

1 H.441

2 Introduced by Representative Christie of Hartford

3 Referred to Committee on

4 Date:

5 Subject: Education; school policy; harassment definition; prevention; severe
6 and pervasive

7 Statement of purpose of bill as introduced: This bill proposes to amend the
8 laws prohibiting harassment in schools to provide that harassment need not be
9 severe or pervasive to constitute unlawful discrimination.

10 An act relating to amending the prohibitions against harassment in schools

11 It is hereby enacted by the General Assembly of the State of Vermont:

12 Sec. 1. 16 V.S.A. § 11 is amended to read:

13 § 11. CLASSIFICATIONS AND DEFINITIONS

14 (a) As used in this title, unless the context otherwise clearly requires:

15 * * *

16 (26)(A) “Harassment” means an incident or incidents of verbal, written,
17 visual, or physical conduct, including any incident conducted by electronic
18 means, based on or motivated by a student’s or a student’s family member’s
19 actual or perceived race, creed, color, national origin, marital status, sex,
20 sexual orientation, gender identity, or disability that has the purpose or effect

1 of objectively ~~and substantially~~ undermining and detracting from or interfering
2 with a student's ~~educational performance~~ education or access to school
3 resources or creating an objectively intimidating, hostile, or offensive
4 environment.

5 * * *

6 (C) Notwithstanding any judicial precedent to the contrary, the
7 conduct described in this subdivision (a)(26) need not be severe or pervasive to
8 constitute harassment. In determining whether conduct constitutes harassment:

9 (i) The determination shall be made on the basis of the record as a
10 whole, according to the totality of the circumstances, and a single incident may
11 constitute harassment.

12 (ii) Incidents that may be harassment shall be considered in the
13 aggregate with varying types of conduct and conduct based on multiple
14 characteristics viewed in totality, rather than in isolation.

15 (iii) Conduct may constitute unlawful harassment, regardless of
16 whether:

17 (I) the complaining student is the person being harassed;

18 (II) the complaining student acquiesced or otherwise submitted
19 to or participated in the conduct;

20 (III) the conduct is also experienced by others outside the
21 protected class involved in the conduct;

1 (IV) the complaining student was able to continue the student's
2 education or access to school resources in spite of the conduct;

3 (V) the conduct resulted in a physical or psychological injury;
4 or

5 (VI) the conduct occurred outside the complaining student's
6 school.

7 (iv) Behavior that a reasonable person with the same protected
8 characteristic would consider to be a petty slight or trivial inconvenience shall
9 not constitute harassment pursuant to this subdivision (a)(26).

10 * * *

11 Sec. 2. 16 V.S.A. § 570f is amended to read:

12 § 570f. HARASSMENT; NOTICE AND RESPONSE

13 * * *

14 (c) To prevail in an action alleging unlawful harassment filed pursuant to
15 this section and 9 V.S.A. chapter 139, the plaintiff shall prove ~~both of the~~
16 ~~following:~~

17 ~~(1) The~~ that the student was subjected to unwelcome conduct based on
18 the student's or the student's family member's actual or perceived membership
19 in a category protected ~~by law by~~ pursuant to 9 V.S.A. § 4502.

20 ~~(2) The conduct was either:~~

1 ~~(A) for multiple instances of conduct, so pervasive that when viewed~~
2 ~~from an objective standard of a similarly situated reasonable person, it~~
3 ~~substantially and adversely affected the targeted student’s equal access to~~
4 ~~educational opportunities or benefits provided by the educational institution; or~~

5 ~~(B) for a single instance of conduct, so severe that when viewed from~~
6 ~~an objective standard of a similarly situated reasonable person, it substantially~~
7 ~~and adversely affected the targeted student’s equal access to educational~~
8 ~~opportunities or benefits provided by the educational institution.~~

9 * * *

10 Sec. 3. 9 V.S.A. § 4501 is amended to read:

11 § 4501. DEFINITIONS

12 As used in this chapter:

13 * * *

14 (12)(A) “Harass” means to engage in unwelcome conduct that detracts
15 from, undermines, or interferes with a person’s:

16 * * *

17 (D) ~~The provisions of this subdivision (12) shall not apply to any~~
18 ~~action brought under this chapter pursuant to the provisions of 16 V.S.A.~~
19 § 570f. [Repealed.]

20 * * *

1 Sec. 4. EFFECTIVE DATE

2 This act shall take effect on July 1, 2025.