
TESTIMONY

Testimony To: Senate Committee on Education

Respectfully Submitted by: Ted Fisher, Director of Communications and Legislative Affairs

Subject: **Update on Act 152 of 2022 – An act relating to nondiscriminatory school branding**

Date: March 31, 2023

Thank you for the opportunity to provide a status update on [Act 152 of 2022](#) – An act relating to nondiscriminatory school branding.

This Act was passed in response to several instances of fraught conversations about school branding that occurred in Vermont school districts. In response, the General Assembly passed Act 152, which requires districts to adopt and abide by a policy on non-discriminatory school branding, including use of mascots and other symbols. This legislation establishes uniform minimum standards for non-discriminatory branding policies, places important guardrails on district and community conversations about school identity, and establishes a process for Vermonters to bring concerns first to their local school board, and then the state.

The Agency of Education fully supports the concept and [legislative intent](#) of Act 152. No Vermont student should have to attend a school whose identity, visual brand marks, mascot, or other representative symbology discriminates, oppresses, marginalizes, or is offensive to, the student's culture, tradition, ethnicity, sexual orientation or gender identity. AOE believes that the bill strikes the right balance between the authority and responsibility of a local Vermont school board under law, and the State's interest in safeguarding students. While it is still early in the implementation of this law, there is as yet no indication that the bill is failing to achieve its intended effect.

Overview of Act 152

Briefly stated, the Act adds a provision to Title 16 ([16 V.S.A. § 568](#)) requiring Vermont school boards to adopt a nondiscriminatory school branding policy that is "at least as comprehensive" as a [model policy](#) developed by the AOE. This policy applies both to Vermont public schools (school districts) and independent schools. The term school board as used in the act means both a Vermont public school board as defined in 16 V.S.A. §11(a)(9) and the board of directors or other governing body of an independent school.



Nondiscriminatory School Branding Policy

Sec. 2 of Act 152 adds the above-named section to Title 16:

- Requiring the Secretary of Education to develop and adopt a model nondiscriminatory school branding policy that prohibits branding that references or stereotypes characteristics specific to race, creed, color, national origin, sexual orientation, gender identity, or any person, group, or organization associated with repression.
 - The policy includes a process for filing a complaint to the school board, if an individual believes if an element of school branding violates the policy.
 - Complaints shall be heard and acted on by the school board, and may be appealed to the Secretary of Education if the individual is unsatisfied by the school board's decision.
- Requiring Vermont school boards to develop and adopt a policy “at least as comprehensive” as the model policy developed by the AOE. If the board fails to adopt a policy, they are presumed to have adopted the policy developed by AOE.

AOE Model Policy

The Agency's model closely follows legislative direction and intent pursuant to Act 152, and establishes the following:

- Responsibilities of superintendent to periodically review and recommend updates to the district policy, assist the school board in reviewing school branding for compliance, and ensure that the policy prohibits branding that references or stereotypes specific characteristics related to race, creed, color, national origin, sexual orientation, or gender identity, or any person or organization associated with repression. The superintendent must also develop a procedure for individuals to file a complaint if an element of school branding violates the policy.
- A process for handling complaints, including the right of an individual to request to appear before the board to present their case, a requirement for the board to hear the complaint in a “just and fair manner” and a requirement for the board to render a decision within 45 days of the hearing.
- An appeals process allowing individuals to appeal to the Secretary of Education within 30 days of receiving a school board's decision.

Implementation Timeline

Sec. 3 of the Act establishes the following actions and deadlines in session law for implementation of the bill:

- Deadline for AOE to adopt the model policy: **August 1, 2022**
- Requirement for school boards to review current branding in place at the time of the policy adoption for compliance.
- Deadline for School boards to adopt nondiscriminatory branding policies: **January 1, 2023**

- Deadline for schools to select new, policy-compliant branding for SY2023-24:
May 1, 2023

Status Update

In response to Act 152, the Agency took the following actions:

- Issued a [draft model policy](#) for public comment in July of 2022 (in fulfillment of a consultation requirements in Sec. 2).
- Issued a final model policy in August of 2022.
- AOE is aware that many school districts school districts worked throughout the fall to adopt policies and review their branding.
- AOE is aware that several individuals and organizations have publicly expressed concerns with the school branding of one or more school districts and independent school.
- To the best of AOE's knowledge, several complaints have been filed with school boards as defined under the act. The 45-day period for a board to issue a decision following a hearing has not yet run for any complaint known to AOE.
- As of the date of this testimony, AOE has yet to receive any appeals of school board decisions of complaints filed under their policy.