

VIA EMAIL

April 22, 2014

Vermont Senate Education Committee
Senator Dick McCormack, Chair
c/o Ken Bruno, Committee Assistant
115 State Street
Montpelier, VT 05633

RE: VARIOUS EDUCATION ISSUES

Dear Senator McCormack:

I write in response to your memorandum to Secretary Holcombe, dated April 16, 2014. You have asked the AOE to analyze three (3) issues by offering "any legislative suggestions you may have, and any ideas as to how your agency or board might address these issues directly...regarding the latter, please advise on what legislation would support your efforts."

We address each of the three (3) issues you have raised in turn:

1. School Lunches:

We recently learned that you asked Donna Russo-Savage, Esq. to draft an amendment to the miscellaneous education bill, along the following lines:

"Please prepare an amendment to the miscellaneous ed bill requiring that any school that provides meals have a written policy for dealing with payment arrearages that allow an aggrieved meal provider to get full payment without denying meals to students. The policy should require that when there is an arrearage on a school breakfast or lunch bill, a provider must notify the school administration who must give written notice to non-paying parents, informing them of the arrearage, informing them of free or reduced meal programs, and offering to arrange a payment plan. Prior to the denial of food the school must warn the parents in writing that food will no longer be provided on a specific date."

As you may recall, Laurie Colgan is our point person on school lunch programs at the AOE. Laurie states that the above language is in line with the current best practices that we promote and support. Therefore, the AOE is supportive of this approach.

2. Obesity:

You have raised the idea of taking a more “responsible and rational approach to school busses.” Specifically, you have asked whether the legislature can require of schools that it only “bus who need to be bussed” with an eye toward busses that “often stop well within walking distance to schools, encouraging fattening sloth...”

Presently, the regulation of school bus service is a matter of local school district control. See 16 V.S.A. § 1221. Whether school bus service is even provided is discretionary in the first instance (excluding any student transportation obligations that may arise for school districts under the IDEA or Section 504 of the Rehabilitation Act of 1973). See 16 V.S.A. § 1222. However, there is a requirement in Section 1222 of Title 16 that requires school districts which do offer transportation services to adopt a transportation policy that takes into consideration certain factors, including but not limited to:

- Age
- Health of pupils
- Distance to be travelled
- Condition of the road and type of highway

We do not gather data on bus routes and/or how far students have to walk either to/from bus stops or schools. We can report that we do receive inquiries from parents, on a fairly regular basis, about local policies that require students to walk distances either to/from a bus stop or school which are quite long distances, in the opinion of the parent caller.

This anecdotal evidence may suggest that some districts are already crafting local policies that anticipate walking a certain distance which segues with your concerns around obesity. The VSBA should be able to survey its members to collect local transportation policies for your review (again, these policies are mandatory). Looking at those policies should provide with you good evidence of whether this idea may be a useful option to explore in the fight against child obesity; the data should help flesh out (i) the distances that students are presently walking to get to and from bus stops and/or school, and (ii) how local boards are defining a school bus service zone, based on geographic proximity to a school building. You may find that local policies tend to set reasonable parameters that align with your concerns, which might negate any potential need for more specific statewide standards.



3. Student Privacy:

The AOE is very mindful of student privacy concerns in accordance with the federal Family Educational Rights and Privacy Act (FERPA), the applicable provisions of the Vermont Public Records Act (disclosure exemptions for student records and personal information), and related State Board of Education Rules (See e.g. Rule 2113 (Revised February 2014)). We strive to work closely with schools in following these laws and regulations. From a public policy perspective, the Agency's position is that any legislative efforts around student privacy should strive to encourage healthy innovation in both the classroom and also with respect to local administrative practices. Regarding the Common Core, the Agency's view is that the Common Core does not represent a threat to student privacy concerns. The Common Core was developed by states and remains overseen by states. The quality and comparability of information on student performance will be impeded in a very real way if student data is constrained by strict limitations on re-disclosure for student assessment research and other related activities.

The federal law and related regulations around student privacy (FERPA) is expansive and protects against the inappropriate disclosure of data and records. At the same time, federal law provides the opportunity for a very narrow class of re-disclosures (on a limited basis) to support, in part, the important work of measuring student performance and progress toward important goals.

The Agency would be supportive of specific legislation in this area that authorizes the Secretary of Education to adopt procedures pursuant to Chapter 25 of Title 3 that are aligned with our policy goals and existing federal law. These procedures might establish standards that delineate legitimate educational purposes for use of student data, subject to any applicable federal law or regulations, including, without limitation:

assessment, interoperability, transfer of data for educational purposes or education or fiscal administration, reporting of results, innovative learning, general purpose software as a service utilized for student or educator work, or functions by or for the Agency of Education.



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CONCLUSION

We look forward to working with you on these issues going forward. Thank you for your consideration of our comments.

Please contact me with any questions or concerns.

Sincerely,



Gregory J. Glennon, Esq.
General Counsel

cc: Members, Senate Education Committee

