



To: House Education Committee
From: Sue Ceglowski, Executive Director, Vermont School Boards Association
Re: S.103 As Recommended By House Committee on General and Housing
Date: May 4, 2023

Good afternoon. My name is Sue Ceglowski and I am the Executive Director of the Vermont School Boards Association. I have been asked to provide input on S.103 and information about the school board's role in addressing harassment.

The version of the bill under consideration is [draft 2.1](#) which includes changes to the definition of harassment in 16 VSA Section 11(26) and the standard of liability in 16 VSA Section 570f(c). S.103 as passed by the Senate did not include these changes to education law.

The changes to the definition of harassment and the standard of liability proposed in S.103 are significant changes that should be given due thought and consideration along with input from involved stakeholders. These proposed changes are coming into play during the last days of this legislative session without time for that type of process. A proposal for significant changes to the law should start with an understanding of current law and how it is working. In its final discussions on S.103, the House General and Housing Committee discussion was not based on facts about current hazing, harassment and bullying (HHB) law in Title 16, as evidenced by statements that the AOE model policy is optional, not mandated. [16 V.S.A. Section 570\(b\)](#) and an [AOE Memo issued to the field on May 29, 2015](#) clearly state that all Vermont public and independent schools are required to have Harassment, Hazing and Bullying prevention policies in effect which are "... at least as stringent as model policies developed by the Secretary." This [memorandum filed by VSBA](#) to the House General and Housing Committee corrected the record and we are thankful that the House Education Committee is taking a more deliberate and informed approach.

As I begin this testimony, I want to convey that the Vermont School Boards Association takes a strong stand against harassment. We're committed to ensuring that every student is in a safe, secure, and welcoming learning environment. And we're committed to equity which means each student receives the resources and educational opportunities they need to learn and thrive.

One of the ways we have shown our commitment is by fully supporting the changes to the Education Quality Standards (EQS) put forward by the Act 1 Working Group (Ethnic and Social Equity Standards Advisory Working Group). Those proposed changes (now under consideration at the State Board of Education) add to existing non-discrimination protections (by strictly prohibiting discrimination against any student as a result of, or based upon, ethnicity, caste, language and linguistic diversity, socio-economic status, religion, housing status, and non-citizenship or immigration status). The proposed changes require schools to be anti-racist, culturally responsive, anti discriminatory, and inclusive learning environments. They also require schools to foster a classroom culture based on the tenets of restorative justice practices: relationships, respect, responsibility, repair, and reintegration.

The proposed EQS changes further require schools to impart a comprehensive historical and socially conscious understanding of:

1. the causes and effects of bias and discrimination;
2. why all persons should have equitable access to social and economic opportunity;
3. why persons and institutions must identify and prevent individual, group, and systemic racism, discrimination and all forms of unfair treatment; and
4. the positive and multi-faceted contributions of different social, cultural, racial, linguistic ethnic and Indigenous groups to the historical and ongoing project of building and strengthening democracy in the United States and globally.

In addition to supporting the changes to the EQS, we're committed to gaining a full understanding of new federal Title IX regulations (to be issued this month). Among other changes, we expect the rules to include protections for transgender and nonbinary students and expand the definition of sexual harassment, decreasing the threshold for when schools are required to begin an investigation.

The upcoming changes in the federal regulations under Title IX will require changes to the Vermont Agency of Education's model policy and procedures on Hazing, Harassment and Bullying. S.103 would make major changes to Vermont education law before the impact is known of changes to Federal Title IX regulations regarding sex based harassment, and before related Procedures for the Prevention of Harassment, Hazing and Bullying of Students are updated in the coming months. These changes will likely have significant impacts on the concepts addressed by S.103 and should be fully understood before revisions are proposed to state law by S.103

Additionally, we are aware that S.103 could create significant additional liability for school districts under the First Amendment - we certainly hope this committee, and all committees taking up this topic, will pursue additional information to understand that issue more fully before moving forward.

Next, I will move on to the duties of school boards to prevent harassment. Current law, [16 VSA Section 570\(b\)](#), states:

*"Each school board **shall** develop, adopt, ensure the enforcement of, and make available in the manner described under subdivision 563(1) of this title harassment, hazing and bullying prevention policies that shall be at least as stringent as model policies developed by the Secretary. Any school board that fails to adopt one or more of these policies shall be presumed to have adopted the most current model policy or policies published by the Secretary."* (emphasis added)

This Vermont School Boards Insurance Trust (VSBIT) [school board toolkit](#) provides a review of the prevention duties and responsibilities of school boards under the *Model Policies and Procedures on the Prevention of Harassment, Hazing and Bullying* and the *2020 Policy for the Prevention of Sexual Harassment as Prohibited by Title IX*. The duties and responsibilities of school boards include:

1. Duty to adopt/update statutorily compliant school policies and procedures with respect to "harassment," "hazing" and "bullying" and "sexual harassment."
2. Duty to ensure publication of policies and procedures with respect to "harassment," "hazing," "bullying" and "sexual harassment."
3. Duty to ensure distribution and notification to students and minor student parents/guardians of policies and procedures with respect to "harassment," "hazing," "bullying" and "sexual harassment."
4. Duty to ensure distribution and notification to School/District staff/teachers/employees of policies and procedures with respect to "harassment," "hazing," "bullying" and "sexual harassment."
5. Duty to ensure training of School/District employees/teachers/staff regarding duties and responsibilities imposed via policies and procedures on the prevention of "hazing," "harassment" and "bullying"
6. Duty to educate students on "hazing," "harassment" and "bullying" and policies and procedure content.
7. Duty to assign two or more employees as "Designated Employees" - per school campus – tasked with receiving complaints and/or reports of alleged "harassment," "hazing" and/or "bullying."
8. Duty to designate an Equity Coordinator and a Title IX Coordinator.
9. Duty to Conduct Board Hearings To Consider Respondent Appeals of Policy Violation Determinations and Related Discipline Matters.

For each of the nine duties listed above the school board toolkit provides specific information on steps boards should take to comply with those duties. Additionally, the toolkit provides a guidance memo on school board appeal hearings (which answers thirteen frequently asked questions), a form for acknowledging receipt of a board hearing request, separate templates

for conducting a board appeal hearing in the case of bullying, harassment, sexual harassment or hazing, and forms for announcing the board's decision following the hearing.

VSBIT also provides [HHB toolkits](#) for superintendents, employees, building administrators, designated employees, and investigators.

The Agency of Education published this [list of public school designated employees](#) for the 2022-2023 school year. The Agency of Education's website states that a list of private school designated employees for the 2022-2023 school year will be "available soon."

Thank you for the opportunity to testify on S.103. As I said in the beginning of my testimony, VSBA is committed to addressing harassment in schools. We are also committed to working proactively to help school boards create strong and healthy school cultures that prevent incidents of harassment, hazing, and bullying from happening at all.

Ideas for future consideration:

- 1) Require training on hazing, harassment, and bullying to be included in the annual training mandated by 16 V.S.A. § 561(b), which states that "at least annually, the chairs of each school board within a supervisory union, the chair of the supervisory union board, and the superintendent shall jointly participate in at least eight hours of professional training that, at a minimum, addresses:
 - (1) educational leadership;
 - (2) the relative roles and responsibilities of the supervisory union board, the school district boards, and the superintendent;
 - (3) the Vermont Open Meeting Law, 1 V.S.A. §§ 310-314;
 - (4) Vermont law regarding access to public records, 1 V.S.A. §§ 315-320;
 - (5) collective bargaining; and
 - (6) education funding and school finance laws."
- 2) Require school boards to adopt a policy addressing educational equity (the VSBA has a recommended model policy available to its members);
- 3) Provide the necessary financial and human resources needed to ensure implementation of the updated model HHB policy and procedures.