and force dedicated professionals from this work.

Additionally, the lowering of the standard for substantiating student-to-student harassment increases the potential for students’ whose behavior is inappropriate, but not pervasive or severe, to be “labeled” as perpetrators of harassment, a potentially serious mislabeling of their conduct that could limit future opportunities and perpetuate stigmas and stereotypes associated this serious behavior. All inappropriate student behavior needs to be addressed, but not all inappropriate behavior is harassment, and that discrimination can have far-reaching consequences when inappropriately applied.

Lowering the bar to compel virtually any misbehavior - or perceived misbehavior - to be investigated and quite likely deemed as harassment, almost certainly runs contrary to students’ First Amendment freedom of speech rights. By requiring investigations for very minor,

non-pervasive and non-severe behaviors, students may well experience unlawful procedural intimidation or consequences that create a chilling effect and stifles and strips them of their freedom of lawful expression. While it is essential that students are held accountable for their words and actions, and that all students feel safe and respected at school, there is a necessary and delicate balance between this accountability and infringing on students' rights to free speech. In 1969, the Supreme Court held that students do not "shed their constitutional rights to freedom of speech or expression at the schoolhouse gate." Nor should our legislation, as written in the proposed amendments to S.103, create definitions and benchmarks so extreme as to potentially trample these rights.

Ensuring that students are respected, physically and emotionally safe, and have a sense of belonging at school is critical. As an educational leader, I take these elements of my work very seriously. Unnecessarily burdensome and counterproductive legal requirements that would impede my ability to create such a positive environment for my students by distracting from that work, such as those that would be created by the lowering of the standard for substantiating student-to-student harassment, will ultimately cause harm to children by serving as an insurmountable and all-consuming distraction from the many facets of leading a school. For smaller, less resourced schools, this issue would only be compounded. The proposed changes would exponentially increase unnecessary and time-consuming harassment investigations, an already very burdensome task on schools. I encourage you to reject the lower bar for substantiating student-to-student harassment, and in doing so, help to preserve the essential time administrators, counselors and teachers need to do their most important work. A more productive approach to this issue would include increased training on this issue for key school employees and providing instructional resources for teachers, rather than simply lowering the bar for substantiation, which ultimately provides little deterrent or teaching.

I implore this committee to put their trust in school administrators and other school professionals to do what is best for all students, to be mindful and keep a responsible, watchful eye on everyone's right to be free of true and legitimate harassment and poor behavior, and to understand the developmental and educational needs of students who require targeted social-emotional learning so as to avoid and respond to such behaviors.

Thank you for your time and consideration.

Regards,

A handwritten signature in cursive script that reads "Chris Dodge".

Chris Dodge
Principal