

**REPORT OF THE STUDY COMMITTEE**  
**HARASSMENT, BULLYING AND CYBERBULLYING**  
**OF**  
**STUDENTS IN VERMONT SCHOOLS**

**PRESENTED TO THE HOUSE AND SENATE COMMITTEES**  
**ON EDUCATION AND JUDICARY**

**2009 LEGISLATIVE SESSION**

Submitted on behalf of the Study Committee,  
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## **TABLE OF CONTENTS**

<b>I. Legislative Charge and Executive Summary</b>	<b>1</b>
<b>II. Strategic Plan and Specific Recommendations</b>	<b>2</b>
<b>III. Introduction and Definitions of Terms Used in Report</b>	<b>6</b>
<b>A. Harassment</b>	<b>6</b>
<b>B. Bullying</b>	<b>7</b>
<b>C. Cyberbullying</b>	<b>8</b>
<b>IV. Statement of Need</b>	<b>9</b>
<b>A. Wide Impact of Harassment, Bullying and Cyberbullying</b>	<b>9</b>
<b>B. Harassment, Bullying and Cyberbullying Data</b>	<b>9</b>
<b>1. VT Department of Education (DOE) Harassment Data</b>	<b>9</b>
<b>2. Problems with the Quantity and Quality of Data</b>	<b>10</b>
<b>3. Youth Risk Behavior Survey Data</b>	<b>11</b>
<b>4. Human Rights Commission Data</b>	<b>12</b>
<b>5. Independent Review Data</b>	<b>13</b>
<b>C. Compliance—Schools Must Be Compliant with Statutes</b>	<b>14</b>
<b>D. Statutes—Cyberbullying Needs to be Defined, including Off-campus Behaviors</b>	<b>14</b>
<b>E. Training—Educators must be prepared to prevent, respond to, and report data on harassment &amp; bullying</b>	<b>14</b>
<b>F. Training – Students must be prepared to prevent and respond to harassment &amp; bullying</b>	<b>14</b>

## ***DISCUSSION SECTION***

<b>V. Vermont Laws and Regulations Re: Harassment and Bullying</b>	<b>14</b>
<b>A. STATUTES enacted to date</b>	<b>14</b>
<b>1. ACT NO. 162 (S.313)--1994: HARASSMENT POLICIES</b>	<b>14</b>
<b>2. ACT NO. 120 (S.76) -2000: Hazing; Harassment</b>	<b>15</b>
<b>3. ACT NO. 91 (H.113) -2004: Public accommodations; harassment</b>	<b>16</b>
<b>4. ACT NO. 117 (H.629)—2004: School discipline policies; bullying</b>	<b>17</b>
<b>5. ACT NO. 182 (H. 867)—2006: Miscellaneous Changes to Education Law</b>	<b>18</b>
<b>6. ACT NO. 41 (S.51)—2007: Gender Identity</b>	<b>18</b>
<b>B. BILLS--Proposed 2007 but not enacted</b>	<b>18</b>
<b>1. H. 486: An Act Relating to Bullying, Cyberbullying and Discrimination in Schools</b>	<b>18</b>
<b>C. RULES</b>	<b>19</b>
<b>D. SCHOOL POLICIES AND PROCEDURES</b>	<b>19</b>
<b>1. Model Policy on Prevention of Harassment of Students</b>	<b>19</b>
<b>a. Monitoring Compliance with Schools' Legal Obligations</b>	<b>20</b>
<b>i. Adoption of a Compliant Harassment Policy</b>	<b>20</b>
<b>ii. Communication of Policy to School Staff, Students and Community</b>	<b>22</b>
<b>iii. Appointing and Publicizing Availability of Designated Employees</b>	<b>22</b>

<b>b. The Commissioner of Education’s Current Powers to Promote Schools’ Compliance with Legal Obligations</b>	<b>23</b>
<b>VI. The Need for Legislative Enactments to Address Cyberbullying</b>	<b>25</b>
<b>A. Free speech versus actionable conduct</b>	<b>25</b>
<b>B. Off-Campus vs. On-Campus Behaviors</b>	<b>25</b>
<b>VII. Cyberbullying and Its Challenges</b>	<b>28</b>
<b>VIII. The Need for Further Training of Educators and School Staff</b>	<b>30</b>
<b>IX. Student-to-Student Peer Education, Leadership and Support</b>	<b>31</b>

## **APPENDICES**

<b>Appendix 1—Act No. 174 (S.357) relating to domestic violence</b>	<b>1</b>
<b>Appendix 2 -- Summary of Meetings</b>	<b>1</b>
<b>Appendix 3—Draft Legislation</b>	<b>5</b>
<b>Appendix 3A—ACLU-VT dissent on draft legislation</b>	<b>5</b>
<b>Attachment 4--Continuum of Behavior</b>	<b>6</b>
<b>Appendix 5--DoE Model Policy on Harassment of Students</b>	<b>19</b>
<b>Attachment 6--Two versions of harassment posters and cover letters</b>	<b>23</b>
<b>Attachment 7—Free Speech, Schools and the Internet</b>	<b>25</b>
<b>Appendix 8—List of schools implementing the A WORLD OF DIFFERENCE (AWOD) Peer Training program</b>	<b>32</b>
<b>Appendix 9--Yale University Evaluation Study of AWOD</b>	<b>32</b>
<b>Appendix 10--2008 Youth Summit, List of Attending Schools and newspaper article about event</b>	<b>32</b>
<b>Appendix 11--Student Voice: Youth &amp; Adults Transforming Schools Together, Vermont Principals Association (VPA)</b>	<b>32</b>
<b>Appendix 12--National Conference of State Legislatures (NCSL) Summary Compilation of Enactments Relating to Harassment, Bullying and Cyberbullying</b>	<b>32</b>
<b>Appendix 13—List of Gay-Straight Alliance in Vermont public high schools</b>	<b>32</b>
<b>Appendix 14—VPA Survey Results of Administrators on Topics which were Subject of this Study</b>	<b>32</b>

## I. Legislative Charge and Executive Summary

The Vermont Legislature commissioned this report with the passage of Act No. 174 (S.357) relating to domestic violence. Section 19 (see Appendix 1 which includes the names of participants) of that act established a committee of diverse members to "study the issue of harassment and bullying in Vermont schools." Specifically, the Committee was directed to examine:

- (a) (1) the need for further training of educators and school staff to recognize and appropriately respond to the harassment and bullying of students;
  - (2) the need for legislative enactments to address cyber-bullying;
  - (3) state laws and regulations regarding harassment and bullying;
  - (4) school policies and procedures regarding harassment and bullying; and,
  - (5) any other issues regarding harassment and bullying that the committee deems relevant.
- (b) The committee shall also study the issue of cyber-bullying of Vermont students and recommend measures to address this growing and destructive phenomenon.

\* \* \*

- (e) The report shall include a strategic plan to reduce the prevalence of harassment and bullying in Vermont schools.

This diverse Study Committee of seventeen members met seven times for half-day meetings in several locations around the State. See Appendix 2, Summary of Meetings. The Committee heard from a wide range of persons with knowledge, expertise and experience in addressing harassment, bullying and cyberbullying. These included the perspectives of affected students, parents of affected students, educators, educational associations, Vermont Department of Education (DOE) staff, law enforcement officers, staff of civil rights enforcement agencies, civil libertarians, school board members, community activists and legislators, among others.

The Committee assessed the current state of efforts to address the destructive impact of harassment, bullying and cyberbullying. The Committee examined laws in other jurisdictions and carefully reviewed enactments to Vermont statutes to date. The Committee proposes a limited revision of state law (Appendix 3) to provide clear authority to allow educators to address off-campus behaviors that negatively impact the educational opportunities of students who are the targets of harassment, bullying or cyberbullying.

The Committee recommends a number of steps to be taken that it believes would improve the learning environments for *all* Vermont students. The Committee, while cognizant of current funding limitations, makes several

recommendations that will require a reallocation of existing resources and, some additional funds. Members felt obliged to report to the Legislature as requested with a meaningful strategic plan to allow Vermont schools to continue to make progress in this critical aspect of education.

## **II. Strategic Plan and Specific Recommendations**

The Legislative Study Committee recommends the following strategies for increasing the training of educators and staff related to bullying and harassment, and improving school climates. Not all of these recommendations were endorsed by each and every member of the Committee. It is understood that other members may express reservations about particular recommendations as this report is discussed further.

1. The Committee unanimously recommends that **high quality, culturally competent basic and advanced harassment and bullying materials and training modules be identified and/or developed, and certified for consistent use by all stakeholders across the state.**

**Basic information** includes definitions of relevant terms, and legal requirements to act. This training should provide participants with answers to questions such as “what is bullying?” “what is harassment?” “when do I need to deal with this myself and when do I need to tell others?” **Advanced information** is designed specifically for those identified as “designated employees” or who are charged with receiving and investigating harassment complaints.

The Committee recommends these curricula be reviewed and certified by a group as inclusive as the Study Committee that was appointed by the Legislature to create this report; and that distinct curricula are developed for school staff, administrators, students, parents/guardians, and school board members.

The Committee made distinctions between basic harassment and bullying training and broader efforts, including in-depth training dedicated to the concerns of individuals from distinct protected classes and entire school climate efforts. The Committee believes that the provision of these trainings will significantly aid schools to reduce incidents of harassment and bullying, and better respond to such incidents when they do occur.

Until 2007, the DOE offered training to schools on its Combined Incident Reporting System (CIRS), its harassment reporting software package. There was a legal component to this training as to how to differentiate between

harassment and bullying to enable accurate reporting of those data. It is recommended that these trainings be restored at the earliest possible date.

In 2006-07, the VT Human Rights Commission (HRC) contracted with the Center for Health and Learning of Brattleboro (supported by one-time legislative appropriations<sup>1</sup>) which developed a series of 6-hour trainings for school staff responsible for responding to harassment complaints within their schools. Included within the series were materials for a basic 90 minute in-service training for teachers and other school staff. The format and materials were developed in consultation with the Human Rights Commission by professionals, highly experienced and well-versed on bullying and harassment law and school climate issues. These materials should prove useful in formalizing standardized curricula for educators.

2. **The committee recommends that schools be required to provide regular in-service staff training on responding to harassment and bullying complaints using the materials certified through this recommendation.**
3. There was a consensus recommendation that all school staff be required on a regular basis to receive basic training, and designated employees and investigators be required to receive advanced training. This recommendation for required training and access to training opportunities would also apply to approved and recognized independent schools. There was not consensus about requiring broader training to occur, although some committee members wished to expand on the recommended requirements.
4. **The Committee recommends the reallocation of existing resources or allocation of additional resources necessary to implement this plan.**

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<sup>1</sup> Act No. 215, § 272. "Act 93 of 2006 is amended by striking out Sec. 70 in its entirety and inserting in lieu thereof the following: § 70. FISCAL YEAR 2006 DESIGNATED GENERAL FUND BALANCE (WATERFALL). (f) To the extent additional general funds are available, they are appropriated as follows: (3) \$50,000 to the Vermont human rights commission to provide training and technical assistance to Vermont's schools to promote compliance with the provisions of No. 91 of the Acts of 2004 relating to harassment."

Act No. 16, § 381a. FISCAL YEAR 2007 FUNDS RESERVED FOR FISCAL YEAR 2008 APPROPRIATIONS. (a) The following specific items and general fund amounts shall be reserved in fiscal year 2007 and appropriated in fiscal year 2008: ... (5) \$15,000 to the human rights commission for public accommodations related work.

5. **Full-Time Training Director position.** (\$100,000 personnel services and operating expenses). The Committee recommends a state-wide Training Director to spearhead harassment and bullying prevention and response training initiatives. The Committee recommends that this training position be sited at the VT Human Rights Commission; and that a training-of-trainers approach be utilized to make trainers available within each educational region. The Committee recommends that a cadre of trainers be certified by an inclusive body of interested parties much like the present Legislative Study Committee to assure consistency of information presented in high quality training presentations.

Training on harassment and bullying laws and their application has a complex and nuanced nature. Consequently, training providers must be adept at responding to complex, interpretative questions. Establishing an effective training program requires ongoing support and mentoring. In 1994 and 2006, the Legislature directed the Commissioner of the Department of Education to compile a list of trainings and trainers that may be used "to educate staff and students about harassment."<sup>2</sup> See Act No. 182, 2006 Session, §27, "HAZING, HARASSMENT, BULLYING, SUICIDE, AND SUBSTANCE ABUSE PREVENTION TRAINING."<sup>3</sup> The Committee recommends that the Department of Education compile such a list and provide it to Vermont schools. The Department expresses concerns about its current capacity to do this work. This component needs to be moved to the HRC and made a responsibility of the newly created Training Director sited at the HRC.

6. **Compliance Monitoring and Enforcement:** the Committee recommends that the VT Department of Education monitor schools' compliance with providing the required prevention of harassment training to their staff. The Department expresses concerns about its current capacity to do this work. The Committee discussed the prospect of restoring one or more positions formerly sited at DOE in its Safe and Healthy Schools Program to perform this work. To date, the Department has not quantified the costs involved with performing these tasks.

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2 See Act No. 162, §7, 1994 Session, "[T]he Commissioner shall also develop a list of potential training and funding sources that educational institutions may use to educate staff and students about harassment."

3 "Prior to each September, the Commissioner of Education shall request that schools submit the names of organizations and individuals who have provided effective hazing, harassment, bullying, suicide, or substance abuse prevention training for staff or students, or both. In addition, the Commissioner shall consult with the Commission on Human Rights and other relevant organizations regarding organizations and individuals who may not yet have been invited into a school but who are qualified to provide the training. The Commissioner shall compile the information and make it available to schools throughout the state either on the department's website or in another form in a format he or she determines to be most appropriate. The intent of this listing is to offer schools a broad set of programs for prevention training which will be periodically updated based on feedback from schools."

7. **The Committee recommends that the Licensing/Standards Board incorporate a demonstration of knowledge and skills on the topics of bullying and harassment prevention and response into their approval requirements for teacher licensure.**
8. **The Committee recommends that Vermont Pre-Service Teacher Training programs incorporate training on responding to harassment and bullying complaints using the materials developed and certified as referenced above.**
9. **The Committee recommends that \$150,000 be allocated to provide money to each district with a high school to develop Student-to-Student leadership, education, and/or training within the high school and middle school levels.** The Committee is clear that neither standardization nor mandates are recommended in this area where the hope is that local students will creatively respond to local challenges. The Committee cited many strong models of peer-to-peer education available in Vermont and elsewhere. In order to address the limited availability of funds, the committee suggests directing these funds toward middle and high school collaborations. For example, one possibility would be to train high school students to provide education and training for their middle school counterparts. In addition, the Committee recommends that private philanthropic contributions be sought as a match for any public funds allocated to support this important component of the strategic plan.
10. **The Committee recommends the following changes to statutes (see draft language attached, Appendix 3).** (See *ACLU dissent, Appendix 3A.*) Amend 16 V.S.A. §§11(a)(26)(A) and (32) (which define "harassment" and "bullying") by inserting the phrase "including conduct by electronic means" in both definitions to make clear that these statutes encompass "cyber" applications. Amend 16 V.S.A. §11(a)(32), the definition of "bullying" to include off-campus behaviors that have the purpose or effect of depriving the targeted student equal access to educational opportunities or create an objectively hostile learning environment. Amend 16 V.S.A. § 1162, pertaining to the suspension or expulsion of pupils, to specifically authorize discipline against perpetrators of harassment or bullying behaviors that occur off-campus but have the purpose or effect of depriving the targeted student equal access to educational opportunities or create an objectively hostile learning environment. In addition, language is proposed to authorize and encourage educators "to engage appropriate non-school resources as a component of a comprehensive response to such misconduct."

### **III. Introduction and Definitions of Terms Used in Report**

All members of the Legislative Study Committee on Bullying, Harassment and Cyberbullying ("Committee") agree that the safety and well-being of all students is of critical importance in promoting educational pursuits. When a student feels physically or emotionally threatened in her or his school, that student's ability to focus, concentrate, access educational resources and learn are all adversely affected. The issues involved in developing and sustaining a positive school climate are central and not peripheral to providing our students with their constitutional right to equal educational opportunities, as outlined in *Brigham v. State*, 166 VT 246, 249 (1997).

The Committee believes that all inappropriate behaviors directed from one student towards another student are destructive and must not be condoned. However, Vermont statutes differentiate among types of inappropriate behavior and the level of response expected of educational institutions, school administrators, teachers and staff. In 1994, Vermont was one of the first states to pass a statute in which the Legislature "finds that unlawful harassment against students can be a severe problem that inflicts harm on its victims and the entire educational community."<sup>4</sup>

Educators (and others) express confusion in understanding differences between harassment and bullying, and the different legal responses required. The Committee spent considerable time discussing the difference between the two terms. To help understand these distinctions, one could view a series of concentric circles with the widest circle labeled, "inappropriate student to student behaviors subject to discipline," the first smaller circle within labeled as "bullying," and the smallest inside circle labeled "harassment." See Appendix 4, "Continuum of Behavior," developed by Human Rights Commission Investigator Tracey Tsugawa.

#### **A. Harassment**

"Harassment" as used in the context of this report means behaviors targeted towards a student, either by another student or by a school employee, based in whole or in part upon the target's actual or perceived membership in a category protected under Vermont's Public Accommodation Act, 9 V.S.A. §§4502 and 16 V.S.A. §11(a)(26)(A). By statute, harassment is defined as: "an incident or incidents of verbal, written, visual, or physical conduct based on or motivated by a student's or a student's family member's actual or perceived race, creed, color, national origin, marital status, sex, sexual orientation, gender identity, or disability that has the purpose or effect of objectively and substantially

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<sup>4</sup> See Act No. 162 (1993 Adj. Sess.), Section 1, "Statement of Purpose."

undermining and detracting from or interfering with a student's educational performance or access to school resources or creating an objectively intimidating, hostile, or offensive environment." These nine protected categories were created by legislative action over time to prevent further, on-going discrimination against classes of persons that have been historically subject to various forms of oppression or disadvantage.

"Unlawful harassment" may subject the provider of the "public accommodation" (the educational institution) to civil action brought by the targeted student's family and/or the Human Rights Commission (HRC). Such action may result in both compensatory and punitive damages as well as attorney's fees. Schools are specifically listed as "[P]laces of public accommodation," see 9 V.S.A. §4501(1). The potential liability on schools stems from the targeted student's membership in a category protected by statute; that is, discrimination in provision of public accommodations in that the targeted student is deprived of an equal educational opportunity due to her protected category status. A school may be liable if: 1) the school is put on notice of the alleged harassment, **and** 2a) the school either fails to promptly investigate, **or** 2b) if the harassment is substantiated upon investigation, and the school fails to take steps reasonably calculated to end the harassment. It is important to note that there is no legal sanction available under present Vermont statutes to hold accountable students who engage in "unlawful harassment" of targeted students unless the behavior is criminal in nature.

## **B. Bullying**

"Bullying" is a more general term describing a wide range of student-to-student behaviors that are inappropriate, can be highly disruptive and destructive but **are not based upon membership in a protected category**. 16 V.S.A. Sec. 11(a)(32) defines the term:

(32) "Bullying" means any overt act or combination of acts directed against a student by another student or group of students and which:

(A) is repeated over time;

(B) is intended to ridicule, humiliate, or intimidate the student; and

(C) occurs during the school day on school property, on a school bus, or at a school-sponsored activity, or before or after the school day on a school bus or at a school-sponsored activity.

For example, a student may become a target of bullying due to her weight, his acne, her parents' occupation as dairy farmers or because of a lack of personal hygiene, (all real examples reported to the Human Rights Commission).

However, unless the target can show that the motivation of the perpetrator of the bullying is related to protected class membership, the behavior is "bullying" rather than "harassment." Under present Vermont law, there is no statutory sanction to hold perpetrators of bullying accountable, nor do schools have any clear obligation under Vermont law to respond to a targeted student's complaint of bullying.

### **C. Cyberbullying**

"Cyberbullying" is a relatively new term used to describe bullying and harassment that occurs via the use of personal digital devices such as cell phones, computers, iPods, cameras, PDAs, etc. There is currently no definition of cyberbullying in Vermont statute. Cyberbullying may transpire through avenues such as text messaging, personal websites, blogs or vlogs, e-mail messaging, social networking websites, or chatrooms. By some accounts, cyberbullying belongs in its own separate category. By other accounts, the "cyber" part of bullying defines it just as a means to an end. In other words, both bullying and harassment may be conducted by the use of "cyber" technologies and electronic media.

Regardless of how cyberbullying is defined, it has several key characteristics that differentiate it from "in-person" bullying and harassment:

- 1) the inability of the target to escape the extensive, pervasive, and immediate reach of the cyberbullying (for example, hundreds of people can be contacted instantaneously on the world-wide web with access 24 hours a day, 7 days a week);
- 2) the perceived shield of anonymity for perpetrator(s), which further encourages disinhibition and leads to the rationalization of one's behavior;
- 3) the inability of the perpetrator to see the immediate reaction of, and impact on the target, and the consequential loss of any potential empathic response.

These factors combine to give cyberbullying great power to negatively impact a target, with no apparent "safe refuge" for the victim. Advanced and evolving technologies are often more familiar to youth than to most adults, placing educators and parents in an extremely disadvantaged position in relation to understanding and being able to respond to cyberbullying.<sup>5</sup>

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<sup>5</sup> Mike Donlin, Community Technology Coordinator for the Seattle Public Schools, calls youth "digital natives" and adults "digital immigrants."

## **IV. Statement of Need**

### **A. Wide Impact of harassment, bullying and cyberbullying**

Harassment and bullying have far-reaching impacts on individual students, educators, families, schools and communities. Impacts range from individual discomfort to student suicides, from family sadness and anger to costly legal efforts of families to protect their children and/or send them to alternative schools, from minor disruption in school halls and classes to explosive school shootings. Research shows that students who engage in bullying and harassment, and as well as students who are targets of these behaviors are often associated with a range of problems including poor academic achievement<sup>6</sup>, violent behavior<sup>7</sup>, and poor psychological adjustment<sup>8</sup>. The human cost of harassment and bullying cannot be adequately measured, but it also must not be underestimated.

### **B. Data – What we don't know about harassment, bullying and cyberbullying in Vermont and what we do know**

One of the key findings of the Legislative Study Committee is that the quantity and quality of data collection and reporting on harassment, bullying and cyberbullying in Vermont schools is incomplete, unreliable, and does not offer a clear scope or picture of the problem. This reality was of acute concern to many members of the Study Committee as the dearth of reliable data undermines strategic interventions, such as design and delivery of trainings to promote positive learning environments. Given the many competing demands placed on school administrators and staff, many Study Committee members remain concerned about the continued commitment to accurately report this data.

#### **1. VT Department of Education (DOE) Harassment Data**

Act No. 120, 2000 session, directed the state board of education to annually report "number and types of complaints of harassment or hazing made pursuant to section 565 of this title and responses to the complaints."<sup>9</sup> This provision of the hazing and harassment bill provides the authority for the Department of Education to require Vermont schools to report data on incidents of hazing and harassment. The data collection effort was the subject of much discussion by the study committee.

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<sup>6</sup> Spivak, H, Prothrow-Stith, D. The need to address bullying – an important component of violence prevention. JAMA 285-2131-2132, 2001.

<sup>7</sup> Nansel, T.R., Overpeck, M, Pilla, R.S., Ruan, J., Simons-Morton, B., Scheidt, P. Bullying behaviors among US youth: Prevalence and association with psychological adjustment. JAMA 285:2094-2100, 2001.

<sup>8</sup> Juvonen, J., Graham, S., Schuster, M.A. Bullying among young adolescents: The strong, the weak, and the troubled. Pediatrics 112(6): 1231-1237, 2003.

<sup>9</sup> See 16 V.S.A. §164(17), STATE BOARD, GENERAL POWERS AND DUTIES.

In order to understand the extent of the problems of harassment in Vermont schools, accurate data from all schools must be accurately reported, recorded, and made available to the public. As directed by statute, the VT DOE has attempted to collect data annually from Vermont schools since the 2001-02 school year. Vermont schools (n=365) are required by statute to report annually to the VT DOE on the number and types of harassment and hazing complaints they receive. The Department of Education website displays the data collected for each year and the number of schools providing data in that year. The data gathered to date is provided as Appendix 4 to this report, and is available on line at: [http://education.vermont.gov/new/html/pgm\\_safeschools/pubs.html](http://education.vermont.gov/new/html/pgm_safeschools/pubs.html). There is no statewide data collected or available for reports of bullying received by Vermont schools.

The most recent reporting year available (school year 2006-07) reports data collected from 260 Vermont schools. These schools that reported data represent only 71% of schools who are required to report. This data reports 803 harassment complaints received, with the following protected categories:

48.5% (n = 391) of the complaints were based on sexual harassment,  
22.1% (n = 178) were based on sexual orientation,  
12.1% (n = 97) were harassment based on race (65) and/or color (32)  
8.6% (n = 69) were harassment based on disability,  
3.3% (n = 27) were harassment based on national origin,  
2% (n = 16) were harassment based on creed (religion), and  
2.7% (n = 22) were named as "other" harassment.

## **2. Problems with the Quantity and Quality of Data:**

The DOE harassment data reports questionable numbers and flaws that undermine its reliability. For example, many schools reported no incidents of harassment for the entire school year despite anecdotal evidence that such incidents had occurred. This discrepancy may be attributed, at least in part, to a lack of understanding on the part of school officials and the general public on the extent to which certain misconduct constitutes harassment as it is legally defined.

DOE staff report that every year they receive harassment and hazing data from every school, and that many schools submit forms stating they had zero (0) harassment complaints. For the 2006-07 school year, DOE data shows that 260 schools submitted reports showing numbers and types of incidents, meaning 105 schools (29%) - **more than a quarter of Vermont's schools** - submitted forms with 0 complaints received. This trend of incomplete (or inaccurate) data representing Vermont cases of harassment and hazing in schools is evident in each year since 2000-01. For the 2005-06 school year, data from 263 schools (72%) is represented; meaning 102 schools (28%) submitted forms with 0

complaints received; for the 2004-05 school year, 48 schools (13%) submitted forms with 0 complaints received; and for the 2003-04 school year, 56 schools (15%) submitted forms with 0 complaints received. This number of schools complying with and/or being represented in the compiled data has decreased from 317 schools (87%) in 2004-05, and 309 schools (85%) in 2003-04. Data from 2007-08 is not yet available. It strains credulity to believe that more than 1 in 4 Vermont schools were without *any* complaints of harassment in the most recent year reported.

Another example that undermines the credibility of the data is that harassment by legal definition **MUST** be based on the target's membership in a protected category, as that is the element that defines harassment under state law. During the first several years of data collection, the leading category reported was "other."<sup>10</sup> Some schools reported to the DOE as harassment forms of prohibited behaviors that were included in their local policy but not defined by state law as harassment. In order for schools to report accurately about harassment and bullying, school staff must clearly understand the difference between harassment and bullying, both in theory and in action.

Up until 2007, the DoE offered training on the Combined Incident Reporting System (CIRS) harassment reporting software package. There was a legal component to the training as to how to differentiate between harassment and bullying so as to be able to accurately report the data. The CIRS training was not offered in 2008-09. DOE staff state it will be offered again by DOE in the future.

### **3. Youth Risk Behavior Survey (YRBS)– Vermont Departments of Health and Education**

The Youth Risk Behavior Survey is a survey developed by the federal Center for Disease Control<sup>11</sup> administered to Vermont students every two years since 1993 sponsored by the Department of Health Division of Alcohol & Drug Abuse Programs and the DoE Coordinated School Health Programs. In 2007 school staff administered the YRBS to 28,918 eighth to twelfth grade Vermont students in 144 schools representing 60 supervisory unions. Results cited below are based on a representative sample of 8,453 Vermont high school and middle school students, and are statewide weighted estimates.

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<sup>10</sup> School year (SY) 2000-2001 reported 47% of complaints under the protected category of "other." The percentage of "other" reports reduced to 15% in SY 2001-2002, but rebounded to 34% in SY 2003-2004 and 18.5% in SY2004-2005 before DOE in SY2005-2006 eliminated the category of "other" as a field in its CIRS software.

<sup>11</sup> "The Youth Risk Behavior Surveillance System (YRBSS) monitors priority health-risk behaviors and the prevalence of obesity and asthma among youth and young adults. The YRBSS includes a national school-based survey conducted by the Centers for Disease Control and Prevention (CDC) and state, territorial, tribal, and local surveys conducted by state, territorial, and local education and health agencies and tribal governments." <http://www.cdc.gov/HealthyYouth/yrbs/index.htm>

According to the 2007 Vermont Youth Risk Behavior Survey, 17% of all 8<sup>th</sup> – 12<sup>th</sup> grade students reported being bullied at least once in the last 30 days. 4% of all 8<sup>th</sup> – 12<sup>th</sup> graders reported that they did not go to school on at least one of the past 30 days because they felt unsafe either at school, or on the way to, or from school. When the data is disaggregated by self-identified sexual orientation, race, grade level, or sex, it becomes clear that certain groups of students are being bullied at higher rates than other groups of students.

Of the students who self-identified as gay, lesbian, bi-sexual, transgendered or not sure /questioning (GLBTQ), nearly one in three (31%) reported they had been bullied at least once in the last 30 days, a rate twice that (15%) of students who self-identified as heterosexual. Students who self-identify as GLBTQ reported rates five (5) times higher than their heterosexual peers did in terms not going to school at least once in the past 30 days because they felt unsafe either at school or on their way to or from school, 15% of GLBTQ students compared to 3% of students who self-identified as heterosexual.

When the YRBS data is disaggregated by race, it shows that 24% of students of racial or ethnic minority groups reported being bullied in the last 30 days, compared to 16% of white, non-Hispanic students. Likewise, 12% of students of color compared to 3% of white, non-Hispanic students reported not going to school at least once in the past 30 days because they felt unsafe either at school, or on the way to, or from school. This measure of “not feeling safe” is 4 times higher for students of color than for white, non-Hispanic students.

Eighth grade students were the grade-level group reporting the highest rates of being bullied in the last 30 days, at 23%. This data is consistent with anecdotal information indicating that middle school students are more likely to both engage in, and become the targets, of bullying than either elementary or high school students. The Youth Risk Behavior Survey does not currently collect any information about internet use and cyberbullying. The 2009 Youth Risk Behavior Survey will be adding a specific question related to cyberbullying.

#### **4. Human Rights Commission (HRC) Data**

The HRC reports that during the past 10 fiscal years (FY98-FY07, many complaints filed during FY08 remain pending), on average it has received 11 school complaints annually (total n =106). See Appendix \_\_. The number of complaints filed each year ranged from a low of 2 in FY01 to a high of 15 in FY02 with no discernible pattern. School complaints on average constitute 40% of all complaints alleging discrimination in places of public accommodation. The leading protected categories involved with school harassment complaints filed with the HRC are sexual orientation, sex, race and color and disability.

Approximately 40% of all complaints initially filed (n = 43) were administratively dismissed because the complainant declined to return a signed, sworn charge of discrimination that was drafted by HRC staff after initial intake interview(s).

Of the complaints that were returned and in which investigations were commenced by the Commission (n=63), 19% (n=12) were settled by agreement of the parties prior to the completion of the investigation. Another 16% (n=10) were withdrawn by the complainants, in some unknown number of cases in exchange for the school affording the complainant some relief. In those complaints (65%, n =41), in which investigations were completed and investigative reports considered by the HRC commissioners, more than one in four (27%, n = 11) resulted in a reasonable cause finding by the Commission, nearly three of four (73%, n =30) resulted in a no reasonable cause finding. Parties to these complaints (both schools and students) often engage counsel to represent their interests in the HRC administrative process. However, it is virtually impossible to quantify the costs thus incurred.

## **5. Independent Review Data**

Vermont statutes provide a process for targeted students to seek independent review of the adequacy, and to some degree the outcome, of a school's response to a harassment complaint. See 16 V.S.A. Sec. 565(f). In accord with this law, in December 2004, DOE and HRC constructed a list of persons (present n = 9 ) to conduct these reviews. The law states that upon receipt of a written request for such a review, the superintendent "shall initiate an independent review by a neutral person selected from the list." Thereafter the reviewer becomes an agent of the school in order to review confidential records, and his fee is paid by the school. DOE and HRC have conducted annual trainings of these independent reviewers and have provided a model report template, a model contract, guidance on conflict of interest issues and general legal training on the topics of harassment and bullying.

Prior to the August 2007 revision of the DOE's Model Policy on the Prevention of Harassment of Students (Appendix 5), there was no directive that independent reviewer reports be submitted to the DOE. However, during the annual trainings, reviewers reported the following cumulative number of reports issued: school year, 2005-2006, 4 completed; school year 2006-7, 7 completed with two in process; school year 2007-8, 7 completed. Generally, given the high quality of these reviews, this process has been reported to be helpful to schools and affected students in resolving the underlying issues.

Given that there is no set fee schedule (reviewers report their services run from \$500 to \$2000 per review depending on the circumstance involved), it is difficult to estimate the total costs incurred by schools in procuring these

independent reviews. However, the impartiality of the review process has been called into question by some who observe that the law authorizes the superintendent to select the reviewer and requires the school to pay for the costs incurred. In addition, there have been unverified allegations<sup>12</sup> that schools have on occasion either refused to provide the required review, or substantially delayed initiating the process even though the statute directs that “the review proceed expeditiously.”

### **C. Compliance - All Schools Be Compliant with Statutes**

### **D. Statutes - Cyberbullying Needs to be Defined including Off-Campus Behaviors**

### **E. Training –Educators must be prepared to prevent, respond to, and report data on harassment & bullying**

### **F. Training – Students must be prepared to prevent and respond to harassment & bullying**

## ***DISCUSSION SECTION***

## **V. Vermont Laws and Regulations Re: Harassment and Bullying**

### **A. STATUTES enacted to date**

The following is a chronology of acts passed by the Vermont Legislature addressing harassment and bullying of Vermont students. The Legislature first declared its concerns for safe learning environments in 1994 with the passage of Act 162 in 1994.

#### **1. ACT NO. 162 (S.313) –1994: HARASSMENT POLICIES IN SCHOOLS**

In this first act relating to school harassment, the Legislature set out a clear “STATEMENT OF PURPOSE:”

This act is intended to implement the provisions of 9 V.S.A. chapter 139 [Vermont’s Public Accommodations Act] as they affect schools as places of public accommodation and is not intended to impose additional or higher standards than those expressed in such legislation. The legislature finds that unlawful harassment against students can be a severe problem that

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<sup>12</sup> Efforts to collect details of these allegations proved unsuccessful. Nonetheless, given the potential problems inherent in a school’s alleged failure to obtain independent review, inclusion of these unverified reports are thought to be of interest. All too often, perception can be seen as reality.

inflicts harm on its victims and the entire educational community. Therefore, it is the purpose of this act to protect students by defining unlawful harassment as a form of discrimination which withholds from or denies to a student the accommodations, advantages, facilities, and privileges of the school, and is therefore prohibited by law, in order to facilitate prevention and action regarding complaints of unlawful harassment.

The Legislature put forth a rudimentary definition of the term "harassment"<sup>13</sup>, and mandated that all schools in Vermont, both public and independent (private) schools, have a prevention of harassment policy consistent with a model policy put forth by the commissioner of the Vermont Department of Education in consultation with the then Governor's Commission on Women (now the Vermont Commission on Women) and the Human Rights Commission. Further, this Act requires all schools to designate two or more persons, hereafter referenced as "designated employees," annually to receive complaints, and to publicize their availability.

## **2. ACT NO. 120 (S.76) -2000: Hazing; Harassment**

This act directed all public schools, all independent schools, the University of Vermont and the Vermont State Colleges to adopt and enforce harassment and hazing prevention policies. In the case of elementary and secondary schools, the policies shall be at least as stringent as those adopted by the Commissioner of Education, and are to include:

- procedures for reporting violations within the school,
- training for staff,
- a procedure for investigation of reports of harassment or hazing,
- circumstances under which hazing will be reported to law enforcement, and
- penalties for organizations which and individuals who engage in hazing.

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<sup>13</sup> 16 V.S.A. §11(a)(26) was added to read: " 'Harassment' means unlawful harassment which constitutes a form of discrimination. It means verbal or physical conduct based on a student's race, creed, color, national origin, marital status, sex, sexual orientation or disability and which has the purpose or effect of substantially interfering with a student's educational performance or creating an intimidating, hostile or offensive environment. Sexual harassment is also a form of unlawful harassment and means unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when: (A) Submission to that conduct is made either explicitly or implicitly a term or condition of a student's education. (B) Submission to or rejection of such conduct by a student is used as a component of the basis for decisions affecting that student. (C) The conduct has the purpose or effect of substantially interfering with a student's educational performance or creating an intimidating, hostile or offensive educational environment."

The act further: 1) establishes hazing as a civil violation, subject to a penalty of \$5,000.00, to be administered through the judicial bureau; 2) directs the State Board of Education, in its annual condition of education report, to report on the number and types of harassment or hazing complaints and responses to them (thus giving rise to schools' responsibilities to report this data) ; 3) establishes that each school action plan is to address success of efforts to maintain a safe, orderly, civil and positive learning environment; 4) establishes a school quality standard requiring each school to maintain a safe, civil, orderly and positive learning environment; 5) authorizes the Commissioner of Education to intervene any time a school fails to meet quality standards which may potentially result in emotional harm or deprivation of equal education opportunities, if the school is not remedying the problem; and, 6) directs the Commissioner of Education to develop model harassment and hazing prevention policies that are to be adopted by school boards by August 2001.

### **3. ACT NO. 91 (H.113) –2004: Public accommodations; harassment**

This act made a variety of changes to the guidelines for harassment policies which educational institutions are required to maintain. The general definition of harassment is expanded to include written or visual conduct and conduct motivated by a student's perceived as well as actual membership in a protected category. Racial harassment is defined to mean conduct directed at the characteristics of a student's or a student's family member's actual or perceived race or color and includes the use of epithets, stereotypes, racial slurs, comments, insults, derogatory remarks, gestures, threats, graffiti, displays, or circulation of written or visual material, and taunts on manner of speech and negative references to racial customs.

An educational institution that receives actual notice of conduct that may constitute harassment must promptly investigate to determine whether harassment occurred. Notice means a written or oral complaint provided to the employee designated by the school to receive harassment complaints<sup>14</sup>. If the complaint is oral, the designated employee must put it in writing. After receiving notice of the alleged conduct, the school must provide a copy of its harassment policy, including its harassment investigation procedure, to the alleged victim and the alleged perpetrator and their parents/guardians if they are under 18 years

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<sup>14</sup> The revised model policy on prevention of harassment of students issued on August 1, 2007, at §III(B), directs that "Any school employee who witnesses conduct that s/he reasonably believes might constitute harassment shall take reasonable action to stop the conduct and to prevent its recurrence and immediately report it to a designated employee. Any school employee who overhears or directly receives information about conduct that might constitute harassment shall immediately report the information to a designated employee." The next section in the policy directs "Any other person who witnesses conduct that s/he reasonably believes might constitute student harassment under this policy should promptly report the conduct to a designated employee."

old. Absent special circumstances, the school must initiate an investigation within one school day after the complaint is filed and issue a determination within five days after the filing. Internal reviews of the initial determination must be completed within 30 days after the review is requested. If the school determines that harassment occurred, it must take prompt and appropriate remedial action reasonably calculated to stop the harassment. If the targeted student is dissatisfied with the school's procedure, he or she has the right to an independent review.

Lawsuits pursuant to the Public Accommodations Act cannot be brought in court over the alleged harassment until the school's internal procedures have been exhausted. Exhaustion is not required if the school does not have harassment procedures, the school hasn't met the required timelines, exhaustion would be futile, or exhaustion would jeopardize the health or safety of the student or subject the student to retaliation.

#### **4. ACT NO. 117 (H.629)—2004: School discipline policies; bullying**

This act defined bullying, see 16 V.S.A §11(a)(32), to mean "any overt act or combination of acts directed against a student by another student or group of students and which: (A) is repeated over time; (B) is intended to ridicule, humiliate, or intimidate the student; and (C) occurs during the school day on school property, on a school bus, or at a school-sponsored activity, or before or after the school day on a school bus or at a school-sponsored activity." The act<sup>15</sup> directs schools to add bullying to harassment and hazing in their discipline plans as forms of misconduct (both on and off school grounds) which may be grounds for expulsion; and directs the commissioner of education to update model policies on student discipline to include a definition of bullying, a process for reporting acts of bullying, and responses to bullying. However, this act neither imposes sanctions on persons who engage in bullying nor does it make schools liable for victims of bullying as a matter of state statute. In addition, schools are directed to address the issue of bullying by means of its standard discipline plan, and not in policy that needs to be adopted by a school board. This provision does not explicitly direct (or authorize) school administrators to respond to bullying

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15 Sec. 2. 16 V.S.A. § 1161a(a)(6) is amended to read:

(a) Each public and each approved independent school shall adopt and implement a comprehensive plan for responding to student misbehavior. To the extent appropriate, the plan shall promote the positive development of youth. The plan shall include:

\* \* \*

(6) a description of behaviors on and off school grounds which constitute misconduct, including harassment, bullying, and hazing, particularly those behaviors which may be grounds for expulsion. The plan shall include a description of misconduct as listed in subdivisions 11(a)(26)(A)-(C) and (32) of this title which, although serious, does not rise to the level of harassment or bullying as that term is those terms are defined therein;

behaviors which occur off-campus, like "cyberbullying," but nonetheless interfere with the targeted student's access to educational services.

**5. ACT NO. 182 (H. 867)—2006: Miscellaneous Changes to Education Law** required the commissioner of education to collect and post "the names of organizations and individuals who have provided effective ...harassment, bullying ...prevention training for staff or students."

**6. ACT NO. 41 (S.51)—2007: Gender Identity** added "gender identity" to the list of protected categories in the Public Accommodations Act, and requires the commissioner of education to "revise the model policy on prevention of harassment of students," allowing schools until August 1, 2009 to amend their policies to conform to this change. A revised model policy was issued on August 1, 2007, see Appendix 3.

## **B. BILLS--Proposed 2007 but not enacted**

### **1. H. 486--An Act Relating to Bullying, Cyberbullying and Discrimination in Schools**

This bill proposed to establish bullying of students by students as a civil violation; grant the human rights commission authority to ensure that educational institutions are complying with state anti-harassment laws; and clarify the legal standard required to prove harassment in an educational institution under the public accommodations statute.

Under present Vermont law, there is no sanction provided to punish students who bully other students, unless the behavior rises to the level of criminal conduct.<sup>16</sup> By comparison, there is a civil penalty of up to \$5,000.00 provided for hazing pursuant to 16 V.S.A. Sec. 140b, which may be imposed by the judicial bureau upon successful prosecution by a law enforcement officer. This bill proposed a parallel procedure be made available to hold students who bully other student(s) directly accountable.

Comprehensive discipline plans are required of schools by 16 V.S.A. §1161a, and a required component of all discipline plans is "...a description of behaviors on and off school grounds which constitute misconduct, including harassment, bullying, and hazing..." Discipline plans must also "...include a description of misconduct which, although serious, does not rise to the level of harassment or bullying as those terms are defined (in 16 V.S.A. §11(a))..."

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<sup>16</sup> Among the potential criminal statutes that might be applied to circumstances that fall within the Title 16 definition of bullying are disorderly conduct by telephone or electronic means, 13 V.S.A. Sec. 1029, Simple Assault, 13 V.S.A. Sec. 1023, etc.

Under present Vermont law, there is no direct sanction against schools which allow student(s) to bully other students, other than the sanctions provided in 16 V.S.A. §165(b) for noncompliance with the school quality standards established in Section 165(a). Section 165(b) requires the commissioner of education to determine whether schools are meeting school quality standards (a component of which is "...the maintenance of a safe, orderly, civil and positive learning environment, which is free from hazing, harassment and bullying...") See further discussion of this means of promoting accountability of schools at pages 23-25 of this report.

### **C. RULES**

To date, there have been no rules promulgated to address the issues of harassment, bullying and cyberbullying of Vermont students. However, the Commissioner of the Department of Education pursuant to the statutory directive referenced above has issued a model policy on the prevention of harassment of students, and guidance for discipline plan development. See Appendix 5, DoE Model Policy on Prevention of Harassment of Students, issued August 1, 2007.

### **D. SCHOOL POLICIES AND PROCEDURES regarding harassment and bullying**

**1. Model Policy on Prevention of Harassment of Students** In §7 of Act No. 162,<sup>17</sup> 1994 Session, the Legislature directed that "The Commissioner of Education in collaboration with the Governor's Commission on Women and the Human Rights Commission shall develop a model or models that educational institutions may use as they adopt and establish harassment policies and procedures....The Commissioner shall complete the model or models by January 1995 and shall distribute them to all Vermont public and independent schools." The most recent edition of this model policy was issued on August 1, 2007 to reflect the addition of gender identity as a protected category, see Appendix 5. Act No. 41 (2007), relating to gender identity, allows schools a grace period until August 1, 2009 to revise their harassment policies to add the new protected category.<sup>18</sup> There is presently neither a strategy nor an agency designated to check whether schools are in compliance with this provision of law.

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<sup>17</sup> This section was session law and is not codified. Therefore, this language is not included in the Vermont Statutes.

<sup>18</sup> See §21. STUDENT HARASSMENT PREVENTION POLICIES

(a) The commissioner of education shall revise the model policy on prevention of harassment of students to reference the term "gender identity" and to provide the revised model policy to each school board in Vermont on or before August 1, 2007.

(b) Notwithstanding 16 V.S.A. § 565(b) that requires each school board to adopt harassment prevention policies that are "at least as stringent as model policies developed by the commissioner," school boards are not required to amend harassment prevention policies to

appropriated by the Legislature<sup>19</sup> to contract with the Center for Health and Learning to fully assess schools' compliance with this requirement, as well as to provide training and technical assistance to Vermont schools.<sup>20</sup> That compliance review revealed that some schools had out-of-date and non-compliant policies.

In November of 2006, the executive directors of HRC and CHL met with DoE staff to inform the Department of their intent to request copies of harassment policies from all public and approved independent schools in Vermont. Shortly thereafter, on December 12, 2006, the commissioner of education exercised his authority under 16 V.S.A. § 242 (a)(4) to require all superintendents to either certify that all schools in their supervisory district had adopted the department's model policy or to send in for review all policies that did not conform to the department's model. After follow-up by DoE staff, all schools in the state of Vermont complied with this directive. Copies of all self-certification documents and policies received were provided to the Human Rights Commission for review by the Center for Health and Learning.

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reference the term "gender identity" until August 1, 2009. Again, this section was session law and is not codified

19 The Legislature provided two separate one-time appropriations totaling \$65,000 (\$50,000 in FY 07 "to promote compliance with the provisions of No. 91 of the Acts of 2004 relating to harassment" and \$15,000 in FY 08 "for public accommodations work.")

20 The Statement of Work in the contract between CHL and HRC called for the following activities:

1. Monitor compliance with Act 91
  - a. Construct and maintain a statewide database of Designated Employees at all Vermont schools to be shared with other appropriate organizations.
  - b. Verify that Vermont schools have in place harassment policies and procedures that have been updated since July 1, 2004 and are in compliance with all provisions of law.
2. Provide training and make available training materials on bullying and harassment laws and implementation to:
  - a. "Designated Employees" and other school administrators; and,
  - b. School teachers and staff;
3. Develop a poster targeting school staff with information about the definitions of Act 91 and staff responsibilities related to the law. CHL provides assistance to the HRC to print and disseminate the poster to every public and private school in Vermont.

A total of 46 "alternate" policies were submitted to CHL from the DOE for review. Some of these were supervisory union wide policies and some were school district level policies. All other schools submitted a statement indicating that they had adopted the DoE model policy. Of the 46 policies received, 12 Supervisory Unions (including 32 school districts) and the Community High School of Vermont (covering multiple sites state-wide) were referred back to the Department of Education for follow-up based on the following criteria: 1) the policy pre-dated the 2004 law and therefore was not in compliance, or 2) a policy adoption process was in place but not completed. Ten (10) Supervisory Unions (including 26 school districts) received follow-up from CHL based on the criteria that the policy had been adopted passage of the 2004 law, but that the school district policy did not meet all elements of policy consistent with current law. CHL sent a cover letter and *Summary Report* to each of the superintendents and principals that fit the latter criteria established for CHL follow-up. Copies were also sent to the DoE.

In addition, because the commissioner considered it his responsibility to insure compliance he directed his own legal staff to review the policies submitted and do follow-up with superintendents as needed when policies did not conform to statutory requirements. The Center for Health and Learning's compliance reviews were double checked by DoE's legal staff.

On August 2, 2004<sup>21</sup> and again on January 26, 2007 the Commissioner of Education sent a memo to all school districts requesting a "school self check" to help schools implement the legal mandates of Act 91. This memo outlined the requirements of the statute and offered technical assistance by way of contact with the department's legal counsel and the director of the department's Safe and Healthy Schools program.

These reviews by DOE and CHL determined that many but certainly not all, schools had fully complied with the legal requirement to have a policy "as least as stringent as model policies developed by the commissioner."<sup>22</sup> Generally, school administrators were responsive to feedback delivered as to how to correct deficiencies noted in the review process. It has since come to light by way of HRC investigations of individual complaints and independent reviews conducted under 16 V.S.A. § 565 (f) that the self-certification portion of the process was flawed. In several instances, schools were found to have policies that did not in fact conform to the department's model despite certification that they did. On-going biannual trainings jointly conducted by DOE and HRC (targeted towards

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<sup>21</sup> This initial self-check was sent to accompany the distribution of the newly revised model policy. The second iteration was sent in connection with the superintendent self-certification effort initiated by the commissioner.

<sup>22</sup> See 16 V.S.A §565(b).

administrators and designated employees) also indicates that there is still confusion in the field regarding the requirement of the harassment prevention statute. Several members of the Study Committee reported that they became involved with the issue of harassment in response to their home school district's inordinate delay in adopting a harassment policy that is up to date, and fully compliant.<sup>23</sup>

## **ii. Communication of Policy to School Staff, Students and Community**

Present Vermont law<sup>24</sup> requires that schools annually communicate the contents of the policy to the school's staff, students and community. To date, there has been no meaningful and systematic assessment as to how well Vermont schools are meeting this requirement.

## **iii. Appointing and Publicizing Availability of Designated Employees**

Pursuant to 16 V.S.A Sec. 14, a school's obligation to respond to any complaint of harassment is triggered by the actual notice delivered to the designated employees. Therefore, the role of the designated employee is of critical import in responding to incidents of harassment. If the availability and identities of designated employees is not widely known, the process created by the Legislature by its passage of Act 91 cannot be implemented as intended.

During school year 2007-8, the DOE's Safe Schools staff (after much encouragement from HRC<sup>25</sup>) successfully compiled a complete listing of all schools' designated employees that was posted on its (and other) websites. DOE has determined that it will not be able to repeat this effort in this and presumably future school years.

The Human Rights Commission in conjunction with its contractor, the Center for Health and Learning, developed, printed and distributed two versions of colorful posters that outlined the principles of the state's anti-harassment law. These posters were mailed to all principals, superintendents and headmasters of approved independent schools in October 2008 with a cover letter containing a request that each administrator write the names of the school's designated employees on the poster and post in prominent locations within the school. See

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<sup>23</sup> Report the anecdote about SW VT SU and how long it took and commissioner involvement to get that district to adopt a compliant policy.

<sup>24</sup> See 16 V.S.A §565(d) which states "[A]nnually, prior to the commencement of curricular and co-curricular activities, the school board shall provide notice of the policy and procedures developed under this section to students, custodial parents or guardians of students, and staff members. Notice to students shall be in age-appropriate language and should include examples of harassment and hazing."

<sup>25</sup> Before the beginning of school year 2007-8, the HRC attempted voluntary collection by having its staff mail out forms to administrators requesting that the form be filled in with the names of designated employees. This collection strategy resulted in only limited success.

Appendix 6, two versions of posters and cover letters. In addition, the cover letter requested that the administrator visit a website constructed by CHL on behalf of the HRC to collect the names of all designated employees so that this information could be posted on the HRC and others' websites. This outcome was desired to make the identities and contact information readily available to students and families who may wish to report incidents of harassment. With the active support of the executive directors of both the Vermont Principals and Superintendents Associations, the response rate, to date, has been substantial.<sup>26</sup> However, additional follow up calls will be necessary to construct a complete list.

### **b. The Commissioner of Education's Current Powers to Promote Schools' Compliance with their Legal Obligations**

In general, superintendents (16 V.S.A. §§ 242(a)(1)) and principals (16 V.S.A. §§ 244(a)) are required to carry out the policies adopted by their school boards. However, present law does not require schools to adopt an anti-bullying policy. Rather, 16 V.S.A. §1161a(a)(6), requires that all public schools and approved independent schools<sup>27</sup> have comprehensive discipline plans, and a required component of all discipline plans is "...a description of behaviors on and off school grounds which constitute misconduct, including harassment, bullying, and hazing..." Discipline plans must also "...include a description of misconduct which, although serious, does not rise to the level of harassment or bullying as those terms are defined" in Title 16, §11(a), the definition section.

As noted previously, there is also no specific statutory sanction against schools that allow students to bully other students. However, there are progressive responses provided in 16 V.S.A. §165(b) for noncompliance with a wide array of school quality standards established in Section 165(a).<sup>28</sup> Section 165(b) requires the commissioner of education to determine, every two years, whether public schools are providing educational opportunities that are equal to those provided in other public schools. If the Commissioner determines that a school is not meeting one or more school quality standard, the Commissioner is required by Section 165(b) to "...describe in writing actions that a district must take...and shall provide technical assistance to the school." Should the school "fail to make sufficient progress" for two years subsequent to the Commissioner's intervention, Section 165(b) requires the Commissioner to recommend one or more of four further actions:

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<sup>26</sup> As of January 1, 2009, 132 public schools had posted their designated employees on the CHL website while 198 had not, or 40% of 330 total public schools identified.

<sup>27</sup> See 16 V.S.A. Sec. 166(b). Approved independent schools are eligible to accept public school students tuitioned by their sending towns.

<sup>28</sup> One such standard is that "[T]he school maintain a safe, orderly, civil and positive learning environment, which is free from hazing, harassment and bullying, and based on sound instructional and classroom management practices and clear discipline policies that are consistently and effectively enforced." 16 V.S.A. Sec 165(a)(8).

- 1) continue technical assistance;
- 2) adjust supervisory union boundaries or responsibilities of the superintendency;
- 3) assume administrative control only to the extent necessary to correct deficiencies; or
- 4) close the school and require that the school district pay tuition to another public school or an approved independent school...

The state board, after offering the school board an opportunity for a hearing, shall either dismiss the commissioner's recommendation or order that one of the above-mentioned actions be taken. The school may then appeal an order of the state board to a court of competent jurisdiction.

If the Commissioner determines that the failure to meet school quality standards is "...severe or pervasive, potentially results in physical or emotional harm to students, or significant deprivation of equal educational opportunities, and the school has either unreasonably refused to remedy the problem or its efforts have proved ineffective...", he or she is authorized by 16 V.S.A. §165(e) to recommend one or more of the above interventions to the State Board at any time, without the necessity of waiting two years before taking action. The school then has the same appeal rights described above. These school quality standards do not create a private right of action for students who are bullied at school.

In addition to the actions and procedures available under 16 V.S.A. §165, the Commissioner is given general enforcement authority by 16 V.S.A. §212(5), which states that he or she shall "(S)upervise and direct the execution of the laws relating to the public schools and see that they are complied with." Moreover, failure to comply with "any...requirements of law" makes a school district ineligible to receive any state financial aid. 16 V.S.A. §4003(a). The present (interim) commissioner reported that in his experience, the use of school quality standards that do not directly relate to meeting achievement standards as a basis for the imposition of technical assistance would only occur in response to a very serious situation brought to the attention of the commissioner.

There was substantial debate among the members of the study committee as to whether this present statutory scheme was adequate to hold schools accountable to maintain safe learning environments for all students. Many committee members felt that this scheme is too general and attenuated to promote direct accountability for schools that fail to measure up to the referenced standard. There were further concerns expressed regarding the commissioner's or the department's present capacity to meaningfully monitor or investigate a school's failure to meet one or more of the quality standards.

## **VI. The Need for Legislative Enactments to Address Cyberbullying**

### **A. Free speech versus actionable conduct**

The Study Committee spent one entire meeting examining the interplay between the free speech/expression rights of students and conduct that rises to the level of depriving a targeted student(s) of the constitutional right to educational services. This meeting focused on the extent to which schools have discretion and authority to discipline students for off-campus behaviors that adversely affect the learning environments in schools. This included a review of court decisions from both the U.S. Supreme Court and the Second Circuit discussed in a memo prepared by an Attorney General intern, Cara Cookson. See Appendix 7. The group delineated the reach of current state harassment law requiring schools to respond to complaints, and identified behaviors that remain unregulated, most particularly cyberbullying, that is neither harassment nor criminal in nature.

There was much discussion during the Legislature's consideration of Act 91 in 2003-2004 as to the degree of interference with learning that a targeted student must show in order to have a cause of action under the Fair Housing and Public Accommodation Act. The outcome of those deliberations is reflected in the more developed legal definition of harassment now found at 16 V.S.A. §11(a)(26) which requires that a targeted student show that the inappropriate behavior is either severe or pervasive; and has "the purpose or effect of objectively and substantially undermining and detracting from or interfering with a student's educational performance or access to school resources or creating an objectively intimidating, hostile, or offensive environment."

### **B. Off-Campus vs. On-Campus Behaviors**

In 2000, the Legislature added language<sup>29</sup> to the then existing statute on "suspension and expulsion of students," which authorizes discipline "for misconduct not on school property, on a school bus or at a school-sponsored activity where direct harm to the welfare of the school can be demonstrated." See 16 V.S.A. §1162(a). In 2004 with passage of Act 117 relating to bullying, the Legislature directed that "[B]y January 1, 2005, the commissioner of education shall update and distribute to all superintendents, school boards, and principals a model school plan on student discipline, as required by Sec. 15(a) of No. 113 of the Acts of the 1999 Adj. Sess. (2000), for use in addressing bullying

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29 See §17 of NO. 113, AN ACT RELATING TO SUPPORTING SAFE LEARNING ENVIRONMENTS IN VERMONT SCHOOLS.

in schools.” The VT Department of Education issued guidance<sup>30</sup>, which discusses, harassment, bullying and cyberbullying, which occurs off-campus:

Students may be disciplined for misconduct that occurs away from school when a sufficient connection between the misconduct and the legitimate interests of the school can be shown. The following suggested explanation of the grounds and procedures for such discipline or a similar explanation must be part of the school’s discipline plan. School authorities may discipline a student for misconduct that does not occur on school property, on a school bus, or at a school sponsored activity where direct harm to the welfare of the school can be shown (16 V.S.A. §1162(a)). For purposes of this plan, such misconduct is referred to as “off-campus misconduct.” When discipline for off-campus misconduct is necessary to protect the safety and well-being of other students, teachers or school property or the student’s own physical or emotional safety, or when the misconduct has a direct and immediate tendency to subvert the authority of the school by encouraging disorder or insubordination, discipline up to and including suspension or expulsion for the remainder of the school year or up to 90 school days whichever is longer may be imposed.

Examples of off- campus conduct that impacts on the school and may result in disciplinary action include but are not limited to:

1. possession, consumption or sale of illegal substances;
2. bullying and harassment;
3. hazing;
4. criminal conduct; and
5. violations of rules governing eligibility to participate in school-sponsored activities.

In contrast, the Vermont Department of Education’s more recent Positive School Discipline Guide (2007) offers somewhat contradictory guidance about responding specifically to cyberharassment and cyberbullying:

While schools do not have responsibility for this behavior before or after school hours, the repercussions for those involved often finds its way into the school setting. As part of a school’s strategy to prevent and respond to bullying and harassment school staff should stay informed about technology-related aggression and take reasonable measures to address the impact on school climate and the individuals involved.

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30 GUIDELINES FOR DISCIPLINE PLAN DEVELOPMENT, June 2003, page 8.

At least one high school district<sup>31</sup> has proposed language that would adopt as part of its comprehensive discipline plan a standard for determining when discipline for out-of-school conduct may be considered:

Students may be disciplined for misconduct that does not occur on school property, on a school bus, or at a school-sponsored activity if the school can show a clear and immediate threat to the safety of the school, its students, and/or employees (an example might be if an individual or group of individuals plans violent action against the school); or if the school can show that the misconduct will clearly and substantially interfere with another student's right to access educational programs.

Any discipline imposed under this section shall be done in conjunction with any appropriate non-school agencies as part of a comprehensive community approach to misconduct. The school will at all times respect the rights of students accused of misconduct, whether the misconduct occurs in or out of school.

Many schools are questioning the extent of their authority to investigate and respond to cyberbullying. For incidents that involve one or more protected categories (what might be called "cyberharassment" to conform to Vermont's definition of harassment vs. bullying) **and** that occur on campus, schools can and must utilize the authority found in their existing harassment policies and procedures. For cyberharassment that starts off-campus, but that has an impact, either on the school as a whole or on an individual student, the guidance for schools about how to respond to cyberharassment is not as clear. The Vermont Human Rights Commission and Vermont Department of Education have taken the stance that if a nexus can be shown between the off-campus behavior and on-campus life, a school has the authority to investigate the cyberharassment (that involves one or more protected categories) and impose discipline if the harassment policy is found to have been violated.

## **VII. Cyberbullying and Its Challenges**

Just as with in-person bullying and harassment, the research on incidents of cyberbullying is limited and has yielded varying results. In her book Cyberbullying and Cyberthreats: Responding to the Challenges of Online Social Aggression, Threats, and Distress, Nancy Willard summarizes the results of three surveys conducted in the U.S.:

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<sup>31</sup> U-32 is planning to put this language into its comprehensive discipline plan.

- **Fight Crime: Invest in Kids** reported in 2006 the results of a survey of 1,000 U.S. youth. Key findings: One-third of all teens (12-17) and one-sixth of all children (6-11) had mean, threatening, or embarrassing things said about them online. Ten percent of the teens and 4 percent of the children were threatened online with physical harm. About half of the children told their parents, but only 30 percent of teens told their parents. Forty-five percent of the children and 30 percent of the teens indicated that the cyberbullying occurred at school.

- The Crimes Against Children Research Center released its second Youth Internet Safety Survey in 2006. (An earlier study had been released in 2000.) This survey of youth between the ages of 10 and 17 revealed that 9 percent of youth reported they had been harassed online. Fifty-eight percent of the targets were girls. Sixty-eight percent of the girls received "distressing harassment." Seventy-two percent of the harassment happened to teenagers. Half of the harassers were known to be male; 21 percent were known to be female. Forty-four percent of the harassers were off-line friends or acquaintances. Three percent of the incidents occurred at school.

- The Kowalski and Limber study [2005] asked about both traditional bullying and cyberbullying incidents in the preceding two months. Twenty-five percent of girls and 11 percent of boys reported being electronically bullied at least once within that period, while 13 percent of girls and 8.6 percent of boys electronically bullied someone at least once. In comparison, only 12.3 percent of girls and 14.1 percent of boys reported having been bullied at school at least two or three times a month in the last couple of months. Just over 5 percent of girls and 8 percent of boys admitted to having bullied others at school at least two or three times a month in that period. This study provides a helpful side-by-side analysis that allows for a comparison of the two forms, either by in-person and electronic means, of bullying.<sup>32</sup>

Mike Donlin, Community Technology Coordinator for the Seattle Public Schools, reports the following statistics:

- 91% of kids 12-15 regularly use the Internet
- 99% of kids 16-18 regularly use the Internet
- 70%+ of students go online at least once a week
- 85% spend at least an hour online each week
- 33% say they use IMs or chatrooms as the main way to stay in touch with friends
- 39% have knowingly given personal information online
- 31% have chatted or IM-ed with someone they do not know personally
- 20% have met a new person from the Internet face-to-face and 13% are willing to do so

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<sup>32</sup> Willard, Nancy. (2007) Cyberbullying and Cyberthreats: Responding to the Challenges of Online Social Aggression, Threats, and Distress. Champaign, Illinois: Research Press, pp. 31-32.

- 35% have been threatened while online
- 40% do not discuss internet safety with their parents
- 42% say they have been bullied while online
- 53% admit to having said mean or hurtful things to others online
- 58% have not told their parents or another adult about on-line bullying
- 62% report that parents know little or nothing about their online activities
- 71% say parents stop checking on their internet activities by about age 14
- 54% report they have had no internet safety classes

Of those who have been cyberbullied:

- 58% were victims of IM's
- 28% were bullied in chat rooms
- 20% were bullied on web sites
- 19% were through email
- 14% were via text messages
- 14% were by other means
- 46% were bullied by another student from school
- 38% didn't know who bullied them
- 34% were bullied by a friend
- 32% were bullied by a stranger
- 16% were bullied by a sibling<sup>33</sup>

If no protected category is involved (i.e., the behavior falls under the definition of bullying), schools currently have little guidance as to how to handle cyberbullying that starts off-campus but which may have a nexus to on campus behaviors and impacts. The current statutory definition of bullying specifically limits behaviors defined as such to those that occur "during the school day on school property, on a school bus, or at a school-sponsored activity, or before or after the school day on a school bus or at a school-sponsored activity." Thus, the bullying law gives schools no specific authority to address off-campus cyberbullying, even if a connection can be made between the cyberbullying and on campus behaviors and impacts.

Major challenges are presented in terms of identifying cyberbullying and collecting evidence to hold perpetrators accountable for crimes committed via electronic devices and the Internet. Advanced and evolving technologies are often more familiar to Vermont students than to many Vermont educators or

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<sup>33</sup> Citations for statistics unknown. See Mike Donlin's PowerPoint presentations at: <https://www.seattleschools.org/area/source/cyberbullying2007.pdf>

parents. Sometimes the only way to authenticate the author or initiator of inappropriate behaviors is the lawful seizure of a computer hard drive or cell phone, or the production of otherwise confidential materials held by Internet service providers (ISPs). These actions require a search warrant issued in the connection with a criminal investigation by law enforcement. There are scant police resources to devote to such investigations. Furthermore, there is limited incentive for state's attorneys to prosecute cases given the current statutory penalties.

## **VIII. THE NEED FOR FURTHER TRAINING OF EDUCATORS AND SCHOOL STAFF**

The Legislative Study Committee discussed the current status of teacher in-service and pre-service training. Problems identified include a wide disparity in the amount and quality of training provided to school staff. Educators who are Designated Employees and those who investigate harassment complaints require an advanced level of training to assure that their schools comply with Vermont and federal law. All educators and school staff need at least a basic level of understanding about how to recognize and respond to bullying and harassment, and what the impacts of bullying and harassment are and can be. Because of the dire impacts of bullying and harassment on students, including suicide, impaired ability to learn, emotional trauma, and others, the Committee emphasizes that the importance of training of school staff cannot be overstated.

Legislation currently in place<sup>34</sup> requires school districts to have "a harassment prevention policy which shall include... "[A] description of how the board will ensure that teachers and other staff members receive training in preventing, recognizing and responding to harassment." The Standards Board requires teachers to participate in a set number of professional development hours annually to maintain licensure, but there is no specific subject matter requirement related to bullying and harassment issues.

The Committee sought to determine the extent to which training on bullying and harassment prevention and response is occurring. Currently, there is no mandated bullying/harassment teacher training required at the in-service or pre-service level, and no mechanism to collect data about training that is done. Consequently, there is no list of schools that have not provided training for their staff, either.

The Committee heard emphatically from parents and students about the frustration and harm done when educators did not respond appropriately and/or did not have adequate knowledge of how to respond. Anecdotal evidence

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<sup>34</sup> 16 V.S.A. §565(b)(1)(F))

suggests that schools are widely divergent in whether and how they provide even the most basic of training. Some schools do have annual training programs with skilled presenters who provide learning opportunities. See Appendix 8 for a sample listing of organizations and individuals who came to the attention of the Committee as providers of bullying and harassment training. Unfortunately, the Committee heard about too many schools that reportedly do not provide any training at all, and reports of schools whose "training" on harassment and bullying was a verbal directive at an assembly telling teachers and staff to read about it the school handbook.

Complaints to the VT Human Rights Commission and the anecdotal evidence strongly suggest that action is needed. Testimony highlighted a lack of training, poor quality of, or insufficient time for training, and the dissemination of inaccurate information by some trainers that was resulting in negative outcomes for youth. In addition, if educators lack a clear of the law regarding harassment and bullying and their legal obligations to respond to these complaints, there is a significant potential that schools will be saddled with costly legal fees, and perhaps damages to be paid to targeted students.

## **IX. STUDENT-TO-STUDENT PEER EDUCATION, LEADERSHIP, AND SUPPORT**

For students, research shows that peer-to-peer education, leadership, and support is one of the most effective ways to create a positive school climate and prevent and respond to issues related to bullying and harassment. The committee recommends a strong statement about the need for and efficacy of student leadership in addressing student culture issues, especially bullying and harassment. The Committee discussed and chose not to incorporate this recommendation into the Comprehensive Health curriculum given the present challenges faced by educators to meet these mandates. Some members suggested substituting this curriculum requirement for an existing required subject.

In 2000, the Vermont Department of Education in conjunction with The Vermont Institutes supported implementation of the Anti-Defamation League's A WORLD OF DIFFERENCE Peer Training Program in Vermont schools. More than 950 Student Peer Leaders have been trained in 23 Vermont schools and 1 youth group since 2000. These Peer Leaders have lead workshops with more than 13,800 of their classmates and younger students, teaching them how to recognize and respond to bias, bullying, and discrimination through activities, role-plays, and discussions. Some schools, such as Champlain Valley Union High School in Hinesburg, structure the student-led workshops as part of a yearly program delivered to each freshman class. Other schools, such as Bellows Free Academy St Albans, use the Peer Leaders through their Advisory program

throughout the year. Currently, there are 5 high schools, 8 middle schools, and 1 youth group implementing the A WORLD OF DIFFERENCE Peer Training program, with at least two additional high schools scheduled to begin implementation in 2009-10. See Appendix 8.

Training and working with students to prepare them to become leaders who facilitate workshops with other students is time-, dollars-, and labor-intensive. Because schools do not have research analysts available to them at the individual school level and programs differ in how they are implemented locally, it is often easier to demonstrate effectiveness across larger groups than to attempt significant research studies at individual schools. A 2006 Yale University evaluation study found that the Anti-Defamation League's Peer Training Program "can have an important effect on reducing bias in schools." The study design included the most rigorous research methods, including randomized and double blind control and test group selection. While local data may be difficult to secure, the Yale study confirms that the Peer Training program is effective when implemented as designed. See Appendix 9.

In November, 2008, over 325 students and their teachers attended a Youth Congress on Cyberbullying at the Capital Plaza. Twenty-three high school and middle school student peer leaders facilitated 2 hours of student-led workshops on cyberbullying, with no adults running the sessions. See Appendix 10, List of Attending Schools and newspaper article about the event. These workshops followed the keynote address delivered by John Halligan, whose son Ryan had committed suicide in 2003 after being harassed at school and bullied online. Another example of student-led education includes the Vermont Principals Association Student Voice: Youth & Adults Transforming Schools Together, see Appendix 11.

## **X. Additional Resources**

Attached is a National Conference of State Legislatures, Summary Compilation of Enactments Relating to Harassment, Bullying and Cyberbullying, see Appendix 12. A list of public high schools in Vermont which have functioning gay-straight alliances (GSAs) in place is provided, see Appendix 13. The results of a Vermont Principals Association Survey of school administrators pertaining to issues examined by the Study Committee in which the majority of respondents called for legislation to specifically address cyberbullying and the need for additional training opportunities to respond to school climate issues, see Appendix 14.

Please contact Robert Appel, Executive Director of the Vermont Human Rights Commission, [Robert.appel@state.vt.us](mailto:Robert.appel@state.vt.us), for additional collected resources which were much too voluminous and numerous to be provided with this report.

## Appendix 1

### Sec. 19. STUDY OF THE HARASSMENT AND BULLYING OF STUDENTS IN VERMONT SCHOOLS

(a) A committee is established to study the issue of harassment and bullying in Vermont schools. The committee shall examine:

- (1) the need for further training of educators and school staff to recognize and appropriately respond to the harassment and bullying of students;
- (2) the need for legislative enactments to address cyber-bullying;
- (3) state laws and regulations regarding harassment and bullying;
- (4) school policies and procedures regarding harassment and bullying; and
- (5) any other issues regarding harassment and bullying that the committee deems relevant.

(b) The committee shall also study the issue of cyber-bullying of Vermont students and recommend measures to address this growing and destructive phenomenon.

(c) The committee shall consist of: *(persons appointed to these slots are listed in bold italics)*

(1) one member appointed by the Vermont department of education; *Civil Rights Coordinator (and Legal Counsel) Barbara Crippen*

(2) one member appointed by the Vermont school boards association; *Executive Director John Nelson, Esq.*

(3) one member appointed by the Vermont superintendents association; *Executive Director Jeffrey Francis*

(4) one member appointed by the Vermont principals association; *Executive Director Robert Stevens*

(5) one member appointed by the Vermont national education association; ***Donna Waelter, Teacher Blue Mountain Union High School, Wells River***

(6) one member appointed by the Vermont human rights commission; ***Investigator Tracey Tsugawa***

(7) one member appointed by the Vermont commission on women; ***Commissioner Eileen Boland, assisted by Executive Director Wendy Love***

(8) one member appointed by outright Vermont; ***Executive Director Christopher Neff, assisted by Ella Kaplan, Education & Outreach Coordinator***

(9) one member appointed by the Vermont ecumenical council; ***Rev. Protopresbyter Robert T. Athas, assisted by Linda Howe, Executive Director***

(10) one member appointed by the ALANA community organization; ***Executive Director Curtiss Reed***

(11) one member appointed by the Vermont office of attorney general; ***Assistant Attorney General Sandra Everitt, Civil Rights Unit***

(12) one law enforcement officer knowledgeable in the investigation of computer crime to be appointed by the Vermont department of public safety; ***Lieutenant Mark Lauer, Vermont State Police, Fusion Center & Computer Crime Unit***

(13) two members with expertise and experience in school issues, one to be appointed by the speaker of the house and one to be appointed by the president pro tempore of the senate; ***Jan Mitchell-Love, parent and school board member, Saxton's River, and Grace Winslow, parent, Shaftsbury***

(14) two youths, one to be appointed by the speaker of the house and one to be appointed by the pro tempore of the senate; *Kylie Kenney of South Burlington, assisted by her mother, Leslye Kenney, and Kaitlyn Chadbourne, Springfield,* and

(15) one member appointed by the American Civil Liberties Union of Vermont.  
*Executive Director Allen Gilbert.*

(d) The committee shall convene its first meeting no later than September 1, 2008. The executive director of the Vermont human rights commission is designated to convene the initial meeting. The Vermont human rights commission shall provide administrative support to the committee. The committee may utilize the expertise of non-members in its work.

(e) The committee shall report its findings to the senate committees on judiciary and on education, and to the house committees on judiciary and on education no later than December 15, 2008. The report shall include a strategic plan to reduce the prevalence of harassment and bullying in Vermont schools.

## Appendix 2

### Meetings of Legislative Study Committee on Bullying, Harassment, and Cyberbullying

June 10, 2008                      Montpelier

**TOPIC(S):** Introduction to members of the committee and their primary concerns followed by a discussion of the Legislative charge, and outlining the task at hand. Review of the elements contained in H. 486 introduced during the 2007-2008 Legislative Session.

July 11, 2008                      Montpelier

**TOPIC(S):** Data Collection by VT Dept of Ed, Youth Risk Behavior Survey, VT Girl Scouts survey. Presentation by Shevonne Travers re: Department of Education capacity, current practice, data collection, etc. Discussion of Brooke Bennett murder, early adolescent sexualization and Internet Safety.

August 18, 2008                  Randolph

**TOPIC(S):** Free Speech vs. Regulated Conduct, off-campus nexus to school, discussion of recent Internet case decide by U.S. Court of Appeals 2<sup>nd</sup> Circuit, included presentation by Cara Cookson, intern at VT Attorney General's Office Civil Rights Division based on her memorandum, "Free Speech, Schools and the Internet." The group also discussed the current reach of Vermont law regarding off-campus conduct and the need for educator training to differentiate between bullying and harassment

September 10, 2008              Randolph

**TOPIC(S):** Law Enforcement – discussion about what law enforcement presently can, and cannot do related to cyberbullying. A presentation by Lt. Mark Lauer, VT State Police, reported about a lack of police resources (particularly the ability to analyze computer hard drives once legally seized), the relative merits of a civil versus a criminal sanction, and law enforcement's view of line between speech and conduct. There was also discussion about the degree that prosecutors see youth cyberbullying as a priority for prosecution, as well as the decline in the number of School Resource Officers (SROs). There was discussion of the present level and nature of trainings available to both educators and students.

October 20, 2008                  Burlington

**TOPIC(S):** Student presenters from Outright VT who spoke about their experiences as openly gay in their schools. There followed a general discussion about GLBTQ issues including Gay Straight Alliances, and the beginning of conversation regarding potential recommendations for committee report to Legislature.

November 12, 2008                Montpelier

**TOPIC(S):** Student Civil Rights Teams, anonymous reporting mechanisms, miscellaneous items.

December 11, 2008                Montpelier

**TOPIC(S):** develop recommendations and discuss components of report.

### Appendix 3

**Sec 1. 16 V.S.A. § 11(a). Classifications and definitions is** amended as follows:

(26)(A) "Harassment" means an incident or incidents of verbal, written, visual, or physical conduct, including conduct by electronic means, based on or motivated by a student's or a student's family member's actual or perceived race, creed, color, national origin, marital status, sex, sexual orientation, gender identity, or disability" that has the purpose or effect of objectively and substantially undermining and detracting from or interfering with a student's educational performance or access to school resources or creating an objectively intimidating, hostile, or offensive environment.

(32) "Bullying" means any overt act or combination of acts, including acts by electronic means, directed against a student by another student or group of students and which:

(A) is repeated over time;

(B) is intended to ridicule, humiliate, or intimidate the student; and

(C) (i) occurs during the school day on school property, on a school bus, or at a school-sponsored activity, or before or after the school day on a school bus or at a school-sponsored activity or does not occur during the school day on school property, on a school bus or at a school sponsored activity or;

(ii) does not occur during the school day on school property, on a school bus or at a school- sponsored activity where the act or acts have the purpose or effect of objectively and substantially undermining and detracting from or interfering with a student's educational performance or access to school resources or creating an objectively intimidating, hostile, or offensive environment.

**Sec. 2, 16 V.S.A. § 1162. Suspension or expulsion of pupils is** amended as follows:

(a) A superintendent or principal may, pursuant to policies adopted by the school board that are consistent with state board rules, suspend a pupil for up to 10 school days or, with the approval of the board of the school district, expel a pupil for up to the remainder of the school year or up to 90 school days, whichever is longer, for:

(1) misconduct on school property, on a school bus or at a school-sponsored activity when the misconduct makes the continued presence of the pupil harmful to the welfare of the school or

(2) for misconduct not on school property, on a school bus or at a school-sponsored activity where direct harm to the welfare of the school can be demonstrated or

(3) for misconduct not on school property, on a school bus or at a school-sponsored activity where the misconduct is shown to have the purpose or effect of objectively and substantially undermining and detracting from or interfering with a student's educational performance or access to school resources or creating an objectively intimidating, hostile, or offensive environment.

(b) Nothing contained in this section shall prevent a superintendent or principal, subject to subsequent due process procedures, from removing immediately from a school a pupil who poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process of the school, or from expelling a pupil who brings a weapon to school pursuant to section 1166 of this title.

(c) Principals, superintendents and school boards are authorized and encouraged to provide alternative education services or programs to students during any period of suspension or expulsion authorized under this section. Principals, superintendents and school boards are authorized and encouraged to engage appropriate non-school resources as a component of a comprehensive response to such misconduct.



## Appendix 3A

# Cyber-Bullying Study Committee Report

## Dissent by ACLU-Vermont

The American Civil Liberties Union of Vermont disagrees with the changes to statutes proposed by the study committee.

Our disagreement is based on three grounds:

1. Disciplining children for misconduct is the responsibility of parents. The responsibility for discipline when a child is in school, or at a school-sponsored event, is temporarily given to schools as a necessary transfer of authority to maintain school order. Outside of school, however, parents expect -- and the law recognizes -- parents' authority.
2. Schools are often the battleground of rights. In the case of hostile speech termed "harassment" or "bullying," the conflict pits one student's right of free expression against another student's right to access educational opportunities. When the hostile speech occurs at school, schools have authority to intervene and sanction the offending student. Even these situations, however, raise tricky questions. What is hostile speech? How is the effect of the offending speech evaluated? Is the speech's effect on the "target" student so severe that the school can act to limit the offending student's free speech rights, as well as suspend his/her right to access educational opportunities? If the hostile speech occurs out-of-school but a connection to school is asserted, these questions become even trickier.
3. Any effort to have schools police the speech of children outside of school is certain to run into legal challenges. That's because schools' authority to discipline a child for out-of-school misconduct has not been addressed by the U.S. Supreme Court. The law is unsettled. In the cases brought to the lower courts, different federal circuits have reached different conclusions concerning schools' authority. If for no other reason than this vacuum of clarity, a challenge to new out-of-school misconduct statutes is inevitable. Any challenge through the federal courts will be lengthy and costly.

During the committee's discussions, we offered alternative statutory language to address what we felt were constitutional infirmities created by the committee's recommendations. We based our alternative on U.S. Supreme Court decisions involving student free speech and discipline cases. (By contrast, the standards used in the committee's recommended statutory language come from employment law.). Specifically, we looked to the seminal student free speech/discipline case, *Tinker vs. Des Moines School District* (1969). The main thrust of the *Tinker* decision establishes that neither students nor teachers "shed their constitutional rights to freedom of speech or expression at the schoolhouse gate." But the decision goes on to lay out two areas where schools can restrict student speech: when the speech threatens the welfare or safety of the school, and when the speech prevents other students from accessing educational opportunities.

Accordingly, we suggested not revising the bullying and harassment laws but instead amending only the current Vermont statute on school discipline (16 V.S.A. § 11) to read as follows:

(a) A superintendent or principal may, pursuant to policies adopted by the school board that are consistent with state board rules, suspend a pupil for up to 10 school days or, with the approval of the board of the school district, expel a pupil for up to the remainder of the school year or up to 90 school days, whichever is longer, for misconduct on school property, on a school bus or at a school-sponsored activity when the misconduct makes the continued presence of the pupil harmful to the welfare of the school, or for misconduct not on school property, on a school bus or at a school-sponsored activity where direct harm to the welfare of the school can be demonstrated or where the misconduct can be shown to pose a clear and substantial interference with another pupil's right to access educational programs. The pupil's parent(s) or guardian shall be notified of any disciplinary action to be taken for out-of-school misconduct and shall be given the opportunity to meet with school administrators to discuss the anticipated action.

Nothing contained in this section shall prevent a superintendent or principal, subject to subsequent due process procedures, from removing immediately from a school a pupil who poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process of the school, or from expelling a pupil who brings a weapon to school pursuant to section 1166 of this title.

(b) Principals, superintendents and school boards are authorized and encouraged to provide alternative education services or programs to students during any period of suspension or expulsion authorized under this section. Discipline for out-of-school misconduct imposed under this section shall be done in conjunction with any appropriate non-school agencies as part of a comprehensive community approach to misconduct that includes involvement by the pupil's parent(s) or guardian. The school will at all times respect the rights of pupils accused of misconduct, whether the misconduct occurs in or out of school.

We believe this language is based on a sounder legal footing than what the committee developed. However, the committee rejected it in favor of language that we view as more subjective and more open to challenge.

We also wish to point out that there is already a criminal statute on the books (13 VSA § 1027, “Disturbing peace by use of telephone or other electronic communications”) that allows prosecution of “A person who, with intent to terrify, intimidate, threaten, harass or annoy, makes contact by means of a telephonic or other electronic communication with another....” The committee heard testimony describing situations that clearly fell within the scope of this statute. However, law enforcement told the committee that adequate police and prosecutorial resources are not available to provide enforcement. This situation is discouraging, but it begs the question of the resources schools will need for fair, effective enforcement of any new school discipline authority in this area

Schools are being asked to do more and more things that in the past have been handled by others. Increasingly, schools have become regulators of last resort. This places a heavy burden on school administrators as they are forced to navigate difficult, sensitive areas -- areas where legal expertise is needed and the exercise of administrators’ extended authority is challenging.

# Continuum of Behaviors



## Generic bullying and harassment



### Rude, disrespectful behavior

- Ignoring someone
- Talking down to someone
- Making faces at someone
- Rolling your eyes at someone
- Sneering at someone
- Laughing at someone

### Bullying (legal definition)

#### Student to student ONLY

For **ANY** reason:

- Weight
- Clothes
- Where you live
- Height
- Age
- Hair
- Perceived low/high intelligence
- Socioeconomic status

Happens over a period of time and is repeated

Need to look at the **intent** of the alleged bully

**HOWEVER**, if there is **overt** reference to a student's protected category status, treat the incident as possible harassment

### Harassment (legal definition)

#### Student to student AND between students and adults

Based on **ACTUAL OR PERCEIVED** student's or student's family member's membership in a protected category:

- Race
- Creed (religion)
- Color
- National Origin
- Marital Status
- Sex
- Sexual Orientation
- Disability
- Gender Identity

Happens over a period of time and is repeated OR a single severe incident

Need to look at **impact** of alleged conduct on the target

### Criminal behavior

- Physical/sexual assault
- Hate crimes
- Cyberbullying

A school can contact the police or advise parents to contact the police but the school should also do its own investigation of bullying or harassment complaints that may have a criminal element.

## POLICY ON PREVENTION OF HARASSMENT OF STUDENTS

### I. Purposes

The \_\_\_\_\_ District/Independent School (“District/Independent School”) is committed to providing all of its students with a safe and supportive school environment in which all members of the school community are treated with respect. This policy addresses incident(s) and/or conduct that occur on school property, on a school bus or at a school-sponsored activity, or incident(s) and/or conduct that does not occur on school property, on a school bus or at a school-sponsored activity but where direct harm to the welfare of the school can be demonstrated.

Harassment is a form of unlawful discrimination that will not be tolerated. It is the policy of the District/Independent School to prohibit the unlawful harassment of students based on race, creed, color, national origin, marital status, disability, sex, sexual orientation, and gender identity, to the extent required by law. In addition, retaliation is a form of unlawful discrimination that will not be tolerated. Consistent with these purposes, annually,<sup>1</sup> each school shall select two or more designated employees to receive complaints and shall publicize their availability in any publication of the District/Independent School that sets forth the comprehensive rules, procedures, and standards of conduct for the school.<sup>2</sup>

It is the intent of the District/Independent School to apply and enforce this policy in a manner that is consistent with student rights to free expression under the First Amendment of the U.S. Constitution. The purpose of this harassment policy is to prohibit conduct or communication that is directed at a person's protected characteristics as defined below and that is likely to substantially disrupt the educational learning process and/or access to educational resources, or create a hostile learning environment.

The District/Independent School shall promptly and effectively address all complaints of harassment in accordance with the procedures established by this policy. In cases where harassment is substantiated, the school shall take prompt and appropriate remedial action reasonably calculated to stop the harassment. Such action may include a wide range of responses from education to serious discipline. Such serious discipline may include termination for employees and, for students, expulsion or removal from school property. Nothing herein shall be construed to prohibit punishment of a person for conduct which, although it does not rise to the level of harassment as defined herein, otherwise violates one or more of the school's other disciplinary policies or codes of conduct.

### II. Definitions

- A. **"Harassment"** means an incident or incidents of verbal, written, visual, or physical conduct based on or motivated by a student's or a student's family member's actual or perceived race, creed, color, national origin, marital status, disability, sex, sexual orientation, or gender identity<sup>3</sup> that has the purpose or effect of objectively and substantially undermining and

<sup>1</sup> See 16 V.S.A. §565(c)(1).

<sup>2</sup> See Appendix A.

<sup>3</sup> Effective July 1, 2007, 1 V.S.A. §144 defines “gender identity” as “an individual’s actual or perceived gender identity, or gender-related characteristics intrinsically related to an individual’s gender or gender-identity, regardless of the individual’s assigned sex at birth.”

detracting from or interfering with a student's educational performance or access to school resources or creating an objectively intimidating, hostile, or offensive environment.

Harassment includes conduct as defined above and may also constitute one or more of the following:

(1) Sexual harassment,<sup>4</sup> which means conduct that includes unwelcome sexual advances, requests for sexual favors and other verbal, written, visual or physical conduct of a sexual nature when one or both of the following occur:

- (i) submission to that conduct is made either explicitly or implicitly a term or condition of a student's education, academic status or progress; or
- (ii) submission to or rejection of such conduct by a student is used as a component of the basis for decisions affecting that student

(2) Racial harassment, which means conduct directed at the characteristics of a student's or a student's family member's actual or perceived race or color, and includes the use of epithets, stereotypes, racial slurs, comments, insults, derogatory remarks, gestures, threats, graffiti, display, or circulation of written or visual material, and taunts on manner of speech and negative references to cultural customs.

(3) Harassment of members of other protected categories, means conduct directed at the characteristics of a student's or a student's family member's actual or perceived creed, national origin, marital status, disability, sex, sexual orientation, or gender identity and includes the use of epithets, stereotypes, slurs, comments, insults, derogatory remarks, gestures, threats, graffiti, display, or circulation of written or visual material, taunts on manner of speech, and negative references to customs related to any of these protected categories.

- B. **“Complaint”** means an oral or written report by a student or any person to an employee alleging that a student has been subjected to conduct that may rise to the level of harassment.
- C. **“Complainant”** means a student who has filed an oral or written complaint with a school employee or a student who is the target of alleged harassment in a report made by another person.
- D. **“Designated employee”** means an employee who has been designated by the school to receive complaints of harassment pursuant to subdivision 16 V.S.A. §565(c)(1).
- E. **“Employee”** includes any person employed directly by or retained through a contract with the District/Independent School, an agent of the school, a school board member/member of the board of trustees, a student teacher, an intern or a school volunteer. For purposes of this policy, “agent of the school” includes supervisory union staff.
- F. **“Notice”** means a written complaint or oral information that harassment may have occurred which has been provided to a designated employee from another employee, the student

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<sup>4</sup> This statutory definition of sexual harassment describes only the “quid pro quo” form of sexual harassment that can occur between an adult and student. However, sexual harassment may also include student to student conduct as well as conduct that creates a hostile environment.

allegedly subjected to the harassment, another student, a parent or guardian, or any other individual who has reasonable cause to believe the alleged conduct may have occurred.<sup>5</sup>

- G. **“Retaliation”** is any adverse action by any person against a person who has filed a complaint of harassment or against a person who assists or participates in an investigation, proceeding or hearing related to the harassment complaint. Such adverse action may include conduct by a school employee directed at a student in the form of intimidation or reprisal such as diminishment of grades, suspension, expulsion, change in educational conditions, loss of privileges or benefits, or other unwarranted disciplinary action. Retaliation may also include conduct by a student directed at another student in the form of further harassment, intimidation, and reprisal.
- H. **“School administrator”** means a superintendent, principal/head of school/technical center director or his/her designee.

### III. Reporting Student Harassment

- A. **Student reporting:** Any student who believes that s/he has been harassed under this policy, or who witnesses or has knowledge of conduct that s/he reasonably believes might constitute harassment, should promptly report the conduct to a designated employee or any other school employee.
- B. **School employee reporting:** Any school employee who witnesses conduct that s/he reasonably believes might constitute harassment shall take reasonable action to stop the conduct and to prevent its recurrence and immediately report it to a designated employee. Any school employee who overhears or directly receives information about conduct that might constitute harassment shall immediately report the information to a designated employee. If one of the designated employees is the person alleged to be engaged in the conduct complained of, the complaint shall be immediately filed with the other designated employee or the school administrator.
- C. **Other reporting:** Any other person who witnesses conduct that s/he reasonably believes might constitute student harassment under this policy should promptly report the conduct to a designated employee.
- D. **Documentation of the report:** If the complaint is oral, the designated employee shall promptly reduce the complaint to writing in a harassment complaint form, including the time, place, and nature of the alleged conduct, and the identity of the complainant, alleged perpetrator, and any witnesses.
- E. **False Complaint:** Any person who knowingly makes a false accusation regarding harassment may be subject to disciplinary action up to and including suspension and expulsion with regard to students, or up to and including discharge with regard to employees. There shall be no adverse action taken against a person for reporting a complaint of harassment when the person has a good faith belief that harassment occurred or is occurring.

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<sup>5</sup> See 16 V.S.A. §14(c)(3).

#### IV. Procedures Following a Report

- A. **Notification:**<sup>6</sup> Upon receipt of a complaint of harassment the designated employee shall immediately inform the school administrator of the complaint. In addition, the designated employee shall immediately provide a copy of this harassment policy to the complainant and accused individual. If either the complainant or the accused individual is under the age of 18, his or her parent(s) or guardian(s) shall be: 1.) promptly notified that a complaint of harassment has been filed and provided with a copy of this policy; 2.) notified if an alternative dispute resolution method will be offered and, if it occurs, of the outcome of any such attempt; and 3.) notified in writing of the results of the complaint investigation. All notification letters shall be subject to state and/or federal laws protecting the confidentiality of personally identifiable student information. A school administrator may seek waiver of confidentiality rights of the accused in order to inform the complainant of any disciplinary action taken in cases where the school determined that harassment or other misconduct occurred.
- B. **Investigation:**<sup>7</sup> Unless special circumstances are present and documented, such as reports to the Department for Children and Families (“DCF”) or the police, the school administrator shall, no later than one school day after the filing of a complaint with a designated employee, initiate or cause to be initiated, an investigation of the allegations. The school administrator shall assign a person to conduct the investigation; nothing herein shall be construed to preclude the school administrator from assigning him/herself or a designated employee as the investigator. No person who is the subject of a complaint shall conduct such an investigation.

No later than five school days from the filing of the complaint with the designated employee, unless special circumstances are present and documented, the investigator shall submit a written initial determination to the school administrator. The report shall include a statement of the findings of the investigator as to whether the allegations have been substantiated, and as to whether the alleged conduct constitutes harassment. When the initial determination concludes that an accused student has engaged in harassment, the school administrator shall use his or her discretion to decide the appropriate disciplinary and/or remedial action. In cases where the investigation has identified other conduct that may constitute a violation of other school disciplinary policies or codes of conduct, the designated employee shall report such conduct to the school administrator for action in accordance with relevant school policies.

All levels of internal review<sup>8</sup> of the investigator’s initial determination, and the issuance of a final decision, shall, unless special circumstances are present and documented by the District/Independent School, be completed within 30 calendar days after the review is requested.

- C. **Action on a substantiated complaint:** If, after investigation, the school finds that the alleged conduct occurred and that it constitutes harassment, the school shall take prompt and appropriate disciplinary and/or remedial action reasonably calculated to stop the harassment and prevent any recurrence of harassment. Such action may include warning, reprimand,

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<sup>6</sup> See 16 V.S.A. §14(a).

<sup>7</sup> See 16 V.S.A. §565(b)(1)(E).

<sup>8</sup> An “internal review” is any procedure provided by the school through policy or practice and is not the same as an “independent review” as described below.

education, training and counseling, transfer, suspension, and/or expulsion of a student, and warning, reprimand, education, training and counseling, transfer, suspension and/or termination of an employee.

- D. Alternative dispute resolution:<sup>9</sup> At all stages of the investigation and determination process, school officials are encouraged to make available to complainants alternative dispute resolution methods, such as mediation, for resolving complaints. The following should be considered before pursuing alternative dispute resolution methods: (1) the nature of the accusations, (2) the age of the complainant and the accused individual, (3) the agreement of the complainant, and (4) other relevant factors such as any disability of the target or accused individual, safety issues, the relationship between the target and accused individual, or any history of repeated misconduct/harassment by the accused individual. If an alternative dispute resolution is either not appropriate or is unsuccessful, the school administrator shall initiate or cause to be initiated an investigation of the allegations in accordance with the timelines established in this policy.
- E. Appeal: A person determined to be in violation of this policy and subjected to disciplinary action under it may appeal the determination and/or the disciplinary action(s) taken in the same manner as other disciplinary actions, in accordance with the District's/Independent School's discipline policy, applicable statutes, or collective bargaining agreements.
- F. Independent Review:<sup>10</sup> A complainant may request an independent review if s/he: 1.) believes that the school did not correctly analyze the complaint and failed to conduct an investigation of the incident because the school believed the alleged conduct did not constitute possible harassment, 2.) is dissatisfied with the final determination following an investigation as to whether harassment occurred, or 3.) believes that although a final determination was made that harassment occurred, the school's response was inadequate to correct the problem. The complainant shall make such a request in writing to the superintendent of schools/head of school. Upon such request, the superintendent/head of school shall promptly initiate an independent review by a neutral person as described under 16 V.S.A. § 565(f), and shall cooperate with the independent reviewer so that s/he may proceed expeditiously. The review shall consist of an interview of the complainant and relevant school officials and a review of the written materials from the school's investigation. Upon completion of the independent review, the reviewer shall advise the complainant and school officials in writing: 1.) as to the sufficiency of the school's investigation, its determination, and/or the steps taken by the school to correct any harassment found to have occurred, and 2.) of recommendations of any steps the school might take to prevent further harassment from occurring. A copy of the independent review report shall be sent to the Commissioner. The reviewer shall advise the student of other remedies<sup>11</sup> that may be available if the student remains dissatisfied and, if appropriate, may recommend mediation or other alternative dispute resolution. The independent reviewer shall be considered an agent of the school for the purpose of being able to review confidential student records. The costs of the independent review shall be borne by the District/Independent School. The District/Independent School may request an independent review at any stage of the process.

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<sup>9</sup> See 16 V.S.A. §565(b)(1)(C).

<sup>10</sup> See 16 V.S.A. §565(f).

<sup>11</sup> Such as those identified in Section VIII of this policy.

- F. **Retaliation:** It is unlawful for any person to retaliate against a person who has filed a complaint of harassment or against a person who assists or participates in an investigation, proceeding or hearing related to the harassment complaint. A person may violate this anti-retaliation provision regardless of whether the underlying complaint of harassment is substantiated.

## V. Confidentiality and Record Keeping

- A. The privacy of the complainant, the accused individual, and the witnesses shall be maintained consistent with the District's/Independent School's obligations to investigate, to take appropriate action, and to comply with laws governing the disclosure of student records or other applicable discovery or disclosure obligations.
- B. The Superintendent or school administrator shall assure that a record of any complaint, its investigation and disposition, as well as any disciplinary or remedial action taken following the completion of the investigation, is maintained by the District/Independent School in a confidential file accessible only to authorized persons. All investigation records, including but not limited to, the complaint form, interview notes, additional evidence, and the investigative report, shall be kept for at least six years after the investigation is completed.

## VI. Reporting to Other Agencies

When a complaint made pursuant to this policy includes allegations of child abuse, any person responsible for reporting suspected child abuse under 33 V.S.A. §4911, et seq. must report the allegation to the Commissioner of DCF. If the victim is over the age of 18 and a report of abuse is warranted, the report shall be made to Adult Protective Services in accordance with 33 V.S.A. §6901 et seq.

If a harassment complaint is made in a public school about conduct by a licensed educator that might be grounds under the State Board of Education Rules for licensing action, the principal shall report the alleged conduct to the Superintendent and the Superintendent shall report the alleged conduct to the Commissioner. If a harassment complaint is made in an independent school about conduct by a licensed educator that might be grounds under the State Board of Education rules for licensing action, the head of school is encouraged to report the alleged conduct to the Commissioner.

Nothing in this policy shall preclude anyone from reporting any incidents and/or conduct that may be considered a criminal act to law enforcement officials.

## VII. Dissemination of Information, Training, and Data Reporting

- A. **Dissemination of Information.**<sup>12</sup> Annually, prior to the commencement of curricular and co-curricular activities, the District/Independent School shall provide notice of this policy and procedures to students, custodial parents or guardians of students, and employees. Notice to students shall be in age-appropriate language and include examples of harassment. At a minimum, this notice shall appear in any publication of the District/Independent School that

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<sup>12</sup> See 16 V.S.A. §565(d).

sets forth the comprehensive rules, procedures and standards of conduct for the District/Independent School.

- B. **Training.**<sup>13</sup> The school administrator shall use her/his discretion in developing age-appropriate methods of discussing the meaning and substance of this policy with students to help prevent harassment. The school administrator shall implement training for school staff within the context of professional development to enable staff to recognize, prevent and respond to harassment.
- C. **Data Gathering.** Public school districts shall provide the Vermont Department of Education with data requested by the Commissioner.

### **VIII. Alternative Complaint Process**

In addition to, or as an alternative to filing a harassment complaint pursuant to this policy, a person may file a harassment complaint with the Vermont Human Rights Commission or the Office for Civil Rights of the U.S. Department of Education at the addresses noted below:

Vermont Human Rights Commission  
14-16 Baldwin Street  
Montpelier, VT 05633-6301  
(800) 416-2010 or (802) 828-2480 (voice)  
(877) 294-9200 (tty)  
(802) 828-2481 (fax)  
Email: [human.rights@state.vt.us](mailto:human.rights@state.vt.us)

Office for Civil Rights, Boston Office  
U.S. Department of Education  
33 Arch Street, Suite 900  
Boston, MA 02110-1491  
(617) 289-0111 (voice)  
(877) 521-2172 (td)  
(617) 289-0150 (fax)  
Email: [OCR.Boston@ed.gov](mailto:OCR.Boston@ed.gov)

### **Legal References:**

Title V, Section B, 504 of the Rehabilitation Act of 1973, 29 U.S.C. §794 et seq.;  
Title VI of the Civil Rights Act of 1964, 42 U.S.C. §2000d;  
Title IX of the Educational Amendments Act of 1972, 20 U.S.C. §§1681 et seq.;  
Family Education Rights Privacy Act; 20 U.S.C. 1232g;  
Public Accommodations, 9 V.S.A. §§4500 et seq. ;  
Education, Classifications and Definitions, 16 V.S.A. §11a (26);  
Education, Harassment, Notice and Response, 16 V.S.A. §14;  
Education, 16 V.S.A. §140(a)(1);  
Education, 16 V.S.A. §166(e);

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<sup>13</sup> See 16 V.S.A. §565(d).

Vermont Department of Education

Education, Harassment and Hazing Prevention Policy, 16 V.S.A. §565;  
Education, Discipline, 16 V.S.A. §1161a;  
Education, Suspension or Expulsion of Pupils, 16 V.S.A. §1162;  
Child Abuse, 33 V.S.A. §§4911 et seq.;  
Adult Protective Services, 33 V.S.A. §6901 et seq., all as they may be amended from time to time.

*Washington v. Pierce*, 179 VT 318 (2005)

## APPENDIX A

### Designated Employees

The following employees of the \_\_\_\_\_ School have been designated by the District/Independent School to receive harassment complaints pursuant to this policy and 16 V.S.A. §565(c)(1):

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Contact information: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Contact information: \_\_\_\_\_



VT Human Rights Commission  
14-16 Baldwin Street  
Montpelier VT 05633-6301  
[www.hrc.state.vt.us](http://www.hrc.state.vt.us)

[phone] 802-828-2480  
[phone] 802-828-2481  
[phone] 877-294-9200  
[phone] 1-800-416-2010

September, 2008

Greetings: PRINCIPAL

**Enclosed please find posters that address the harassment of students.** There are two versions of this poster: one is designed for elementary level (displaying a group photo of young students), and the other (displaying a drawing of a person whispering into an ear) is designed for middle and high school staff and students. We recommend that you display the poster appropriate to your student body in high traffic areas such as faculty/staff rooms, main offices, cafeterias, etc.

**Please note the space at the bottom of each poster where you will enter the names of your Designated Employees.** By law, each school is required to name no fewer than two employees to receive complaints of student harassment and to publicize their availability to students. We recommend that you name both a male and a female for the benefit of any staff or student wishing to report an incident. If you have any questions about designated employees, please contact Robert Appel at 802-828-2482. We believe that these posters will help your students and staff gain an understanding of how to report and respond to incidents of harassment.

**We also request that you visit the following website maintained by the Center for Health and Learning (CHL), <http://hrc.healthandlearning.org>, to enter the names and contact information of your school's designated employees. Please enter as username:<hrc>, password <hrcde08>, and follow the prompts provided.**

To make the complaint process more accessible to those who may need it, your entries will be compiled into a database and posted on our websites as well as that of the Department of Education. **By visiting the website link above, you will avoid receiving a follow-up call from CHL staff seeking the names of your current designated employees.** You may wish to visit the *Addressing Harassment Tool Kit* link found at [www.healthandlearning.org](http://www.healthandlearning.org) to access a collection of resources for implementing Act 91 and for meeting legal mandates. For questions regarding the database or website, contact CHL at (802) 254-6590.

We thank you for displaying these posters in prominent places and for joining us in our collective effort to provide a safe and supportive learning environment in which every student is treated with dignity and respect.

Sincerely,

Robert Appel, Executive Director  
Human Rights Commission

Robert Stevens, Executive Director  
Vermont Principals Association

JoEllen Tarallo-Falk, Executive Director  
Center for Health & Learning

## UNLAWFUL HARASSMENT...

Behavior based on or motivated by a student's  
(or a student's family member's)

- Race
- Creed (religion)
- Color
- National Origin
- Marital Status
- Sex
- Sexual Orientation
- Disability
- Gender Identity
- May be a single severe event or a pattern of conduct.
- Undermines, detracts from or interferes with a student's educational performance and/or access to school resources.
- Creates an objectively intimidating, hostile, or offensive environment.
- May be verbal, written, visual, or physical.
- May happen at school, on a school bus or at school-sponsored events.

## BUT IS IT REALLY HARASSMENT?

Even if you are not sure an incident is harassment,  
*all school staff* are required to respond.

- Don't guess or ignore
- Follow up—refer a complaint right away to a Designated Employee



# SCHOOLS NEED TO FEEL! SAFE FOR ALL STUDENTS!

IN THIS SCHOOL, REPORT POSSIBLE HARASSMENT TO:

VI Human Rights Commission 800-416-2010  
Produced by the CENTER FOR THE HUMAN RIGHTS COMMISSION  
under funding from the Human Rights Commission  
For more resources see: [HealthandLearning.org](http://HealthandLearning.org)  
Addressing Harassment Toolkit for Schools



**VT Human Rights Commission**  
14-16 Baldwin Street  
Montpelier VT 05633-6301  
[www.hrc.state.vt.us](http://www.hrc.state.vt.us)

[phone] 802-828-2480  
[phone] 802-828-2481  
[phone] 877-294-9200  
[phone] 1-800-416-2010

October, 2008

Greetings: SUPERINTENDENT

**Enclosed please find posters that address the harassment of students.** There are two versions of this poster: one is designed for elementary level (displaying a group photo of young students), and the other (displaying a drawing of a person whispering into an ear) is designed for middle and high school staff and students. These posters have been sent to every public school principal or private school headmaster in the state to help students and staff gain an understanding of how to report and respond to incidents of harassment. We recommend that you display both of these posters in a prominent location within your office.

**We have asked every principal to enter the names of the school's Designated Employees in the space at the bottom of each poster.** If your supervisory union delivers direct educational services to students *at a location other than the principal school buildings within your district (such as an alternative school)*, we ask you to do the same in each and every such location. **By law, each "educational institution" (including a supervisory union under these circumstances)**, is required to name no fewer than two employees to receive complaints of student harassment and to publicize their availability to students. We recommend that you name both a male and a female for the benefit of any staff or student wishing to report an incident. If you have any questions about designated employees, please contact Robert Appel at 802-828-2482.

**We also request that principals and you, if appropriate, visit the following website maintained by the Center for Health and Learning (CHL), <http://hrc.healthandlearning.org>, to enter the names and contact information of your school's designated employees. Please enter as username:<hrc>, password <hrcde08>, and follow the prompts provided. We would appreciate you reminding your administrative team of this request at your next opportunity,**

To make the complaint process more accessible to those who may need it, your entries will be compiled into a database and posted on our websites as well as that of the Department of Education. **By visiting the website link above, you will avoid receiving a follow-up call from CHL staff seeking the names of your current designated employees.** You may wish to visit the *Addressing Harassment Tool Kit* link found at [www.healthandlearning.org](http://www.healthandlearning.org) to access a collection of resources for implementing Act 91 and for meeting legal mandates. For questions regarding the database or website, contact CHL at (802) 254-6590.

We thank you for displaying these posters in prominent places and for joining us in our collective effort to provide a safe and supportive learning environment in which every student is treated with dignity and respect.

Sincerely,

Robert Appel, Executive Director  
Human Rights Commission

JoEllen Tarallo-Falk, Executive Director

# SCHOOLS NEED TO FEEL SAFE FOR ALL STUDENTS!



HARASSMENT:

ACTUAL OR PERCEIVED:

MAY BE VERBAL, WRITTEN,  
VISUAL, OR PHYSICAL.

*Teachers: Prompt action is the law!*

*Students: Don't be a bystander!*

IN THIS SCHOOL, REPORT POSSIBLE HARASSMENT TO:

VT Human Rights Commission 800.416.2010

Produced by the CENTER FOR HEALTH & LEARNING 2008 under funding from the Human Rights Commission  
For more resources see: [Healthandlearning.org](http://Healthandlearning.org) Addressing Harassment Toolkit for Schools

### Free Speech, Schools and the Internet *A Survey of Recent Legal Developments*

By Cara Cookson, VLS Intern, Office of Attorney General 8/08

The purpose of this document is to provide an overview of legal considerations under the U.S. Constitution that relate to the question of when schools can intervene in incidents of bullying and harassment committed by students via the internet. Actions taken to discipline public school students for engaging in expressive conduct, both spoken and written, raises issues under the first amendment right to free speech.

#### BACKGROUND:

Lower courts have taken two approaches to the issue of student speech when the nature of the speech transcends simple categorizations of on-campus versus off-campus activity. One approach is to analyze whether the speech constitutes a “true threat,” under the Supreme Court’s *Watts* decision. Under the *Watts* approach, whether the speech occurs on- or off-campus is irrelevant. The second approach, under *Tinker* and subsequent opinions, is to determine whether the speech or conduct causes a “substantial and material disruption” to a school’s academic objectives, thereby enabling the school to limit student speech.

#### “True Threat”

In *Watts v. United States*, a man who was engaged in an anti-war protest was arrested on criminal charges for uttering threats against President Lyndon Johnson.<sup>1</sup> The Court found the Defendant’s comments to constitute “political hyperbole” and not a “true threat.”<sup>2</sup> Though the Court did not define “true threat,” the opinion establishes by implication that speech found to constitute a “true threat” would not receive constitutional protection. This line of analysis is less useful in the school context because speech that rises to a “true threat” level, however this term is defined, would most likely be severe enough to trigger criminal jurisdiction.

#### “Material and Substantial Disruption”

In 1969, the U.S. Supreme Court’s opinion in *Tinker v. Des Moines Independent Community School District* established the principle that neither students nor teachers “shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.”<sup>3</sup> *Tinker* involved two students who were disciplined for wearing black armbands to school in protest of the Vietnam War, with the Court ultimately holding in favor of the students.<sup>4</sup> The opinion also yields a standard for when schools can discipline students. “Conduct by the student, in class or out of it, which for any reason—whether it stems from time, place or type of behavior—materially disrupts class-work or involves substantial disorder or invasion of the rights of others.”<sup>5</sup> While *Tinker* ensures that students retain free speech protections, it also provides a separate line of analysis for free speech issues arising from the public school context.

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<sup>1</sup> *Watts v. United States*, 394 U.S. 705 (1969).

<sup>2</sup> Kara D. Williams, *Public Schools Vs. Myspace and Facebook: The Newest Challenge to Student Speech Rights*, 76 U. Cin. L. Rev. 707 (2008).

<sup>3</sup> *Tinker v. Des Moines Independent Community School District*, 393 U.S. 503 (1969).

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* at 403.

Following *Tinker*, the Court narrowed the free speech rights of students in *Bethel School District No. 403 v. Fraser*, holding that the “rights of students in public schools are not automatically coextensive with the rights of adults in other settings,” and therefore schools can prohibit speech that is “lewd, indecent or offensive.”<sup>6</sup> *Fraser*, as well as the oft-cited *Hazelwood School District v. Kuhlmeir*, both involved conduct clearly occurring on-campus and under the jurisdiction of school authorities.

In 2007, the Supreme Court decided *Morse v. Frederick*, the most recent opinion to further distinguish *Tinker*’s vague definition of when schools can discipline student expression<sup>7</sup>. In *Morse*, a student was suspended for displaying a banner reading “Bong Hits 4 Jesus” during the Winter Olympic Torch Relay in downtown Juneau, Alaska. Frederick was among a group of students allowed to leave school grounds to watch the relay across the street from the school. The school principal, Morse, disciplined the high school student because the banner promoted illegal drug use, in violation of school policy. The Court analyzed the case as a “school speech” case because the event occurred during school hours and had been sanctioned by the school as a class trip.<sup>8</sup> The majority opinion emphasized how other students would interpret the banner, versus the Frederick’s intent in unfurling it, and found the banner did not constitute political speech that should be afforded higher constitutional protection, per *Tinker*. The opinion cited a line of cases that noted the uniqueness of the school environment in evaluating the extent of student constitutional rights.<sup>9</sup> Overall, *Morse*, and other cases cited therein, rests heavily on the notion that schools have an interest in upholding the national policy interest against illegal drug use and less on the *Tinker* “substantial and material disruption” standard.

## RECENT DEVELOPMENTS

### *2<sup>nd</sup> Circuit Cases*<sup>10</sup>

In 2007, *Wisniewski v. Board of Education of the Weedsport Central School District* addressed the free speech claims of a student who was suspended for one semester for creating an instant-messenger icon on his home computer that depicted a violent drawing of his teacher and the words “Kill Mr. VanderMolen.”<sup>11</sup> At the outset, the Second Circuit Court of Appeals rejected the *Watts* “true threat” analysis in favor of the *Tinker* line of cases. “We think school officials have significantly broader authority to sanction student speech than the *Watts* standard allows.”<sup>12</sup> While the Court acknowledged the solely off-campus nature of the Internet icon, the Court upheld the plaintiff’s suspension. “The fact that Aaron’s creation and transmission of the IM icon occurred away from school property does not necessarily isolate him from school discipline.”<sup>13</sup> The Court decided on the basis of whether the student’s off-campus conduct “would foreseeably create a risk of substantial disruption within the school environment.”<sup>14</sup> The

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<sup>6</sup> *Bethel School District No. 403 v. Fraser*, 478 U.S. 675 (1986).

<sup>7</sup> *Morse v. Frederick*, 127 S.Ct. 2618 (2007).

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* See also *Vernonia School Dist. 47J v. Acton*, 515 U.S. 646 (1995).

<sup>10</sup> Cases decided in the federal Second Circuit Court of Appeals are regarded as having the greatest bearing on Vermont law, after the US Supreme Court, as Vermont constitutes part of the Second Circuit’s regional jurisdiction.

<sup>11</sup> *Wisniewski v. Board of Education of the Weedsport Central School District*, 494 F.3d 34 (2nd Cir. 2007).

<sup>12</sup> *Id.* at 38.

<sup>13</sup> *Id.* at 39.

<sup>14</sup> *Id.* at 39.

Court deemed the potential influx of phone calls and emails as sufficient to satisfy the “risk of disruption” standard, ruling in this case that it did.

*Doninger v. Niehoff*, decided by the Second Circuit Court of Appeals in 2008, also speaks directly to the interplay between student free speech and school discipline as manifested in the off-campus, internet context.<sup>15</sup> In *Doninger*, a student made a web-log posting at home in which she called the school principle a “douchebag” and incited the students to send emails and make phone calls about a cancelled school activity in order to “piss her off more.”<sup>16</sup>

First, the 2<sup>nd</sup> Circuit looked to the standard established in *Fraser*, as to whether school officials can regulate speech on the basis that it is “plainly offensive” and contrary to the mission of the school. Here the Court found that the student’s posting, “in which she called school administrators ‘douchebags’ and encouraged others to contact Schwartz ‘to piss her off more’ contained the sort of language that properly may be prohibited in schools” giving its vulgarity and offensive content.<sup>17</sup>

Second, the Court examined whether *Fraser* should apply, given that the Supreme Court has not made clear whether *Fraser* can be used in off-campus situations. Once again, this line of analysis brings the court to the *Tinker* “substantial and material disruption” standard. Here the Court, reiterated the *Wisniewski* standard, which held that the conduct need only create a *reasonably foreseeable risk* of substantial disruption (emphasis added).<sup>18</sup> The Court affirmed the district court’s view that, “although created off-campus, [the posting] was ‘purposely designed to come onto the campus.’”<sup>19</sup> Of significance is the Court’s continued interpretation of *Tinker*, which does not require an “actual disruption to justify a restraint on student speech.”<sup>20</sup>

## CONCLUSION

While the U.S. Supreme Court has clearly established a separate line of analysis for evaluating free speech concerns in the public school context, the lack of precise definition in this area leaves school officials and policymakers without clear guidelines for creating discipline policies that address the growing use of the internet by students to bully and harass other students. Two recent opinions issued by the Second Circuit Court of Appeals, while both unusual in terms of their specific factual circumstances, yield some wisdom as to extent to the Court will uphold the decisions of school officials to discipline students contrary to any countervailing free speech concerns. First, the Court has said that a “true threat” is not necessary for school officials to intervene, given the special nature of the school environment. Second, the student speech need not cause actual disruption on the school campus. Even off-campus speech, such as the Internet postings at issue in both respective cases, can be subject to discipline by school authorities if it poses merely a “foreseeable risk of a substantial disruption” under *Tinker*.

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<sup>15</sup> *Doninger v. Niehoff*, 527 F.3d 41, (2nd Cir. 2008).

<sup>16</sup> *Id.* at 44.

<sup>17</sup> *Id.* at 51.

<sup>18</sup> *Id.* at 51.

<sup>19</sup> *Id.* at 52.

<sup>20</sup> *Id.* at 52.

**2008-09 Vermont Anti-Defamation League  
A WORLD OF DIFFERENCE Peer Training Schools**



**Vermont currently has 13 IMPLEMENTING SCHOOLS and 1 YOUTH GROUP:**

**8 at middle school level; 6 at high school level**

- **2 additional High Schools are scheduled for implementation in 2009-10, with 2 more pending.**

<b>8 Middle Schools (1 new in 2008-09)</b>	<b>START YEAR</b>	<b>RECENT TRAININGS</b>
1. Alburg Elementary MS	since 2007-08	December 2007
2. Craftsbury School MS	since 2006-07	no training in 2007, 2008
3. Folsom Educational Center MS	since 2006-07	June 2008
4. Georgia Elementary MS	new in 2008-09	November 2008
5. Grand Isle Elementary MS	since 2006-07	June 2008
6. Hazen Union School MS	since 2006-07	November 2008
7. St. Albans City School MS	since 2005-06	November 2008
8. Williston Central School MS	since 2004-05	October 2008
<b>6 + 2 High Schools (plus 2 scheduled for 2009-2010)</b>		
9. BFA St. Albans HS	since 2005-06	August 2008
10. Champlain Valley Union HS	since 2000-01	October 2008
11. Mt. Abraham HS	new in 2007-08	October 2007
12. Mt. Mansfield HS	new in 2007-08	August 2007
13. Essex Junction HS	since 2005-06	no training in 2007, 2008
14. Youth Advisory Council of Caledonia/So. Essex	since 2005-06	no training in 2007, 2008
15. Middlebury High School	scheduled to start in 2009-10	
16. Rice Memorial High Schools	scheduled to start in 2009-10	

**10 other schools did implement, but are no longer implementing AWOD Peer Training Program**

- |                          |                             |
|--------------------------|-----------------------------|
| 1. Brattleboro Union HS  | 6. Chelsea School MS        |
| 2. Brattleboro Area MS   | 7. Mt. Anthony MS           |
| 3. Burlington HS         | 8. North Hero Elementary MS |
| 4. Burlington Edmunds MS | 9. South Burlington HS      |
| 5. Burlington Hunt MS    | 10. Twinfield HS            |

## IMPACT OF ADL'S A WORLD OF DIFFERENCE® Institute PEER TRAINING PROGRAM



### A 2006 Yale University Evaluation Study

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In 2005-2006, Yale University conducted a national evaluation of the Anti-Defamation League's A WORLD OF DIFFERENCE® Institute Peer Training Program. On the basis of data gathered from over 500 students in ten schools, located in urban, suburban and rural settings across the United States, Yale researchers determined that "the Peer Training Program can have an important effect on reducing bias in schools."

The Peer Training Program uses a unique combination of instructional and peer influence strategies to combat name-calling, bullying and harassment, and create safe and inclusive school communities. Yale evaluators concluded that this approach had a positive impact on students' knowledge and awareness about issues of prejudice and discrimination in their environments, as well as their response to incidents of bias they witness.

#### SUMMARY OF FINDINGS

##### **Enhanced understanding of the nature and manifestations of prejudice**

Students are able to better identify structural discrimination on the basis of race, class, gender, religion, ability and sexual orientation.

##### **Better comprehension of the negative impact of harassment**

Students build empathy for others and recognize that name-calling and bullying can be a manifestation of prejudice.

##### **Higher awareness of bias-motivated activities in schools**

Students pay closer attention and are more aware of biased behaviors in themselves and other people.

##### **Increased ability to respond to name-calling and other bias incidents**

Students are more likely to intervene when other students are being targeted.

##### **Greater confidence in ability to change their school climate**

Students feel more empowered to enlist the support of their peers to stand up for others.

##### **Improved skill in engaging peers in discussion about prejudice at school**

Students show a greater level of comfort in talking about issues of bias and discrimination with their classmates.

To obtain copies of the full or summary reports, please contact the Anti-Defamation League or visit our Web site at [www.adl.org](http://www.adl.org).



**2008 VT Youth Congress  
List of Attending Schools**

**Alburg Community Education Center  
Bellows Falls Union High School  
Bellows Free Academy High School  
Black River Middle School  
Champlain Valley Union High School  
Concord School  
Essex High School  
Folsom Educational Center  
Frederick H. Tuttle Middle School  
Grand Isle School  
Hartford Memorial Middle School  
Hazen Union School  
Hinesburg Community School  
Middlebury Union High School  
Mt. Abraham Union High School  
North Country Union High School  
Randolph Union High School  
Rice Memorial High School  
Shelburne Community School  
St. Albans City School  
Twinfield Union School  
Waits River Valley School  
Westford Elementary School  
Williston Central School  
Winooski Middle School  
Youth Advisory Council of Caledonia and  
Southern Essex**

**Alburg  
Westminster  
St. Albans  
Ludlow  
Hinesburg  
Concord  
Essex Junction  
South Hero  
South Burlington  
Grand Isle  
White River Jct.  
Hardwick  
Hinesburg  
Middlebury  
Bristol  
Newport  
Randolph  
Burlington  
Shelburne  
St. Albans  
Plainfield  
East Corinth  
Westford  
Williston  
Winooski  
St. Johnsbury**

# Rutland Herald & Times Argus Archives

THIS STORY HAS BEEN FORMATTED FOR EASY PRINTING

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The article you requested is displayed below.

## Father appeals to students to stop cyberbullying

**Author(s):** THATCHER MOATS Times Argus Staff

**Date:** November 7, 2008 **Section:** NEWS03

MONTPELIER - At a conference on cyberbullying Thursday, a middle school student told a story that shows how modern technology has brought new dimensions to an old problem. "A girl in our school was in the locker room changing and another girl asked to use a cell phone, but she actually videotaped her changing and put it on YouTube and told everyone about it," said Kristin Place, a middle-school student at the Hinesburg Community School.

At the conference, which was held in Montpelier and attended by about 300 middle and high school students from around Vermont, organizers tried to teach students to recognize and combat such actions, known as "cyberbullying."

John Halligan of Essex Junction was the keynote speaker at the conference, and he knows just how tragic the results of cyberbullying can be. His 13-year-old son killed himself after being bullied online.

Halligan told the assembled students that it was up to them to stop cyberbullying.

"I strongly believe that the answer is really among yourselves. The adults cannot fix this problem. The young people in this room are really the key," he said.

Text messages, online chat rooms, e-mail, social networking Web sites, and ubiquitous camera-phones have created infinite ways to harass other people, and students

learned about some of the different types of cyberbullying.

There's "happy slapping," in which an unsuspecting person is physically assaulted and then the fight is posted online. There's "impersonation," in which a person's e-mail account is broken into and messages are sent from the account that embarrass them or get them in trouble. And there's old-fashioned harassment, fighting and gossip through online forums.

There are key differences between simpler forms of bullying and cyberbullying, which can sometimes lead to greater psychological and emotional damage, said Phil Fogelman, an education director with the Anti-Defamation League, which sponsored the conference.

"The impact can be much more devastating socially and emotionally because it stays with the individual wherever he or she goes. It's everywhere," said Fogelman. "You can't just shut the computer off because everyone can access those videos or pictures."

In addition, the victims often don't know who is doing the cyberbullying, Fogelman said. With traditional bullying, the bully can be avoided, he said, but that can become tougher when the victim doesn't know who the bully is.

"With online bullying, the kid goes back to school and he doesn't know who at the school has done this," said Fogelman. "It's very indirect, and that's one of the reasons it is so difficult to address."

Addressing the problem was the point of the conference, and kids were taught to recognize the cyberbullying and then become "allies."

Most of the students said that when they encountered cyberbullying they tried to remain uninvolved.

Instructors said it was important not to participate, but also said being a bystander is not enough. Students were urged to report cases of cyberbullying to an adult.

"Bystanders are not exactly positive," said Kelsey Jensen, an 11th-grade student from Champlain Valley Union High School, who was a peer instructor at the conference.

"They're not as bad as perpetrators, but they're not helping the situation."

An ally could have helped Halligan's son Ryan.

Halligan told the students he had no idea his son was being harassed online until after he died in 2003.

He thought the bullying had subsided in the eighth grade, when Ryan's tormenter appeared to have befriended him. But after logging onto his son's computer, Halligan learned the other boy spread a rumor around the school that Ryan was gay.

And a girl pretended to like Ryan online as a joke.

"In the end, my son really died from an illness. That illness, I believe, was depression, which came about from a series of events which started all the way back in the fifth grade, and it was like a snowball rolling down a hill that got bigger and bigger and bigger and became a boulder and just took him over," Halligan said.

His story made the students think twice about online communications.

"After hearing Ryan's story, it just goes to show how much one thing, one sentence, can do to hurt a family just like that," said Jed Sass, 13, of Hartford.

"It really makes you think how serious something like that could end up being," said Casey Ostler, 12, of Hartford.

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## Vermont Principals' Association

### Student Voice: Youth & Adults Transforming Schools Together

The goal of Student Voice is to systemically transform schools from within by changing the traditional decision-making structures. This will happen by creating new avenues for student voice that will identify the obstacles to communication in each school and develop unique plans to transform learning. The establishment of Student Voice will impact school climate well beyond the development phase through real change in structures, instruction and process.

A total of four high schools representing four different demographic areas (Peoples Academy, Windsor, Winooski and Montpelier) have already signed on and have completed five days of Student Voice training. Each participating school principal has agreed to the terms of a Memorandum of Understanding (MOU), including a minimum two-year commitment to this project and an understanding that this is only the beginning of a much longer-term transformation process. Each school has developed youth-adult teams that are comprised of the school principal, one or two teachers, and six to eight students representing a broad cross-section of the student population. These teams will be responsible for:

- 1) Assessing the strengths and challenges of building youth voice in their school, using an action research model;
- 2) Designing and implementing a transformation plan that addresses obstacles to student engagement;
- 3) Engaging in on-going assessment and fine-tuning of this plan.

The following *strategies* are being implemented to support this initiative:

- ***Authentic Youth-Adult Partnerships***

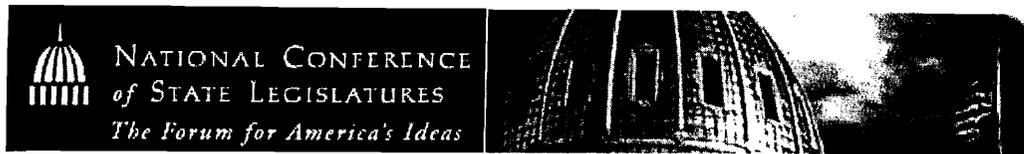
A broad cross-section of students will be selected in order to successfully include a diversity of youth voice and student involvement in school decision-making. Authentic youth-adult partnerships will be developed during a three-day summer institute, a two-day fall retreat following data gathering, and a one-day spring retreat for reflection and planning, as well as through the Graduate/High School Course Combo.

- ***Action Research Model***

Action research is a reflective process of progressive problem solving led by individuals working with others in teams or as part of a "community of practice" to improve the way they address issues and solve problems. Student Voice teams will work collaboratively in a thoughtful process to create and implement their own plan, based on their research and unique school variables. Teams will be trained in action research methods, including how to collect school wide data using survey monkey, focus groups, interviews and other research methods. The teams will analyze this data and the findings will be used to develop a transformation plan based on research of state and national best practices.

- ***Graduate Course/High School Course Combo***

One of the most innovative aspects of this project is the Graduate Course/High School combo. Unlike most adult-only graduate courses, adults in this course sit side-by-side with student team members and together assess, design and implement student voice efforts. Students will also receive independent field study credits for their engagement in this process. This shared training time (minimum of 45 hours) will support school teams to develop into true partnerships, provide inspiring examples and best practices regarding school reform, assist in the design of the action research process, and provide peer mentoring time.



## Education Bill Tracking Database

The NCSL Education bill tracking database tracks education legislation from 2000 to present. Only passed legislation is available due to our capabilities at the present time. Bill information is collected from state Web sites, state newsletters, StateNet, LexisNexis and Westlaw. To select multiple items (e.g., state or category) in the database lists, hold down the "control" key and click the desired selections. To select all items between two selections, click on the first item, scroll down the list to the last item, click and hold the "shift" key. Questions concerning the database should be directed to [Lamar Bailey](#).

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Search Results 75 bills in 39 different states

### Alaska

**HB482** (Last Update: 10/9/2007)

**Session Year:** 2006

**Bill Type:** House/Assm Bill **Status:** Passed

**Topics:** Bullying, Harassment, and Intimidation

**Citation:** HB482

**Summary:** Provides that each school district shall adopt a policy that prohibits the harassment, intimidation, or bullying of any student. Provides that the policy must be adopted through the standard policy-making procedure for each school district that includes the opportunity for participation by parents or guardians, school employees, volunteers, students, administrators and community representatives. Provides that the policy must emphasize positive character traits and values. Includes provisions for an appropriate punishment schedule. Provides that the Department of Education may provide school districts with model policy and training materials. Provides that each school district shall report incidents of harassment, intimidation or bullying to the department annually and compile the data and report to the appropriate committees of the Alaska Legislature. Provides that a school employee, student or volunteer may not engage in reprisal, shall report the incident to the appropriate school official and provides immunity from suit. Provides definitions.

### Arkansas

**HB 1072** (Last Update: 10/9/2007)

**Session Year:** 2007

**Bill Type:** House/Assm Bill **Status:** Passed

**Topics:** Bullying, Harassment, and Intimidation

**Citation:** HB 1072

**Summary:** An act to include cyberbullying in the definition of bullying. The following terms are used to characterize cyberbullying: cyberbullying, or the use of computers, websites, the Internet, cell phones, text messaging, chat rooms, and instant messaging to ridicule, harass, intimidate, humiliate, or otherwise bully another student. Provides that the school board of directors in every public school district implement policies to prevent bullying.

**HB1708** (Last Update: 10/9/2007)

**Session Year:** 2005

**Bill Type:** House/Assm Bill **Status:** Passed

**Topics:** Bullying, Harassment, and Intimidation

**Citation:** HB1708

**Summary:** Amends the state's anti-bullying policy. Prohibits bullying while in school, in school vehicles, on school buses, at designated school bus stops, at school sanctioned events. Requires that the person or persons who file a complaint will not be subject to retaliation or reprisal in any form.

**HB2274** (Last Update: 10/9/2007)

**Session Year:** 2003

**Bill Type:** House/Assm Bill **Status:** Passed

**Topics:** Bullying, Harassment, and Intimidation

**Citation:** HB2274

**Summary:** Requires school districts to adopt policies to prevent student harassment and bullying. Policies must define bullying, prohibit bullying on school property, at school-sponsored activities and on school buses and state the consequences of engaging in bullying behavior. Also requires school employees to report incidents of bullying to the school principal and provides for immunity from tort liability for those who report but fail to remedy the incident. Requires the policy to be clearly communicated and available, reviewed by the State Board of Education and filed with the State Department of Education. Also adds bully prevention programs to the list of student services provided by school guidance counselors.

## Arizona

**HB2368***(Last Update: 10/9/2007)***Session Year:** 2005**Bill Type:** House/Assm Bill **Status:** Passed**Topics:** Bullying, Harassment, and Intimidation**Citation:** HB2368

**Summary:** Directs school district governing boards to adopt and enforce procedures that prohibit pupils from harassing, intimidating and bullying other pupils. Requires school district governing boards to adopt and enforce procedures that prohibit the harassment, bullying and intimidation of pupils on school grounds, school property, school buses, school bus stops and at school sponsored events and activities. Requires that the procedures contain a confidential process that allows pupils to report incidents of harassment, intimidation or bullying to school officials. Provides for a procedure for the parents or guardians of pupils to submit written reports concerning harassment, intimidation or bullying to school officials. Requires that school district employees report suspected harassment, intimidation or bullying. Provides a formal process for the documentation and investigation of reported incidents of harassment, intimidation or bullying. Provides a formal process for an investigation of suspected incidents of harassment, intimidation or bullying. Provides for disciplinary procedures for students admitting to, or who are found guilty of, committing harassment, intimidation or bullying. Provides a procedure for consequences for submitting false reports of harassment, intimidation or bullying. Further adds that the school district and school district employees to those groups that are immune from civil liability for the consequences of adoption and implementation of policies and procedures regarding school district governing board requirements under Section 15-341, subsection A and the discretionary powers of school district governing boards under Section 15-342, unless guilty of gross negligence or intentional misconduct.

## California

**AB499***(Last Update: 10/9/2007)***Session Year:** 1988**Bill Type:** House/Assm Bill **Status:** Passed**Topics:** Bullying, Harassment, and Intimidation**Citation:** AB499

**Summary:** Charges the State Board of Education to develop guidelines, adopt policies, and fund programs to create a school environment free from discriminatory attitudes and hate violence.

**AB79***(Last Update: 10/9/2007)***Session Year:** 2001**Bill Type:** House/Assm Bill **Status:** Passed**Topics:** Bullying, Harassment, and Intimidation**Citation:** AB79

**Summary:** Requires the Department of Education to develop model policies on the prevention of bullying and on conflict resolution, makes the model policies available to school districts and authorizes school districts to adopt one or both policies for incorporation into the school safety plan.

**SB257***(Last Update: 10/9/2007)***Session Year:** 2003**Bill Type:** Senate Bill **Status:** Passed**Topics:** No Child Left Behind Act | Bullying, Harassment, and Intimidation | Accountability | Assessment/Testing | K-12 Governance**Citation:** SB257

**Summary:** Background: Existing law requires the State Department of Education to contract for the development of proposals to provide for the retention and analysis of longitudinal pupil achievement data on the tests

administered pursuant to the Standardized Testing and Reporting Program (STAR), the English language development tests, and the high school exit exam. This bill would state the intent of the Legislature to promote good data management practices with respect to pupil data systems and issues, including ensuring confidentiality, producing analyzable files, and linking data with data from other agencies. Existing law requires the Superintendent of Public Instruction to establish an advisory committee on all matters relative to the creation of the Academic Performance Index and implementation of the Immediate Intervention/Underperforming Schools Program and the High Achieving/Improving Schools Program.

This bill requires the advisory committee to make recommendations to the Superintendent of Public Instruction, by July 1, 2005, on the feasibility of a methodology for generating a measurement of academic performance by utilizing unique pupil identifiers and annual academic achievement growth to provide a more accurate measure of a school's growth over time. Requires the Superintendent of Public Instruction, with approval of the state Board of Education, to implement that measurement of academic performance if appropriate and feasible.

**SB719**

*(Last Update: 4/21/2008)*

**Session Year:** 2003

**Bill Type:** Senate Bill **Status:** Passed

**Topics:** Bullying, Harassment, and Intimidation

**Citation:** SB719

**Summary:** Requires each school district and county office of education to review and approve all comprehensive safety plans for its schools operating any combination of kindergarten to grade 12. Repeals and recasts the provisions of the 1985 School Safety Act. Requires the School/Law Enforcement Partnership to sponsor at least 2 regional conferences to identify programs and techniques that have been effective to reduce school crime. In addition, the bill requires a reduction in school violence, school crime, including hate crimes, vandalism, drug and alcohol abuse, gang membership and gang violence, truancy rates, bullying, teen relationship violence, and discrimination and harassment, including, but not limited to, sexual harassment. Provides for training.

**Colorado**

**SB105**

*(Last Update: 10/9/2007)*

**Session Year:** 2001

**Bill Type:** Senate Bill **Status:** Passed

**Topics:** Bullying, Harassment, and Intimidation

**Citation:** SB105

**Summary:** Requires each school district to include a specific policy in the district conduct and discipline code concerning bullying prevention and education. Defines bullying as any written, verbal or physical act or gesture that is intended to inflict injury, violence or a reasonable fear of injury or violence upon one or more students in the school, on school grounds, in school vehicles or at school activities or sanctioned events. Requires school districts to submit their policy on bullying prevention and education, as well as information about any bullying prevention program they have implemented, to the state board of education.

**SB197**

*(Last Update: 10/12/2007)*

**Session Year:** 2007

**Bill Type:** Senate Bill **Status:** Passed

**Topics:** Bullying, Harassment, and Intimidation

**Citation:** SB197

**Summary:** The safe-2-tell program has a proven national record of success in prevention and intervention in cases of threats to people or property, assaults, bullying, child abuse, substance abuse, cutting, suicide, gangs, weapons, internet safety, or other dangerous, violent, or criminal activities. SB 197 creates the Safe-2-Tell program for persons in schools to provide students, teachers, other school employees, and the community with the means to relay information anonymously concerning dangerous, violent or criminal activities to appropriate law enforcement or public safety agencies through a single electronic hotline and to assist law enforcement with detection of dangerous, violent or criminal activities of offenders or at-risk persons, and encourages the reporting of related information. In addition, the bill defines bullying

**SB80**

*(Last Update: 4/21/2008)*

**Session Year:** 2001

**Bill Type:** Senate Bill **Status:** Passed

**Topics:** Bullying, Harassment, and Intimidation

**Citation:** SB80

**Summary:** Under current law, each school district board of education is required to adopt and implement a safe school plan, including a conduct and discipline code. This bill requires that the code include a specific policy concerning bullying prevention and education to reduce the amount of bullying in schools. At a minimum, the school district's policy would require each public school in the district to develop and implement a policy to reduce bullying in the school, which complies with the school district's policy. Bullying is defined to mean any written, verbal, or physical act or gesture that is intended to inflict injury, violence, or a reasonable fear of injury or violence upon one or more students in the school, on school grounds, in school vehicles, or at school activities or sanctioned events. School districts would submit information concerning the district's policy on bullying prevention and education in its annual safe school report to the State Board of Education.

## Connecticut

**HB5563**

(Last Update: 10/9/2007)

**Session Year:** 2006

**Bill Type:** House/Assm Bill **Status:** Passed

**Topics:** Bullying, Harassment, and Intimidation

**Citation:** HB5563

**Summary:** Amends their current policy. Requires students to be notified annually of the process by which they may make anonymous reports of bullying. Directs the development of case-by-case interventions for addressing repeated incidents of bullying against a single individual or recurrently perpetrated bullying incidents by the same individual that may include both counseling and discipline. Includes the intent to "harass" and activities on "school buses" in the definition of bullying. Provides that such policies may include provisions addressing bullying outside of the school setting if it has a direct and negative impact on a student's academic performance or safety in school. Provides that the parent or legal guardian with whom the student does not primarily reside shall be provided with all school notices that are provided to the parent or legal guardian requesting them at the same time they are provided to the parent or legal guardian with whom the child primarily resides. Provides that such requests shall be effective for as long as the child remains in the school the child is attending at the time of the request.

## Delaware

**HB 7**

(Last Update: 12/7/2007)

**Session Year:** 2007

**Bill Type:** House/Assm Bill **Status:** Passed

**Topics:** Bullying, Harassment, and Intimidation | School Choice | School Choice-Charter Schools

**Citation:** HB 7

**Summary:** This Bill creates the School Bullying Prevention Act. The goals of this Act is to provide a safer learning environment for students attending public schools, including charter schools, in the State of Delaware and for the staff members of those institutions. This Bill requires each school district and charter school to establish a policy on bullying prevention with certain minimal requirements including, but not limited to developing a bullying prevention program and reporting bullying to the Delaware Department of Education. Electronic communication is included in the definition of bullying.

## Georgia

**HB84**

(Last Update: 10/9/2007)

**Session Year:** 1999

**Bill Type:** House/Assm Bill **Status:** Passed

**Topics:** Bullying, Harassment, and Intimidation

**Citation:** HB84

**Summary:** Requires the implementation of a character education program at all grade levels that is to include methods of discouraging bullying and violent acts against fellow students. Adds razor blade to the definition of weapon.

**SB291**

(Last Update: 10/9/2007)

**Session Year:** 2002

**Bill Type:** Senate Bill **Status:** Passed

**Topics:** Bullying, Harassment, and Intimidation

**Citation:** SB291

**Summary:** Expands education code to include the following offenses: verbal or physical assault, battery or disrespectful conduct directed at teachers, administrators, bus drivers and other school personnel, students or anyone attending school-related function or in a school vehicle. Requires student codes of conduct to include provisions governing conduct on public school buses. Prohibits students from physical violence, bullying, physical or verbal assault or battery on the school bus. Bans disrespectful conduct toward the school bus driver or anyone on the school bus. Directs that students found by a tribunal to have committed an act of physical violence against a teacher, bus driver, school official, or school employee is expelled from the public school system for the remainder of the student's eligibility to attend public school. Allows the local board to permit the student to attend an alternative education program for the period of the student's expulsion.

## Guam

**169** (27-71)

(Last Update: 4/22/2008)

**Session Year:** 2004

**Bill Type:** House/Assm Bill **Status:** Passed

**Topics:** Bullying, Harassment, and Intimidation

**Citation:** 169

**Summary:** This bill mandates the Guam Education Policy Board to adopt a comprehensive policy prohibiting harassment, intimidation, or bullying at public schools, to be known as "the Regina Guzman anti-bullying act of 2003".

## Iowa

**SF61**

(Last Update: 10/9/2007)

**Session Year:** 2007

**Bill Type:** Senate Bill **Status:** Passed

**Topics:** Bullying, Harassment, and Intimidation

**Citation:** SF61

**Summary:** Provides that school districts and accredited nonpublic schools shall adopt anti-harassment and anti-bullying policies. Defines "harassment" and "bullying" to mean any electronic, written, verbal, or physical act or conduct toward a student which is based on an actual or perceived trait or characteristic of the student and which creates an objectively hostile school environment that meets specified conditions. Provides that "trait or characteristic of the student" includes, but is not limited to, age, color, creed, national origin, race, religion, marital status, sex, sexual orientation, gender identity, physical attributes, physical or mental ability or disability, ancestry, political party preference, political belief, socioeconomic status, or family status. Provides that the policy must include: an anti-harassment and anti-bullying statement; a definition of harassment and bullying as set forth; a description of the type of behavior expected from school employees, volunteers, parents or guardians, and students relative to prevention measures, reporting, and investigation of harassment and intimidation; procedures for reporting; procedures for investigating complaints; and a statement on how the policy will be publicized. Encourages the establishment of programs designed to eliminate harassment and bullying in schools. Provides immunity to those who report incidents. Requires districts and accredited nonpublic schools to develop and maintain a system to collect harassment and bullying incidence data and to integrate the policy into the comprehensive school improvement plan.

## Idaho

**HB750**

(Last Update: 10/9/2007)

**Session Year:** 2006

**Bill Type:** House/Assm Bill **Status:** Passed

**Topics:** Bullying, Harassment, and Intimidation

**Citation:** HB750

**Summary:** Provides that no student shall intentionally commit, or conspire to commit, an act of harassment, intimidation or bullying against another student. Defines harassment, intimidation or bullying as any intentional gestures, or any intentional written, verbal or physical acts that a reasonable person under the circumstances should know will have the effect of harming a student; damaging a student's property; placing a student in reasonable fear of harm to his or her person; or placing a student in reasonable fear of damage to his or her property; or is sufficiently severe, persistent or pervasive that it creates an

intimidating, threatening or abusive educational environment for a student. Provides that an act of harassment, intimidation or bullying may also be committed through the use of a land line, car phone or wireless telephone or through the use of data or computer software that is accessed through a computer, computer system or computer network. Provides that a student who personally violates any provision shall be guilty of a misdemeanor. Amends and adds to existing law to provide that superintendents and principals may temporarily suspend pupils for student harassment, intimidation or bullying. Provides that any student who commits or conspires to commit an act of harassment, intimidation or bullying may be guilty of an infraction.

**Illinois**

**HB18**

*(Last Update: 10/9/2007)*

**Session Year:** 2007

**Bill Type:** House/Assm Bill **Status:** Passed

**Topics:** Bullying, Harassment, and Intimidation

**Citation:** HB18

**Summary:** Beginning 180 days after the effective date of the amendatory Act, each school district shall create and maintain a policy on bullying, which policy must be filed with the State Board of Education. Provides that the policy must be updated every 2 years and filed with the State Board after being updated. Provides that the State Board shall monitor the implementation of these policies. Requires monitoring and communication of the policy to students and parents.

**HB438**

*(Last Update: 10/9/2007)*

**Session Year:** 2007

**Bill Type:** House/Assm Bill **Status:** Passed

**Topics:** Bullying, Harassment, and Intimidation

**Citation:** HB438

**Summary:** Provides for instruction in bullying prevention, each school district may make suitable provisions for instruction in gang resistance education and training in all grades and include such instruction in the courses of study regularly taught therein. Provides that, for purposes of gang resistance education and training, a school board must collaborate with State and local law enforcement agencies. Allows the State Board of Education to assist in the development of instructional materials and teacher training in relation to gang resistance education and training.

**HB646**

*(Last Update: 10/9/2007)*

**Session Year:** 2001

**Bill Type:** House/Assm Bill **Status:** Passed

**Topics:** Bullying, Harassment, and Intimidation

**Citation:** HB646

**Summary:** Requires school boards, in consultation with parent-teacher advisory committees and other community-based organizations, to include provisions in student discipline policies to address students who have demonstrated behaviors that put them at risk for aggressive behavior, including bullying, as defined in the policy. Requires these provisions to include procedures for notifying parents or legal guardians and early intervention procedures based upon available community-based and district resources.

**SB1026**

*(Last Update: 10/9/2007)*

**Session Year:** 2001

**Bill Type:** Senate Bill **Status:** Passed

**Topics:** Bullying, Harassment, and Intimidation

**Citation:** SB1026

**Summary:** Provides that whoever by threat, menace or intimidation prevents a child entitled to attend a nonpublic school from attending that school or interferes with the child's attendance at that school is guilty of a Class A misdemeanor.

**SB2630**

*(Last Update: 10/9/2007)*

**Session Year:** 2006

**Bill Type:** Senate Bill **Status:** Passed

**Topics:** Bullying, Harassment, and Intimidation

**Citation:** SB2630

**Summary:** Provides that each school district may make suitable provisions for instruction in bullying prevention in all grades and include such instruction in the courses of study regularly taught therein. Provides that a school board may collaborate with a community-based agency providing specialized curricula in bullying

prevention whose ultimate outcome is to prevent sexual violence. Allows the State Board of Education to assist in the development of instructional materials and teacher training in relation to bullying prevention.

Indiana

**SB285** (Last Update: 10/9/2007)

**Session Year:** 2005

**Bill Type:** Senate Bill **Status:** Passed

**Topics:** Bullying, Harassment, and Intimidation

**Citation:** SB285

**Summary:** Defines bullying and requires a school corporation to adopt rules to prohibit bullying. Allows the use of grants from the safe schools fund to provide education and training to school personnel concerning bullying. Requires the inclusion of anti-bullying training in school safety specialist education. Requires each school to establish a safe school committee.

Kansas

**HB2758** (Last Update: 4/21/2008)

**Session Year:** 2008

**Bill Type:** House/Assm Bill **Status:** Passed

**Topics:** Bullying, Harassment, and Intimidation

**Citation:** HB2758

**Summary:** Defines the terms cyber-bullying as it relates to the duties and policies for school district operations; relates to programs developed and operated by a school district board for the purpose of providing expectant parents and parents of infants or toddlers or both with information, advice, assistance, resource materials, guidance and learning experiences regarding such measures as parenting skills and the various styles of parenting.

Kentucky

**HB91** (Last Update: 4/21/2008)

**Session Year:** 2008

**Bill Type:** House/Assm Bill **Status:** Passed

**Topics:** Bullying, Harassment, and Intimidation

**Citation:** HB91

**Summary:** Relates to felony assaults on public school students; requires school districts to have procedures for reporting and assisting students engaging in disruptive and disorderly behavior, including assault, harassment, intimidation, or bullying of another student; provides for privacy rights of all personally identifiable information collected; provides that such data shall be placed in a student's disciplinary record; requires a strategy for protecting from retaliation.

Louisiana

**HB364** (Last Update: 10/9/2007)

**Session Year:** 2001

**Bill Type:** House/Assm Bill **Status:** Passed

**Topics:** Bullying, Harassment, and Intimidation

**Citation:** HB364

**Summary:** Requires local school boards to adopt policies prohibiting harassment, intimidation and bullying by students and protecting students and employees who report such incidents. Authorizes local school boards to adopt zero tolerance policies for fighting in schools and requires students expelled for fighting to pay for and attend conflict resolution classes with their parents.

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**Maryland**

HB407

(Last Update: 10/9/2007)

**Session Year:** 2005

**Bill Type:** House/Assm Bill **Status:** Passed

**Topics:** Bullying, Harassment, and Intimidation

**Citation:** HB407

**Summary:** Requires the State Department of Education to require a county board of education to report incidents of harassment or intimidation against students in public schools under the county board's jurisdiction. Requires the State Department of Education to create a standard victim of harassment or intimidation report form. Provides for the contents and distribution of the harassment or intimidation form.

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**Maine**

HB148/LD564

(Last Update: 10/9/2007)

**Session Year:** 2005

**Bill Type:** House/Assm Bill **Status:** Passed

**Topics:** Bullying, Harassment, and Intimidation

**Citation:** HB148/LD564

**Summary:** Requires school boards to establish policies to address bullying, harassment and sexual harassment; directs a subcommittee of the Children's Cabinet to develop model policies, materials for communicating and implementing the model policies and training modules specific to recognizing and addressing bullying, harassment and sexual harassment; and directs the subcommittee to complete its work by February 15, 2006 and school administrative units to have policies and procedures in place by September 1, 2006.

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**Michigan**

EO 46

(Last Update: 6/27/2008)

**Session Year:** 2007

**Bill Type:** Referendum/Proposition **Status:** Passed

**Topics:** Bullying, Harassment, and Intimidation

**Citation:** EO 46

**Summary:** Creates the Juvenile Accountability Block Grant Advisory Board. EO 46 states that the Advisory Board shall establish and maintain accountability-based programs that are designed to enhance school safety. The programs may include research-based bullying, cyberbullying, and gang prevention programs.

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**Minnesota**

HB 504

(Last Update: 10/9/2007)

**Session Year:** 2007

**Bill Type:** House/Assm Bill **Status:** Passed

**Topics:** Bullying, Harassment, and Intimidation

**Citation:** HB 504

**Summary:** Relates to bullying and intimidation policies in schools. Each school board shall adopt a written policy regarding intimidation and bullying in all forms, including, but not limited to, electronic forms and forms involving Internet use.

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SB 646

(Last Update: 10/9/2007)

**Session Year:** 2007

**Bill Type:** Senate Bill **Status:** Passed

**Topics:** Bullying, Harassment, and Intimidation

**Citation:** SB 646

**Summary:** Bullying and intimidation policies in schools. Each school board shall adopt a written policy regarding intimidation and bullying in all forms, including, but not limited to, electronic forms and forms involving

Internet use.

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**Missouri**

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**SB894***(Last Update: 4/21/2008)***Session Year:** 2006**Bill Type:** Senate Bill **Status:** Passed**Topics:** Bullying, Harassment, and Intimidation | High School | Student Attendance**Citation:** SB894**Summary:** Defines bullying and requires every district to adopt an anti-bullying policy by September 1, 2007. Requires the Department of Elementary and Secondary Education to develop a "ready to work" endorsement program no later than June 30, 2007. The program will award a certificate to students who complete the program. The act delineates the program's components and the stakeholders who shall be involved in policy development.

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**Mississippi**

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**SB2324***(Last Update: 10/16/2007)***Session Year:** 2007**Bill Type:** Senate Bill **Status:** Passed**Topics:** Bullying, Harassment, and Intimidation**Citation:** SB2324**Summary:** The State Board of Education shall develop a list of recommended conflict resolution and mediation materials, models and curricula that are developed from evidence-based practices and positive behavioral intervention supports to address responsible decision making, the causes and effects of school violence and harassment, cultural diversity, and nonviolent methods for resolving conflict, including peer mediation, and shall make the list available to local school administrative units and school buildings before the beginning of the 2007-2008 school year. In addition, local school boards shall incorporate evidence-based practices and positive behavioral intervention supports into individual school district policies and Codes of Conduct**SB2390***(Last Update: 10/9/2007)***Session Year:** 2001**Bill Type:** Senate Bill **Status:** Passed**Topics:** Bullying, Harassment, and Intimidation**Citation:** SB2390**Summary:** Directs the State Board of Education to develop a list of recommended conflict resolution and peer mediation programs that address responsible decision making, the causes and effects of school violence and harassment, cultural diversity, and nonviolent methods for resolving conflict, including peer mediation: Requires the board to make the list available to local school administrative units and school buildings by the beginning of the 2002-2003 school year.

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**Nebraska**

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**LB205***(Last Update: 2/13/2008)***Session Year:** 2008**Bill Type:** House/Assm Bill **Status:** Passed**Topics:** Bullying, Harassment, and Intimidation**Citation:** LB205**Summary:** LB 205 requires that on or before July 1, 2007, each school district shall develop and adopt a policy concerning bullying prevention and education for all students. The school district shall review and approve the policy annually. Bullying is defined as any ongoing pattern of physical, verbal, or electronic abuse on school grounds, in a vehicle owned, leased, or contracted by a school being used for a school purpose by a school employee or his or her designee, at a designated school bus stop, or at school-sponsored activities or school-sponsored athletic events.

New Hampshire

**HB1162** (Last Update: 10/9/2007)

**Session Year:** 2004

**Bill Type:** House/Assm Bill **Status:** Passed

**Topics:** Parental Involvement | Bullying, Harassment, and Intimidation

**Citation:** HB1162

**Summary:** Relates to school district policies on bullying; requires school districts to notify the parents or legal guardians of the district's policies on bullying and requires that a report of any bullying incidents be made by telephone and by a written report sent by mail to the parent or legal guardian of the pupils involved.

**SB155** (Last Update: 10/9/2007)

**Session Year:** 2002

**Bill Type:** Senate Bill **Status:** Passed

**Topics:** Bullying, Harassment, and Intimidation

**Citation:** SB155

**Summary:** Protects public and private school employees and contractors from liability for reporting acts of theft, destruction, violence (under RSA 193-D) or bullying (under RSA 193-F).

**SB360** (Last Update: 10/9/2007)

**Session Year:** 2000

**Bill Type:** Senate Bill **Status:** Passed

**Topics:** Bullying, Harassment, and Intimidation

**Citation:** SB360

**Summary:** Creates the Pupil Safety and Violence Prevention Act. Requires local school boards to adopt a pupil safety and violence prevention policy that addresses bullying and provides technical assistance. Requires school employees to report any information regarding bullying behavior to the school principal and provides immunity to any school employee who makes such a report from any cause of action arising from a failure to remedy the reported incident.

New Jersey

**AB1874** (Last Update: 10/9/2007)

**Session Year:** 2002

**Bill Type:** House/Assm Bill **Status:** Passed

**Topics:** Bullying, Harassment, and Intimidation

**Citation:** AB1874

**Summary:** Requires each school district to adopt a policy prohibiting harassment, intimidation or bullying on school property, at a school-sponsored function or on a school bus. The policy must include a definition of bullying behavior, consequences for engaging in such behavior, a procedure for investigation of reports of such behavior, a statement prohibiting retaliation or reprisal against persons reporting bullying behavior and consequences for making a false accusation. Requires school employees, students or volunteers to report any incidents of bullying, intimidation and harassment to appropriate school officials. Grants immunity from any cause of action for damages arising from a failure to remedy the reported incident to persons reporting these incidents.

**SB2975** (Last Update: 2/5/2008)

**Session Year:** 2007

**Bill Type:** Senate Bill **Status:** Passed

**Topics:** Bullying, Harassment, and Intimidation

**Citation:** SB2975

**Summary:** The bill amends the law concerning the crime of bias intimidation to specifically provide that "gender identity or expression" and "national origin" are within the protected classes set forth in the statute. Current law enumerates the protected classes of "race, color, religion, gender, handicap, sexual orientation, or ethnicity." Although a bias crime based on gender identity or expression or national origin can be prosecuted using the protected classes currently enumerated in the law, this amendment makes clear that these classes are intended to fall within the provisions of the statute. In addition, the bill replaces the outdated term "handicap" with the more contemporary term "disability." Under the provisions of this section, a person may be guilty of the crime of bias intimidation if he commits, attempts, conspires, or threatens the immediate commission of certain specified offenses with a purpose to intimidate an individual or group because of race, color, religion, gender, disability, sexual orientation,

gender identity or expression, national origin, or ethnicity or knowing that the conduct would cause an individual or group to be intimidated on that basis or under circumstances in which the victim believes he was targeted on that basis. The bill further clarifies the law by specifying that it is not a defense to a prosecution for the crime of bias intimidation that the defendant was mistaken as to the race, color, religion, gender, disability, sexual orientation, gender identity or expression, national origin, or ethnicity of the victim.

SB 2975 also requires each school district's bullying policy to include a requirement that the policy be posted on the district's website and distributed annually to parents and guardians. The bill would require school districts to amend their bullying policies, post bullying policies on the web, and notify students and parents that the policy is available online within 120 days of the date of enactment (60 days from the effective date of section 8 of the bill). The bill creates the Commission on Bullying in Schools; the commission shall study and make recommendations concerning bullying.

**SB993**

*(Last Update: 1/16/2008)*

**Session Year:** 2007

**Bill Type:** Senate Bill **Status:** Passed

**Topics:** Bullying, Harassment, and Intimidation

**Citation:** SB993

**Summary:** Adds electronic communication in definition of public school harassment, intimidation or bullying; defines electronic communication to mean a communication transmitted by means of an electronic device, including, but not limited to, a telephone, cellular phone, computer or pager; relates to the addition to a school district's policy on prohibiting harassment, intimidation or bullying to include such communication.

## Nevada

**AB202**

*(Last Update: 4/21/2008)*

**Session Year:** 2005

**Bill Type:** House/Assm Bill **Status:** Passed

**Topics:** Bullying, Harassment, and Intimidation

**Citation:** AB202

**Summary:** Revises provisions governing safe and respectful learning environments in public schools; prohibits a school official from interfering with or preventing the disclosure of information concerning harassment or intimidation in public schools; provides that certain causes of action may not be brought against a pupil or an employee or volunteer of a school who reports an incident of harassment or intimidation.

**AB459**

*(Last Update: 10/9/2007)*

**Session Year:** 2001

**Bill Type:** House/Assm Bill **Status:** Passed

**Topics:** Bullying, Harassment, and Intimidation

**Citation:** AB459

**Summary:** Defines harassment and intimidation. Provides that a member of the board of trustees of a school district, any employee of the board of trustees, including, without limitation, an administrator, principal, teacher or other staff member, or any pupil shall not engage in harassment or intimidation on the premises of any public school, at an activity sponsored by a public school or on any school bus. Each school district shall include the text the definitions and intent of the legislature under the heading "Harassment and Intimidation is Prohibited in Public Schools" within each copy of the rules and behavior for pupils that the school district provides to pupils.

## New York

**SB8236**

*(Last Update: 4/22/2008)*

**Session Year:** 2000

**Bill Type:** Senate Bill **Status:** Passed

**Topics:** Bullying, Harassment, and Intimidation

**Citation:** SB8236

**Summary:** Requires the board of education of each school district within the state of New York to create a school safety plan. The plan shall include strategies for improving communication among students and between students and staff and reporting of potentially violent incidents, such as the establishment of youth-run programs, peer mediation, conflict resolution, creating a forum or designating a mentor for students concerned with bullying or violence and establishing anonymous reporting mechanisms for school

violence...

See Article 55 Regulation by boards of education of conduct on school district property 2801-a. School safety plans

## Ohio

**HB276**

*(Last Update: 10/9/2007)*

**Session Year:** 2006

**Bill Type:** House/Assm Bill **Status:** Passed

**Topics:** Bullying, Harassment, and Intimidation | K-12 Governance | School Choice | School Choice-Charter Schools

**Citation:** HB276

**Summary:** Provides that the board of education of each city, local, exempted village, and joint vocational school district shall establish a policy prohibiting harassment, intimidation, or bullying. The state board of education shall develop a model policy to assist school districts in developing their own policies. Defines "harassment, intimidation, or bullying" as any intentional written, verbal, or physical act that a student has exhibited toward another particular student more than once and the behavior both: causes mental or physical harm to the other student and is sufficiently severe, persistent, or pervasive that it creates an intimidating, threatening, or abusive educational environment for the other student. The policy shall include the following: a statement prohibiting harassment, intimidation, or bullying of any student on school property or at school-sponsored events; a definition of harassment, intimidation, or bullying; procedure for reporting prohibited incidents; a requirement that parents or guardians of any student involved in a prohibited incident be notified; a procedure for documenting any prohibited incident that is reported; a procedure for responding to and investigating any reported incident; a strategy for protecting a victim from additional harassment, intimidation, or bullying, and from retaliation following a report; a disciplinary procedure for any student guilty of harassment, intimidation, or bullying; a requirement that the district administration semiannually provide the president of the district board a written summary of all reported incidents and post the summary on its web site. Provides immunity to school district employees, students and volunteers. Provides that any school district may form bullying prevention task forces, programs, and other initiatives involving volunteers, parents, law enforcement, and community members. To the extent that state or federal funds are appropriated for these purposes, each school district shall provide training, workshops, or courses on the district's harassment, intimidation, or bullying policy to school employees and volunteers who have direct contact with students.

## Oklahoma

**HB2215/SB992**

*(Last Update: 10/9/2007)*

**Session Year:** 2002

**Bill Type:** House/Assm Bill **Status:** Passed

**Topics:** Bullying, Harassment, and Intimidation

**Citation:** HB2215/SB992

**Summary:** Enacts the Bully Prevention Act, defines bullying. Amends 70 O.S. 2001, Section 24-100 to require Safe School Committees to give special attention to bullying, incidents of unwanted physical or verbal aggression and sexual harassment and make recommendations. Encourages community involvement, one-on-one student/staff relationships, use of problem solving teams of counselors and/or school psychologists and requires the review of bullying prevention programs utilized by other states, agencies or school districts. Requires each school district to have policies addressing the prevention of bullying and education about bullying behavior.

## Oregon

**HB2637**

*(Last Update: 10/9/2007)*

**Session Year:** 2007

**Bill Type:** House/Assm Bill **Status:** Passed

**Topics:** Bullying, Harassment, and Intimidation

**Citation:** HB2637

**Summary:** Requires school districts to adopt policy prohibiting cyberbullying; adds cyberbullying to provisions relating to school district policies on harassment, intimidation or bullying.

**HB3403** (Last Update: 10/9/2007)

**Session Year:** 2001

**Bill Type:** House/Assm Bill **Status:** Passed

**Topics:** Bullying, Harassment, and Intimidation

**Citation:** HB3403

**Summary:** Requires school districts to adopt policies prohibiting harassment, intimidation, or bullying no later than January 1, 2004. Encourages including in the policy incident reporting and investigation procedures and a statement of consequences and appropriate remedial action for a person who harasses, intimidates, or bullies. Encourages formation of task forces and training at the school district level. Prohibits engaging in retaliation against a victim of, witness to, or person with reliable information about, an act of harassment, intimidation, or bullying. Encourages reporting of incidents and provides immunity to school employees who promptly report incidents in compliance with the policies adopted under the measure.

**HB3544** (Last Update: 10/9/2007)

**Session Year:** 1997

**Bill Type:** House/Assm Bill **Status:** Passed

**Topics:** Bullying, Harassment, and Intimidation

**Citation:** HB3544

**Summary:** Requires the State Department of Education to establish a two-year pilot program to address problems associated with disruptive students in schools, including counseling and social work services, and parent counseling/training classes. Defines "serious offense" as a violation of a school district rule related to alcohol or drugs, arson, assault, firearms, extortion, harassment, intimidation or menacing, knives, reckless endangering, sexual harassment, theft, vandalism, or weapons.

## Rhode Island

**HB5919** (Last Update: 10/9/2007)

**Session Year:** 2003

**Bill Type:** House/Assm Bill **Status:** Passed

**Topics:** Bullying, Harassment, and Intimidation

**Citation:** HB5919

**Summary:** Defines harassment, intimidation and bullying and requires school boards to adopt policies prohibiting this behavior. Stipulates that policies must be adopted through a representative process including parents, school personnel, students and community members. Directs the state department of education to develop a model policy by December 2003, to assist schools in the development of their policies by September 1, 2004. Requires schools to provide training to employees on the anti-harassment and bullying policy and to develop a process for discussion of the policy with students. Encourages schools to form bullying prevention task forces, programs and initiatives. Encourages school employees and students to report any incident of harassment, intimidation or bullying and provides for protection against liability for those who report but do not remedy the incident.

**HB6166** (Last Update: 10/9/2007)

**Session Year:** 2007

**Bill Type:** House/Assm Bill **Status:** Passed

**Topics:** Bullying, Harassment, and Intimidation

**Citation:** HB6166

**Summary:** Requires school districts to implement dating violence procedures; requires school districts to incorporate an age-appropriate dating violence education program for grades 7 through 12 into the district's health education curriculum.

## South Carolina

**HB3573** (Last Update: 10/9/2007)

**Session Year:** 2006

**Bill Type:** House/Assm Bill **Status:** Passed

**Topics:** Bullying, Harassment, and Intimidation

**Citation:** HB3573

**Summary:** Enacts the Safe School Climate Act. Defines harassment, intimidation and bullying and requires school districts to adopt policies prohibiting this behavior. The district policies must include, but are not limited to the following components: a statement prohibiting harassment, intimidation or bullying; a definition of

the prohibited behavior; a description of appropriate behavior; consequences and appropriate remedial actions for persons committing act or for persons engaging in reprisal or retaliation; procedures for reporting acts, including a provision for reporting anonymously; procedures for prompt investigation of reports; consequences and appropriate remedial action for person found to have falsely accused another; process for discussing the district's policy with students; and a statement of how the policy is to be publicize, including notice that the policy oppose to participation in school-sponsored functions. The State Board of Education shall develop model policies applicable to grades kindergarten to 12 and shall develop teacher preparation program standards on the identification and prevention of bullying. Schools and school districts are encouraged to establish bullying prevention programs. Provides immunity to a school employee or volunteer who promptly reports an incident to the appropriate school official.

**Tennessee**

**HB2114** (Last Update: 10/9/2007)

**Session Year:** 2005

**Bill Type:** House/Assm Bill **Status:** Passed

**Topics:** Bullying, Harassment, and Intimidation

**Citation:** HB2114

**Summary:** Requires each Local Education Agency (LEA) to adopt a policy that prohibits harassment, intimidation, or bullying and to forward a copy of the policy to the commissioner of education by January 1, 2006. Encourages school employees, volunteers, and students to report incidents of harassment, intimidation or bullying to the appropriate school authorities. Provides school employee who promptly report an incident of harassment, intimidation, or bullying immunity against any suit based upon the reporting employee's failure to remedy the reported act. Encourages school districts to form harassment, intimidation or bullying prevention programs and task forces.

**SB1910** (Last Update: 4/11/2008)

**Session Year:** 2007

**Bill Type:** Senate Bill **Status:** Passed

**Topics:** Bullying, Harassment, and Intimidation

**Citation:** SB1910

**Summary:** Enacts the "Schools Against Violence in Education Act" or "SAVE Act" which requires the Commissioner of Education to establish a state-level safety team to assist LEAs with compliance. LEAs shall adopt comprehensive district-wide and building-level school safety plans dealing with crisis intervention, emergency response and emergency management as it relates to school violence. The Department of Education, in conjunction with the Department of Safety, shall establish a statewide uniform violent incident reporting system for reporting information regarding violent and disruptive incidents. No later than February 1, 2008, the commissioner will report to the governor and general assembly as to implementation and compliance

**SB247** (Last Update: 1/30/2008)

**Session Year:** 2007

**Bill Type:** Senate Bill **Status:** Passed

**Topics:** Alternative Education | Bullying, Harassment, and Intimidation

**Citation:** SB247

**Summary:** If two or more students initiate a physical attack on an individual student on school property or at a school activity, including travel to and from school, they shall be expelled for a period of not less than one calendar year and sent to an alternative school; allows the director to modify this expulsion on a case by case basis for good cause.

**Texas**

**HB121** (Last Update: 1/9/2008)

**Session Year:** 2007

**Bill Type:** House/Assm Bill **Status:** Passed

**Topics:** Bullying, Harassment, and Intimidation

**Citation:** HB121

**Summary:** House Bill 121 amends the Education Code to require each school district to adopt and implement a dating violence policy to be included in the district improvement plan. The bill requires the policy to include a definition of dating violence that includes the intentional use of physical, sexual, verbal, or emotional abuse by a person to harm, threaten, intimidate, or control another person in a dating

relationship, and to address safety planning, enforcement of protective orders, school-based alternatives to protective orders, training for teachers and administrators, counseling for affected students, and awareness education for students and parents.

**HB283** (Last Update: 4/21/2008)

**Session Year:** 2005

**Bill Type:** House/Assm Bill **Status:** Passed

**Topics:** Bullying, Harassment, and Intimidation

**Citation:** HB283

**Summary:** House Bill 283 amends the Education Code to allow a student victimized by bullying to be transferred to another classroom or school campus within the school district. The bill requires a school district's board of trustees or its designee to transfer the student, on the request of the student's parent or other person authorized to act on the student's behalf, to another classroom or to another campus within the district. It also requires a district's code of conduct to prohibit bullying, harassment, and the making of hit lists; to ensure that district employees enforce those prohibitions; and to provide grade-level appropriate methods for managing students in the classroom and on school grounds, disciplining students, and preventing and intervening in student discipline problems, including bullying, harassment, and making hit lists. The bill requires that the methods prohibit disciplining a student enrolled in a special education program for bullying until the student's admission, review, and dismissal committee has met to review the conduct. The bill requires a school district's discipline management program to provide for prevention of and education concerning unwanted physical or verbal aggression, sexual harassment, and other forms of bullying in school, on school grounds, and in school vehicles.

## Utah

**HB 325** (Last Update: 3/20/2008)

**Session Year:** 2008

**Bill Type:** House/Assm Bill **Status:** Passed

**Topics:** Bullying, Harassment, and Intimidation

**Citation:** HB 325

**Summary:** HB 325 prohibits bullying or hazing, retaliation for reporting, or assisting in the investigation of, bullying or hazing, and making a false report of bullying or hazing; requires local school boards, local charter boards to adopt a policy for reporting and responding; describes minimum requirements for a policy; requires State Board of Education to develop a model policy; provides for training and education regarding, and the prevention of, bullying, hazing, or retaliation.

**SCR1** (Last Update: 10/9/2007)

**Session Year:** 2006

**Bill Type:** Joint Resolution **Status:** Passed

**Topics:** Bullying, Harassment, and Intimidation

**Citation:** SCR1

**Summary:** This concurrent resolution of the Legislature and the Governor encourages concerned parents, individuals, and organizations to review and assist in the adoption of policies prohibiting bullying. Expresses concern regarding the impact of bullying, harassment, and intimidation in the state's public schools; acknowledges the many schools across the state that are already engaged in efforts to prevent bullying. Requests that educators, parents, and concerned individuals and organizations establish a definition of bullying and a system for reporting and responding to school-related bullying incidents. Encourages the formation of a statewide coalition to produce a cohesive approach to target bullying behavior. Calls on educators, parents, and concerned individuals and organizations to develop a system that identifies and assists victims of bullying and assists faculty and students in seeking safer schools and a more positive learning environment.

## Virginia

**HB2266** (Last Update: 10/9/2007)

**Session Year:** 2005

**Bill Type:** House/Assm Bill **Status:** Passed

**Topics:** Bullying, Harassment, and Intimidation

**Citation:** HB2266

**Summary:** Directs the Board of Education to include bullying in its standards for school board policies on student conduct and requires school boards to include (i) instruction on the inappropriateness of bullying in their

character education programs and (ii) bullying provisions in their student conduct codes. In addition, the measure requires the reporting of incidents of stalking to principals and division superintendents. Finally, except as may be prohibited by federal law, regulation, or jurisprudence, principals must report certain violent acts, stalking, and other conduct to parents of the minor student who is the target of the conduct; included in this report is disclosure that the incident has been reported to law enforcement, and that the parent may contact law enforcement for further information. This bill is identical to HB 2879.

**HB2267***(Last Update: 10/9/2007)***Session Year:** 2005**Bill Type:** House/Assm Bill **Status:** Passed**Topics:** Bullying, Harassment, and Intimidation**Citation:** HB2267

**Summary:** Civil immunity; school employees or volunteers reporting alleged acts of bullying or crimes. Immunizes school employees or volunteers from civil liability for the prompt good faith reporting to the appropriate school official, in compliance with specified procedures, of any alleged acts of bullying or any crimes.

**HB2879***(Last Update: 10/9/2007)***Session Year:** 2005**Bill Type:** House/Assm Bill **Status:** Passed**Topics:** Bullying, Harassment, and Intimidation**Citation:** HB2879

**Summary:** Directs the Board of Education to include bullying in its standards for school board policies on student conduct and requires school boards to include (i) instruction on the inappropriateness of bullying in their character education programs and (ii) bullying provisions in their student conduct codes. In addition, the measure requires the reporting of incidents of stalking to principals and division superintendents. Finally, except as may be prohibited by federal law, regulation, or jurisprudence, principals must report certain violent acts, stalking, and other conduct to parents of the minor student who is the target of the conduct; included in this report is disclosure that the incident has been reported to law enforcement, and that the parent may contact law enforcement for further information. This bill is identical to HB 2266.

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## Vermont

**HB629***(Last Update: 10/9/2007)***Session Year:** 2004**Bill Type:** House/Assm Bill **Status:** Passed**Topics:** Bullying, Harassment, and Intimidation**Citation:** HB629

**Summary:** Defines bullying and requires schools to include bullying in their comprehensive plans for responding to student misconduct. Also directs the Commissioner of Education to update the model school plan on student discipline to include bullying prevention and distribute the new model plan to all superintendents, school boards and principals. Requires the model plan to: define bullying, enable students to report anonymously, enable parents to file written reports of suspected bullying, require teachers and other school staff to report witnessed acts of bullying or student-reported acts of bullying to school administrators, require school administrators to investigate any written reports filed and to review anonymous reports, include an intervention strategy for school staff to deal with bullying, include anti-bullying policies and the penalties for bullying behavior in student handbooks, require schools to notify the parents of students who have committed verified acts of bullying as well as the parents of their victims, and require schools to collect data on the number of reported and verified instances of bullying and to make this data available to the commissioner, the public and the legislature.

**HB687***(Last Update: 10/9/2007)***Session Year:** 2006**Bill Type:** House/Assm Bill **Status:** Passed**Topics:** Bullying, Harassment, and Intimidation**Citation:** HB687

**Summary:** Provides that prior to each September, the commissioner of education shall request that schools submit the names of organizations and individuals who have provided effective hazing, harassment, bullying, suicide, or substance abuse prevention training for staff or students, or both. In addition, the commissioner shall consult with the commission on human rights and other relevant organizations regarding organizations and individuals who may not yet have been invited into a school but who are qualified to provide the training. The commissioner shall compile the information and make it available to schools throughout the state either on the department's website or in another form in a format he or she determines to be most appropriate. The intent of this listing is to offer schools a broad set of programs for prevention training which will be periodically updated based on feedback from schools.

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**HB867** (Last Update: 10/9/2007)**Session Year:** 2006**Bill Type:** House/Assm Bill **Status:** Passed**Topics:** Bullying, Harassment, and Intimidation | Alternative Education | School Choice | School Choice-Vouchers**Citation:** HB867**Summary:** Provides that prior to each September, the commissioner of education shall request that schools submit the names of organizations and individuals who have provided effective hazing, harassment, bullying, suicide, or substance abuse prevention training for staff or students, or both. In addition, the commissioner shall consult with the commission on human rights and other relevant organizations regarding organizations and individuals who may not yet have been invited into a school but who are qualified to provide the training. The commissioner shall compile the information and make it available to schools throughout the state either on the department's website or in another form in a format he or she determines to be most appropriate. The intent of this listing is to offer schools a broad set of programs for prevention training which will be periodically updated based on feedback from schools.

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**SB313** (Last Update: 10/9/2007)**Session Year:** 1994**Bill Type:** Senate Bill **Status:** Passed**Topics:** Bullying, Harassment, and Intimidation**Citation:** SB313**Summary:** Requires school boards to develop, adopt and make available to students and parents, policies prohibiting harassment of students in school. Unlawful harassment is defined as verbal or physical conduct based on race, creed, color, national origin, marital status, sex, sexual orientation or disability that has the purpose or effect of interfering with a student's educational performance or that creates an intimidating, hostile or offensive educational environment. Requires anti-harassment policies to include procedures for reporting and investigating complaints, consequences and remedial action for students who commit harassment, a statement prohibiting retaliation for reporting and procedures for educating students, staff and parents about the policy.

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## Washington

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**HB1041/SB5842** (Last Update: 10/9/2007)**Session Year:** 2001**Bill Type:** House/Assm Bill **Status:** Passed**Topics:** Bullying, Harassment, and Intimidation**Citation:** HB1041/SB5842**Summary:** Allows parents to apply for a protection order when their child is being harassed by someone else under the age of 18, when the behavior rises to the level of unlawful harassment.

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**HB1444** (Last Update: 10/9/2007)**Session Year:** 2002**Bill Type:** House/Assm Bill **Status:** Passed**Topics:** Bullying, Harassment, and Intimidation**Citation:** HB1444**Summary:** Relates to preventing harassment, intimidation, or bullying in schools. Relates to the physical harm of a student or the student's property. Relates to false accusations. Relates to students, school employees, or volunteers. Provides that each school district shall adopt a policy that prohibits the harassment, intimidation, or bullying in schools.

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**SB 5288** (Last Update: 10/9/2007)**Session Year:** 2007**Bill Type:** Senate Bill **Status:** Passed**Topics:** Bullying, Harassment, and Intimidation**Citation:** SB 5288**Summary:** Provides that, by August 1, 2008, each school district shall amend its harassment, intimidation, and bullying prevention policy to include a section addressing acts of bullying, harassment, or intimidation that are conducted via electronic means. The policy shall include a requirement that materials meant to educate parents and students about the seriousness of cyberbullying be disseminated to parents or made available on the school district's web site. Provides that the material shall include information on responsible and safe internet use as well as what options are available if a student is being bullied via electronic means, including but not limited to, reporting threats to local police and when to involve school officials, the internet service provider, or phone service provider. If a school district has internet use

policies, the act of bullying, harassing, or intimidating another student via online means shall be included as a prohibited act and be subject to disciplinary action.

**SB6153** (Last Update: 10/9/2007)

**Session Year:** 2001

**Bill Type:** Senate Bill **Status:** Passed

**Topics:** Bullying, Harassment, and Intimidation

**Citation:** SB6153

**Summary:** Appropriates \$500,000 from the general fund for anti-bullying and anti-harassment training at the school district level.

## West Virginia

**HB3023** (Last Update: 10/9/2007)

**Session Year:** 2001

**Bill Type:** House/Assm Bill **Status:** Passed

**Topics:** Bullying, Harassment, and Intimidation

**Citation:** HB3023

**Summary:** Requires county school boards to develop and adopt a policy prohibiting harassment, intimidation or bullying on school property or at school-sponsored events. Requires state board of education to develop a model policy to assist county boards. Requires policy to include definition, statement prohibiting harassment, intimidation or bullying, reporting procedures, notification of parents, procedures for response and investigation, process for documentation of incidents, strategy for protecting victims from further harassment or bullying after a report is made and a disciplinary procedure for students found guilty. Policy must be printed in student handbooks. Provides immunity against damages for good-faith reporting of incidents. Encourages, but does not require, bullying prevention programs and initiatives, teacher training and student education about the policy.

**HB4368** (Last Update: 3/28/2008)

**Session Year:** 2008

**Bill Type:** House/Assm Bill **Status:** Passed

**Topics:** Accountability | Bullying, Harassment, and Intimidation | Parental Involvement

**Citation:** HB4368

**Summary:** Provides for the membership of local school improvement councils; provides that if the council believes that student discipline at the school is not enforced fairly or consistently, it shall transmit that determination in writing to the county superintendent; finds that isolating students or placing them in alternative learning centers may be the best setting for chronically disruptive students; creates a Bill of Rights and Responsibilities for Students and School Personnel. The Bill of Rights includes: (1) The right to attend a school and ride a bus that is safe, orderly and drug free; (2) The right to learn and work in a school that has clear discipline codes with fair and consistently enforced consequences for misbehavior; (3) The right to learn and work in a school that has alternative educational placements for violent or chronically disruptive students; (4) The right to be treated with courtesy and respect; (5) The right to attend a school and ride on a bus that is free from bullying; (6) The right to support from school administrators when enforcing discipline policies; (7) The right to support from parents, the community, public officials and businesses in their efforts to uphold high standards of conduct; and (8) The responsibility to adhere to the principles in this Bill of Rights and Responsibilities for Students and School Personnel, and to behave in a manner that guarantees that other students and school personnel enjoy the same rights.

 [Return](#)

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**Public High Schools with GSAs in Vermont:**

Middlebury Union High School

Mt. Abraham Union High School

Vergennes Union High School

Mt. Anthony Union High School

Burlington High School

Champlain Valley Union High School

Essex High School

South Burlington High School

Enosburg Junior/Senior High School

Bellows Free Academy, Fairfax (anti-oppression group which address LGBTQ issues)

Bellows Free Academy, St. Albans

Missisquoi Valley Union High School

North Country Union High School

Proctor Junior/Senior High School (anti-oppression group which addresses LGBT Q issues)

Rutland High School

Harwood Union High School

Montpelier High School

Spaulding High School

Union 32 High School

Bellows Falls Union High School

Brattleboro Union High School

Hartford High School

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**Bullying & Harrasment Survey Results**

*VPA Survey Results as of November 11, 2008  
Survey of principals, assistant principals and technical center directors*

(Question 1 simply asked what grade levels a respondee's school serves.)

**2. What percentage of your bullying and harassment complaints are about issues related to socioeconomic status (i.e., clothing, what neighborhood a student lives in, where a parent works, etc.)?**

**Responses:**

- 33 people said 0%.
- 35 people report between 1% and 15%.
- 20 people reported between 15% and 50%.
- 5 people reported 51% or more.
- 73% of the total reported between 0 – 15%.*

**3. Should socioeconomic status be added to the list of protected categories for harassment in schools?**

**Response:** 45 yes, 45 no, 10 maybes

**Sample of maybe Reponses:**

- “We have not experienced a great deal of this type of harassment issues.”
- “Hard to quantify [socioeconomic status].”
- “Not sure, need more information.”
- “We should be able to deal with this without legislative direction.”

**4. Would it be helpful if cyberbullying was specifically addressed in the legislation that governs how schools respond to complaints of harassment?**

99 responses available on pages 7-11.

**Sample responses:**

- A solid majority of responses said “yes” in some fashion. A minority said “no” outright.*
- “Yes but we must be respectful of the limits of school oversight – we can’t police kids when they are under their parents control.”
- “This is more a secondary than elementary issue.”
- “No, this is addressed in school policy and/or is just not an issue appropriate for state legislation.”

**5. What are your greatest needs as far as addressing the issue of cyberbullying (i.e., training, information, curriculum, model policies, best practices, etc.)?**

97 responses available on pages 12-16.

**Sample responses:**

- “Best practices.” “Training.” “Model policies.” “All of the above.”
- There is no real consensus on the priority of each in the responses.*