



To: House Education Committee  
From: Sue Ceglowski, Executive Director, VSBA, on behalf of Education Equity Alliance  
Re: DR 23-0910 (eligibility of private schools to receive public tuition)  
Date: March 15, 2023

Thank you for the opportunity to testify on the draft committee bill setting requirements for private schools to be eligible to receive public tuition. I am testifying today on behalf of the Education Equity Alliance (EEA) which consists of the Vermont School Boards Association, the Vermont-NEA, the Vermont Superintendents Association and the Vermont Principals' Association.

1. Vermont communities, taxpayers, K-12 students, and schools are now at a defining crossroads.
  - a. In June 2022, the US Supreme Court set new rules relating to taxpayer funding of exclusionary private schools. The Court said a state does not have to provide taxpayer funded tuition to private schools, but if it does, it cannot exclude private religious schools.
  - b. As we look at the Supreme Court's ruling in relation to Vermont's tuition program, it has shown there are real equity and accountability gaps in Vermont's current system.
    - i. You heard from Neil Odell, VSBA President, about the data on some of those gaps.
    - ii. He also talked about the financial impacts of running two parallel education systems in VT (one that is public and open to all with transparent budgets and accountability to the taxpayers who vote on those budgets and the other that is private and available to some with no transparency or accountability to taxpayers).
  - c. The Supreme Court's decision opens the door to changes to Vermont's taxpayer-backed Education Fund, which is always under cost pressures, through more funding of private schools, including religious schools.
  - d. At the same time, the compelled support clause in Chapter I, Article 3 of the Vermont Constitution says that no person can be compelled to support any place of worship contrary to dictates of conscience.
    - i. As elected officials, you take an oath to uphold the Vermont Constitution and so you have to figure out if there is a way forward

that will comply with the Supreme Court's ruling and the Vermont Constitution

2. We believe the way forward requires Vermont lawmakers to reset state laws governing the use of Vermont's Education Fund based on the following universally shared values:
  - a. It is our duty to provide an equal education opportunity to all families,
  - b. All Education Fund dollars should be subject to consistent transparency and accountability, and
  - c. All taxpayer funded schools must treat students and staff equitably, free from unlawful discrimination.
  
3. The Education Equity Alliance will support legislation that is consistent with the values of equity, accountability and transparency and that passes Supreme Court muster
  - a. H.258 is consistent with those values and we think you should move forward with work on H.258. There are adjustments that could be made to the bill to address concerns that have been raised.
    - i. For example, the number of schools a non-operating district can designate could be changed. Three is not the right number, according to feedback we have received.
    - ii. Another example: the bill's provisions regarding the requirements for which private schools are eligible for designation could be examined.
  
4. If the Committee is going to work on DR 23-0910, it needs a significant amount of revision - it's a work in progress. We're here today with ideas to improve it and we are going to continue to think about ways to improve it. Some general ideas of ways the bill could be strengthened are below:
  - a. 2025 seems like an unnecessarily long time to wait for the attestation process to unfold, especially considering that non-discrimination is now required by State Board rules.
  - b. Please give some attention to ensuring greater equity by reducing barriers to enrollment at private schools for tuitioned students, similar to enrollment at public schools. Current "admissions policies" at many private schools serve to discriminate against students for a variety of reasons.
  - c. Ensure that all tuitioned students receive access to the same high-quality education as students at public schools - including an education that accomplishes the goals of Act 1 of 2019 - a few are listed below:
    - i. increases cultural competency of students,

- ii. promotes critical thinking about history,
  - iii. ensures that the curriculum and programs are welcoming to all students
- d. The word “agree” should be removed from the Committee bill . If a private school is going to be eligible to receive public tuition the law should contain certain requirements and not use the word agree - the bill is not a contract, it is legislation
- e. The Committee should take testimony from experts on the language in the first eligibility requirement in the bill (the school agrees to enroll any student who requires special education services)
  - i. The language in the bill (page 5, lines 14-20) comes from Act 173. It currently does not address students on Section 504 plans. That should be corrected so it is clear that private schools eligible for public tuition are required to provide accommodations under Section 504.
    1. Section 504 of the Rehabilitation Act of 1973 is a federal civil rights statute prohibiting discrimination on the basis of disability. It is not a special education statute and it has a broader scope.
    2. State Board Rule 2229.1(a)(4) includes 504 students.
    3. Students with disabilities receiving special education services are protected under Section 504 but not all Section 504 students are eligible for special education.
    4. See the [Vermont Agency of Education’s Section 504 Manual](#) for more information on this important civil rights statute.
- f. Sections 3-9 of the bill should be revised to remove the ability of an independent school meeting Education Quality Standards to receive tuition without having to meet the eligibility requirements to receive public tuition.
- g. Section 15(c) of the bill requiring the AOE to review all policies public schools are required to adopt and make a written recommendation to the House and Senate Committees on Education regarding whether any such policies not already applicable should also apply to approved independent schools eligible to receive public tuition - should be changed to a study committee reviewing all laws, rules, quality standards and reporting requirements applicable to public schools and all policies public schools are required to adopt.
- h. Finally, I wanted to respond to a few pieces in Secretary French’s testimony yesterday.
  - i. Since Secretary French spoke about contracts between LEAs and independent schools, we checked with superintendents of tuitioning districts about whether such contracts exist. Very few tuitioning districts have contracts with independent schools. The contracts that

exist do not contain a full set of assurances. In fact, they are often generated by independent schools.

- ii. Secretary French also referred to invoicing as a way to keep track of students. Typically, independent schools send invoices to the tuitioning districts twice per year. This is not often enough to be an effective tool for keeping track of students.

Thank you for the opportunity to provide testimony on ways to improve the committee bill.