

1 S.138

2 Introduced by Committee on Education

3 Date: March 21, 2023

4 Subject: Education; school safety

5 Statement of purpose of bill as introduced: This bill proposes to require (1)
6 public and approved independent schools to adopt a policy mandating biannual
7 options-based response drills; (2) public schools and approved independent
8 schools to adopt all-hazards emergency operation plans; (3) public and
9 approved independent schools to adopt an access control and visitor
10 management policy; and (4) public and approved independent schools to
11 submit certain data to the Agency of Education if the school utilizes a
12 behavioral threat assessment team.

13 An act relating to school safety

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

15 Sec. 1. 16 V.S.A. § 1481 is amended to read:

16 § 1481. FIRE AND EMERGENCY PREPAREDNESS DRILLS

(a) ~~The principal or person in charge of a public or independent school or another educational institution, other than a university or college, shall drill the students so they are able to leave the school building or perform other~~

~~procedures described in the school's emergency preparedness plan, or both, in the shortest possible time and without panic or confusion. Each school board in a district that operates a school shall adopt a policy mandating each school site to conduct options-based response drills at each school site in the fall and spring of each academic year. The policy shall require option based response drills, including fire drills, to be conducted following the guidance issued by the Vermont School Safety Center jointly with the Vermont School Crisis Planning Team.~~ *The policy shall require age-appropriate options-based response drills, including fire drills, to be conducted following the guidance issued by the Vermont School Safety Center jointly with the Vermont School Crisis Planning Team and shall require notification to parents and guardians not later than one school day before an options-based response drill is conducted.* In issuing the guidance, the Vermont School Safety Center and the Vermont School Crisis Planning Team shall include trauma-informed best practices for implementing options-based response drills. A superintendent shall report completion of the biannual drills to the Agency of Education in a format approved by the Secretary.

- 1 (b) ~~A drill shall be held at least once in each month during the school year~~
- 2 ~~and a record of the date and time of the drill, together with the time consumed~~
- 3 ~~in completing the procedure, shall be kept in the official school register, and~~
- 4 ~~such register shall be open at all times for inspection by representatives from~~

1 ~~the Fire Safety Division of the Department of Public Safety or the Agency of~~
2 ~~Education.~~ Each approved or recognized independent school or other
3 educational institution, other than a university or college, shall adopt a policy
4 mandating the school to conduct options-based response drills and fire drills in
5 the fall and spring of each academic year, consistent with the requirements of
6 subsection (a) of this section. The head of school shall report completion of
7 the biannual drills to the Agency of Education in a format approved by the
8 Secretary.

9 (c) A school district, independent school, or educational institution whose
10 administrative personnel neglect to comply with the provisions of this section
11 shall be fined not more than \$500.00.

12 (d) Annually, the Vermont School Safety Center and Agency of Education
13 shall review the reports submitted according to this section and shall ensure
14 compliance and identify future planning and training needs.

15 Sec. 2. 16 V.S.A. § 1480 is added to read:

16 § 1480. EMERGENCY OPERATIONS PLANS

17 (a) Each supervisory union or supervisory district shall adopt and maintain
18 an all-hazards emergency operations plan for each school site that is at least as
19 comprehensive as the template maintained by the Vermont School Safety
20 Center. The plan shall be reviewed and updated on an annual basis, in

1 collaboration with local emergency first responders and local emergency
2 management officials.

3 (b) Each approved and recognized independent school shall adopt and
4 maintain an all-hazards emergency operations plan consistent with the
5 requirements of subsection (a) of this section.

6 (c) The Vermont School Safety Center shall maintain an emergency
7 operations plan template and update the template as appropriate.

8 Sec. 3. 16 V.S.A. § 1484 is added to read:

9 § 1484. ACCESS CONTROL AND VISITOR MANAGEMENT POLICY

10 (a) Each supervisory union board, member district board, or supervisory
11 district board shall adopt an access control and visitor management policy that,
12 at a minimum, requires that all school sites and supervisory union and
13 supervisory district offices lock exterior doors during the school day. The
14 policy shall require that all visitors sign in at a centralized location prior to
15 gaining full access to the school or office site. If a school recognizes a need to
16 leave a specific structure unlocked as needed for ~~agricultural or recreational~~
17 ~~purpose~~ *agricultural, recreational, or other reasonably practical purposes*
18 *directly related to a school's mission or curriculum,* it may justify leaving that
19 structure unlocked in its visitor policy.

1 (b) Each approved and recognized independent school shall adopt a written
2 access control and visitor management policy consistent with the requirements
3 in subsection (a) of this section.

4 ~~Sec. 4-16 V.S.A. § 1485 is added to read:~~

5 § 1485. BEHAVIORAL THREAT ASSESSMENT TEAMS

6 (a) Each supervisory union or supervisory district and each approved
7 independent school that utilizes a threat assessment team shall ensure members
8 of the team receive training at least annually in best practices of conducting
9 behavioral threat assessments, as well as bias training. In providing bias
10 training, school officials shall consult with the Office of Racial Equity to
11 ensure the training conforms to best practices and acceptable standards for
12 such trainings.

13 (b) Behavioral threat assessments shall not be used for a punitive or
14 disciplinary purpose.

15 (c) For students on an individual education program, a behavioral threat
16 assessment shall not replace the manifestation determination review process
17 required under the Individuals with Disabilities Education Act, 20 U.S.C.
18 § 1415(k) and Agency of Education, Pupils (CVR 22-000-009), Rule 4313.
19 For students who are not eligible for special education services but who are or
20 may be qualified individuals with disabilities under Section 504 of the
21 Rehabilitation Act of 1973, 29 U.S.C. § 794, a behavior threat assessment shall

1 ~~not replace the manifestation determination review process required under~~
2 ~~Agency of Education, Pupils (CVR 22-000-009), Rule 4312.~~

3 (d) ~~Annually, each supervisory union, supervisory district, and approved~~
4 ~~independent school shall report data related to completion of and outcomes of~~
5 ~~all behavioral threat assessments and manifestation determination reviews to~~
6 ~~the Agency in a format approved by the Secretary. At a minimum, the annual~~
7 ~~report shall include:~~

8 (1) ~~the names of the members of the behavioral assessment team;~~

9 (2) ~~the number of behavioral threat assessments and manifestation~~
10 ~~determination reviews conducted in the preceding year and for each~~
11 ~~assessment or review conducted:~~

12 (A) ~~a description of the behavior requiring an assessment;~~

13 (B) ~~the age, grade, race, gender, disability status, and eligibility for~~
14 ~~free or reduced-price school meals of the student requiring the assessment; and~~

15 (C) ~~the results of each assessment or review; and~~

16 (3) ~~the number of students subjected to more than one behavioral threat~~
17 ~~assessment or manifestation determination review.~~

Sec. 4. 16 V.S.A. § 1485 is added to read:

§ 1485. BEHAVIORAL THREAT ASSESSMENT TEAMS

(a) Legislative intent.

(1) It is the intent of the General Assembly that behavioral threat assessment teams be used for the purpose of preventing instances of severe and significant targeted violence against schools and school communities, such as threats related to weapons and mass casualties and bomb threats. The goal of

these teams is to assess and appropriately respond to potential reported threats to school communities.

(2) It is the intent of the General Assembly that use of behavioral threat assessment teams shall not contribute to increased school exclusion or unnecessary referrals of students to the criminal justice and school discipline systems and shall not disproportionately impact students from historically marginalized backgrounds, including students with disabilities.

(b) Policy.

(1) As used in this section, “behavioral threat assessment” means a fact-based, systematic process designed to identify, gather information about, assess, and manage dangerous or violent situations.

(2) The Secretary of Education, in consultation with stakeholder groups, including the Commissioner of the Department for Children and Families, Vermont School Boards Association, and Vermont Legal Aid Disability Law Project, shall develop, and from time to time update, a model behavioral threat assessment team policy and procedures. In developing the model policy and procedures, the Secretary shall follow guidance issued by the Vermont School Safety Center on best practices in the use of behavioral threat assessment teams. The model policy and procedure shall require law enforcement contact in the case of imminent danger to individuals or the school community and shall address the following:

(A) the criteria that shall be used to assess a student’s threatening behavior;

(B) the process for reporting threatening behavior;

(C) the civil rights and due process protections to which students are entitled in school settings;

(D) when and how to refer to or involve law enforcement in the limited instances when such referral is appropriate, which shall not include student behavior that is a violation of the school conduct code but that is not also a crime; and

(E) the support resources that shall be made available, including mental health first aid, counseling, and safety plans.

(3) Each school district and each approved or recognized independent school shall develop, adopt, and ensure implementation of a policy and procedures for use of behavioral threat assessment teams that is consistent with and at least as comprehensive as the model policy and procedures developed by the Secretary. Any school board or independent school that fails to adopt

such a policy or procedures shall be presumed to have adopted the most current model policy and procedures published by the Secretary.

(4) The Vermont School Safety Center shall issue guidance on the best practices of behavioral threat assessment teams. The guidance shall include best practices on bias and how to reduce incidents of bias, developed in consultation with the Office of Racial Equity.

(c) Discipline and student support.

(1) Consistent with the legislative intent in subsection (a) of this section, if a behavioral threat assessment team recommends, in addition to providing support resources, any action that could result in removal of a student from the student's school environment pending or after a behavioral threat assessment, the recommendation shall only be carried out in a manner consistent with existing law, regulation, and associated procedures on student discipline pursuant to section 1162 of this title and Agency of Education, Pupils (CVR 22-000-009), as well as federal and State law regarding students with disabilities or students who require additional support.

(2) Behavioral threat assessments shall be structured and used in a way that is intended to minimize interaction with the criminal justice system. Law enforcement referral and involvement may be appropriate only in cases involving threats, which shall not include student behavior that is a violation of the school conduct code but that is not also a crime.

(d) Training.

(1) Each supervisory union, supervisory district, and approved or recognized independent school shall ensure behavioral threat assessment team members receive training at least annually in best practices of conducting behavioral threat assessments, as well as bias training. The annual training shall include the following topics:

(A) the rules governing exclusionary discipline, Agency of Education, Pupils (CVR 22-000-009);

(B) the purpose, use, and proper implementation of the manifestation determination review process;

(C) Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794; the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq.; and other civil rights laws;

(D) the negative consequences of exclusion from school;

(E) the impact of trauma on brain development; and

(F) group bias training, specifically focused on bias in carrying out the duties of the behavioral threat assessment team.

(2) The Agency of Education, in consultation with the Department of Public Safety, shall develop guidance and resources to assist supervisory unions, supervisory districts, and independent schools in providing the annual training required under this subsection. In developing the guidance on bias training for behavioral threat assessment teams, the Agency and Department shall consult with the Vermont Office of Racial Equity.

(e) Data reporting and collection. Annually, each supervisory union, supervisory district, and approved or recognized independent school shall report data related to completion of and outcomes of all behavioral threat assessments and manifestation determination reviews to the Agency in a format approved by the Secretary. At a minimum, the annual report shall include:

(1) the names of the members of the behavioral assessment team;

(2) the number of behavioral threat assessments and manifestation determination reviews conducted in the preceding year and for each assessment or review conducted:

(A) a description of the behavior requiring an assessment;

(B) the age, grade, race, gender, disability status, and eligibility for free or reduced-price school meals of the student requiring the assessment; and

(C) the results of each assessment or review;

(3) the number of students subjected to more than one behavioral threat assessment or manifestation determination review;

(4) the amount of time a student is out of school pending completion of a behavioral threat assessment;

(5) information regarding whether a student subject to a behavioral threat assessment was also subject to exclusionary discipline for the same behavior, including the length of such discipline;

(6) information regarding whether law enforcement was involved in a behavioral threat assessment;

(7) information regarding whether the threatening behavior was also reported to law enforcement; and

(8) any additional data the Secretary of Education determines may be necessary.

1 ~~Sec. 5. EFFECTIVE DATES~~

2 ~~(a) This section shall take effect on July 1, 2023.~~

3 ~~(b) Secs. 1 (16 V.S.A. § 1481) and 3 (16 V.S.A. § 1484) shall take effect~~
4 ~~on August 1, 2023.~~

5 ~~(c) Secs. 2 (16 V.S.A. § 1480) and 4 (16 V.S.A. § 1485) shall take effect on~~
6 ~~July 1, 2024.~~

*Sec. 5. BEHAVIORAL THREAT ASSESSMENT TEAMS;
IMPLEMENTATION*

(a) Creation of model policy.

(1) On or before November 1, 2023, the Agency of Education shall issue for public comment a draft model policy and procedures for use by behavioral threat assessment teams required pursuant to 16 V.S.A. § 1485(b)(2).

(2) On or before December 15, 2023, the Agency shall issue, publicly post, and communicate to school districts and independent schools the final model policy and procedures required pursuant to 16 V.S.A. § 1485(b)(2).

(3) School districts and independent schools currently using behavioral threat assessment teams shall update and implement a policy on the use of behavioral threat assessment teams consistent with the model policy created pursuant to 16 V.S.A. § 1485(b)(2) not later than the 2024–2025 school year.

(b) Establishment of behavioral threat assessment teams; training.

(1) School districts and independent schools not already using behavioral threat assessment teams shall take all actions necessary to establish a team not later than July 1, 2025, including:

(A) identifying and training team members, which shall include group bias training and the training requirements contained in 16 V.S.A. § 1485(d);

(B) adopting a behavioral threat assessment team policy;

(C) establishing procedures for proper, fair, and effective use of behavioral threat assessment teams;

(D) updating and exercising emergency operations plans; and

(E) providing education to the school community on the purpose and use of behavioral threat assessment teams.

(2) School districts and independent schools currently using behavioral threat assessment teams shall certify compliance with the training requirements contained in 16 V.S.A. § 1485(d) on or before the first day of the 2023–2024 school year.

(3) The Agency of Education and Department of Public Safety shall issue guidance and offer training necessary to assist school districts and independent schools with implementation of this subsection.

(c) The Agency of Education shall establish guidelines necessary to collect the data required pursuant to 16 V.S.A. § 1485(e). Each supervisory union, supervisory district, and independent school using behavioral threat assessment teams as of July 1, 2023 shall comply with the data collection requirements under 16 V.S.A. § 1485(e) beginning in the 2023–2024 school year.

(d) Reports.

(1) On or before January 15, 2024, the Agency of Education, in consultation with the Vermont School Safety Center, shall issue a written report on the status of the implementation of the duties and requirements established pursuant to 16 V.S.A. § 1485, including the status of:

(A) the development of the model policy;

(B) updates to training and guidance documents;

(C) updates on training and professional development requirements for behavioral threat assessment teams;

(D) data collected or voluntarily reported to the Agency or Center;

(E) the guidance issued, training developed, and measures implemented to prevent a disproportionate impact of behavioral threat assessments on historically marginalized students, including students with disabilities, to ensure that use of behavioral threat assessments does not increase use of school removals or law enforcement referrals for these populations, as well as plans for future training and guidance; and

(F) any grants or funding secured to support the implementation or proper use of behavioral threat assessment teams.

(2) On or before January 15, 2025, the Agency of Education, in consultation with the Vermont School Safety Center, shall issue a written report on the status of the implementation of the duties and requirements established pursuant to 16 V.S.A. § 1485, including the status of:

(A) data collected from supervisory unions, supervisory districts, and independent schools for the 2023–2024 school year;

(B) completion of the development of the model policy; and

(C) additional guidance, training, and other measures to prevent disproportionate impacts on historically marginalized students, including students with disabilities, as well as plans for future training and guidance.

(3) On or before January 15, 2024, the Agency of Education shall submit a written report with any recommended legislative language from the policy stakeholder work undertaken during the creation of the model policy and accompanying guidance and training materials required pursuant to 16 V.S.A. § 1485.

Sec. 5a. WORKING GROUP ON STUDENT PROTECTIONS FROM HARASSMENT AND DISCRIMINATION IN SCHOOLS; REPORT

(a) Creation. There is created the Working Group on Student Protections from Harassment and Discrimination in Schools to study and give recommendations for how to address harassment and discrimination experienced by students.

(b) Membership. The Working Group shall be composed of the following members:

(1) the Secretary of Education or designee;

(2) the Executive Director of the Vermont Human Rights Commission or designee;

(3) the Executive Director of the Vermont Network Against Domestic and Sexual Violence or designee;

(4) the Executive Director of the Vermont National Education Association or designee;

(5) the Executive Director of the Vermont School Boards Association or designee;

(6) the Executive Director of the Vermont Principals' Association or designee;

(7) the Executive Director of the Vermont Superintendents Association or designee;

(8) the Executive Director of Outright Vermont or designee;

(9) the Executive Director of Racial Equity or designee;

(10) the Executive Director of the Vermont chapter of the National Association of Social Workers or designee;

(11) the Executive Director of Vermont Legal Aid or designee; and

(12) the Chair of the Harassment, Hazing, and Bullying Prevention Advisory Council.

(c) Powers and duties. The Working Group shall study the current protections for students against harassment and discrimination in schools and make recommendations for legislative action to ensure Vermont students have the appropriate protections from harassment and discrimination. In conducting its analysis, the Working Group shall consider and make recommendations on the following issues:

(1) eliminating the severe and pervasive standard for harassment and discrimination for students in educational institutions;

(2) compulsory educational attendance requirements for students who have been victims of harassment; and

(3) the resources required for schools to develop harassment prevention initiatives as well as supports for students who have experienced harassment.

(d) Assistance. The Working Group shall have the administrative, technical, and legal assistance of the Agency of Education.

(e) Report. On or before December 1, 2023, the Working Group shall submit a written report to the House Committees on General and Housing and on Education and the Senate Committees on Economic Development, Housing and General Affairs and on Education with its findings and any recommendations for legislative action.

(f) Meetings.

(1) The Secretary of Education shall call the first meeting of the Working Group to occur on or before July 15, 2023.

(2) The Working Group shall select a chair from among its members at the first meeting.

(3) A majority of the membership shall constitute a quorum.

(4) The Working Group shall cease to exist on February 1, 2024.

Sec. 6. EFFECTIVE DATES

~~(a) This section and Sec. 5 shall take effect on July 1, 2023.~~

(a) This section and Secs. 5 and 5a shall take effect on July 1, 2023.

(b) Secs. 1 (16 V.S.A. § 1481) and 3 (16 V.S.A. § 1484) shall take effect on August 1, 2023.

(c) Sec. 2 (16 V.S.A. § 1480) shall take effect on July 1, 2024.

(d) Sec. 4 (16 V.S.A. § 1485) shall take effect on July 1, 2025.