



To: House Education

From: Jay Nichols , Executive Director

Date: 2/22/23

Subject: H.258

The Vermont Principals' Association supports school leaders to improve the equity and quality of educational opportunities for all students.

Officially, for the record, Jay Nichols, Executive Director of the Vermont Principals' Association.

The stories I'm going to share are all from public school leaders or my own personal experience. This is not to villainize private schools in any way. If parents want to send their children to private schools that discriminate for any reason, that is their right; however, tax dollars should be for the common good and we should never provide any tax dollars to schools that don't follow the same rules as public schools, at least on the most important issues.

This is why we and the VPA support some version of H.258. It allows for the four historic academies and public schools to receive public funding. There are other private schools that are probably behaving in a way in which private schools receiving public funding in a pre Carson V. Makin world would make sense; however, the United States Supreme Court (SCOTUS) has put us in a box that essentially has us look away from the common decency of all students being welcomed in schools that receive public funds to one in which all private schools are to be treated the same regardless of their mission or religious construct. H.258 follows the constitutionality of the ruling by the Roberts Court and carves out a path in which we can ensure publicly raised dollars go only to schools following the same agreed upon rules, with special attention to anti-discrimination, due process, and special education services.

Now for just a few stories that have been shared by our members this school year:

- A religious private school accepting public money kicks three kids out of school and off a varsity sports team. No due process. The kids now become the responsibility of the public school system or drop out of school. If students are on Individualized Education Plans (IEP's) there is no additional protection as is required by federal law for public school students on IEP's and again the local school district is left educationally, economically and legally responsible for the students.
- A state approved Christian private school sends a letter to the VPA asking that another school no longer be allowed to play a transgender identifying youth, which the private religious school refers to as a "biological male" student on their girls' basketball team. Or at the very least, that this student they identified as a "biological male" should not be able to compete in those games and that this student should not be able to play going forward. VPA pairings come out and this Christian school forfeits so they won't have to play against this team that has a transgender student. This is an approved school that could be receiving public school dollars. The VPA followed the law, of course, and our policies, and will continue to ensure this child and all transgender student athletes have equal access to educational opportunities the same as all Vermont children should have. Thank goodness the student in question didn't attend that religious school ... but what if they did? Would we be okay with that blatant discrimination under the guise of religious freedom?
- Two religious schools have refused, to date, to sign an assurance that they would follow State Board rules regarding non-discrimination. It doesn't take a rocket scientist to see that these schools and their far right supporters are gearing up for another lawsuit; if we want to avoid that, H.258 is a real simple, clear path forward. Lawsuits happen, but why set ourselves up for a lawsuit we are unlikely to win? 258 would strengthen and adhere to Vermont values of equity and all children being provided with equitable treatment in schools that are receiving taxpayer funding.
- Recently, the Vermont Independent Schools Association (VISA) stated that the Proposed updates to the Education Quality Standards (EQS) from the Act 1 working group should not apply to them. The Act 1 working group voted unanimously with the exception of the VISA representative that EQS should apply to any public school and any approved independent school. Since that time, VISA and other private school advocates have been lobbying the State Board EQS subcommittee to remove the phrase "approved independent schools" saying that they have their own rules and that the proposed updates to the EQS should not apply to them.
- A student becomes pregnant at one of the private independent schools. She and her family are told she is "not the right fit anymore, and; you will do better somewhere else." and is not provided with any support and ends up being pushed out of the school. The student now goes to a public school where her home district pays tuition dollars for the student and her unborn child to get the educational support they both need.
- In order to graduate from one religious high school that we are now sending public tax dollars too the following occurs:
 - It says right on their website and in their handbook that a student must have four credits of religion and theology.
 - Conduct and language must witness Christian values.

- Students must choose to live by the code of ethics, if the partnership is broken parents may be required to take their student out of the school.
 - Again, no due process rights, no protections, no accountability, no transparency.
- A school in Canada takes some students from high school choice towns in Vermont who are high achieving students but does not take students who are low achieving or have disabilities. The town is paying this school in Quebec taxpayer raised tuition dollars even though students have to drive by two Vermont public high schools to attend this school in another country that discriminates against our students.
- A private school refused to take a student on a 504 plan. The parent was told the student was not a “good fit” for their school. This is an approved independent school who is eligible to receive public funding.

The SCOTUS has found that states cannot exclude religious schools from private school tuition schemes (Expinoza) and that states cannot prevent discrimination or teaching of religion in publicly funded religious settings (Carson v. Makin). This creates a conflict between tuition to private schools as required by SCOTUS and the protections in the VT Constitution for Vermont citizens stateside. So far S. 66 and H.258 are the only two bills that I have seen that address the issues caused by the Supreme Court rulings effectively and would require appropriate services to all Vermont children who are being educated with public funds.

Please do the right thing and show that our General Assembly cares about public education and all children and pass H.258 or some similar piece of legislation that doesn't continue to allow misuses of taxpayer dollars to effectively discriminate against many of our children.

Thank you.