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Kristin L. Clouser, Secretary

TO: Senate Committee on Education
FROM: Office of Racial Equity
DATE: May 5, 2023
RE: Letter of testimony on Draft 5.1 of S.138, An act relating to school safety

Dear Chair Campion and members of the Senate Committee on Education,

Thank you for the opportunity to comment on S.138, An act relating to school safety. The Office of Racial Equity wishes to comment specifically on Sec. 4, the addition of 16 V.S.A. §1485. Behavioral Threat Assessment Teams. The Office cautiously supports [Draft 5.1 of S.138](#), provided that the Agency of Education commits to working with the Executive Director of Racial Equity and the Office of Racial Equity on a community engagement process that meaningfully informs the model policy on behavioral threat assessment teams.

Systemic racism often perpetuates itself through policies that *appear* race-neutral but that nonetheless have racially inequitable impacts.^{1, 2} The Office is greatly concerned that behavioral threat assessment teams as they are currently being utilized in some Vermont school districts are an example of a presumptively race-neutral policy that may have a racially inequitable impact on Vermont's students of color. The Office supports the implementation of a statewide system of guidelines and policies on behavioral threat assessment teams that are *race-conscious* rather than *race-neutral*. The following statistics related to disciplinary exclusion in Vermont show that our school systems are affected by systemic racism just as much as other districts in the United States are, and that the trend of disproportionate exclusion of students from historically marginalized demographic groups has not shifted over time:

- During the 2011-2012 school year, students of color in Vermont were three times more likely than White students to be the subject of disciplinary exclusion, including suspension or expulsion.³

¹ Wells, A. S. (2014). *Seeing Past the "Colorblind" Myth of Education Policy Addressing Racial and Ethnic Inequality and Supporting Culturally Diverse Schools*. https://www.jstor.org/stable/pdf/resrep42084.pdf?refreqid=excelsior%3A5363ab8af73bb492162c383f4b955dfb&ab_segment_s=&origin=&acceptTC=1

² Maye, A. A. (2022). *The myth of race-neutral policy*. Economic Policy Institute. <https://www.epi.org/anti-racist-policy-research/the-myth-of-race-neutral-policy/>

³ Diaz, J. (2015). *Kicked Out! Unfair and Unequal Student Discipline in Vermont's Public Schools: What's Happening, Why It Matters, and What We Can Do to Stop It*. <https://www.vtlegalaid.org/sites/default/files/Kicked%20Out%20-%20Unfair%20and%20Unequal%20Student%20Discipline%20in%20Vermont%27s%20Public%20Schools%20-%20print%20version.pdf>

- According to Agency of Education data, the disproportionate disciplinary exclusion of students of color in Vermont continued in school year 2015-2016.⁴
- During school years 2018 through 2021, an average of 82% of the children ages 5 through 8 who were suspended in Vermont were from historically marginalized demographic groups.⁵ “Historically marginalized” includes students of color; English Language Learners; students with disabilities; students who are in the foster care system, are migrants, or are homeless; and students who receive free and reduced-price lunches.

The Director and the Office plan to work diligently on reviewing the Agency of Education’s behavioral threat assessment team policies and guidelines to ensure they do not reinforce the existing negative biases against students of color, especially the biases against students of color with disabilities. In particular, the Office will be reviewing the proposed definitions of “dangerous or violent situations” as discussed in Draft 5.1, Sec. 4, subsection (b)(1) to ensure that guidelines reflect different intercultural conflict styles.

The Office of Racial Equity further plans to create data sharing agreements between the Division of Racial Justice Statistics and the Agency of Education to track behavioral threat assessment outcomes for students of color. Other jurisdictions around the country have already reported that behavioral threat assessment teams have had racially disproportionate impacts on students, despite their school districts’ best intentions to avoid them.⁶ Therefore, the Office reserves the right to reassess whether the potential benefits of behavioral threat assessment teams outweigh the consequences of their implementation in the future. The Office remains hopeful that Vermont will be able to minimize inequities with uniform, race-conscious guidelines for implementation and comprehensive anti-bias training for members of behavioral threat assessment teams.

However, anti-bias trainings alone cannot undo systemic racism. The Office calls on the Legislature to implement the educational system reforms recommended in the First⁷ and Second⁸ Reports of the Racial Equity Task Force published in 2020 and 2021, respectively.

⁴ Williamson, P., Reed Jr, C., Bloomer, J., Brown, L., Chang, N., de Swanson, R., Heading-Grant, W., Holman, L., Little, T. A., Martin, T., & Mubiay, T. F. (2019). Disparities in School Discipline in Vermont. <https://www.usccr.gov/files/pubs/2020/02-19-VT-SAC-School-Disparities.pdf>

⁵ Vermont Early Childhood Data & Policy Center. (2022). Exclusionary Discipline in Vermont: Early Childhood. <https://vermontkidsdata.org/wp-content/uploads/2022/05/Exclusionary-Discipline-in-Vermont-full-brief.pdf>

⁶ Swetlitz, I. (2019, October 15). *Who’s the threat?* Searchlight New Mexico. <https://searchlightnm.org/whos-the-threat/>

⁷ Davis, X. et. al. (2020). *Report of the Racial Equity Task Force*. https://racialequity.vermont.gov/sites/reap/files/doc_library/RETF%20Report%201%20FINAL.pdf

⁸ Davis, X. et. al. (2021). *Report of the Racial Equity Task Force*. https://racialequity.vermont.gov/sites/reap/files/doc_library/RETF-Report-2-Final.pdf