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Sent: Monday, January 14, 2013 11:35:31 PM
Subject: Village School of North Bennington, Inc.

Good evening

I am sorry I cannot attend Tuesday's meeting of the State Board of Education. I have an administrative hearing in Brattleboro that I cannot change. My client has been waiting over a year for the hearing and it will have a direct impact on her finances. I wish I could be in Montpelier to testify about the Village School of North Bennington, Inc.

I would greatly appreciate it if you could share this email with the other members of the State Board and read my email into the record.

The question of approving the Village's School is very serious and will have a direct impact on the education of the children in Shaftsbury and North Bennington, the towns served by the North Bennington Graded School District. My wife and I have lived in the North Bennington Graded School District for 23 years and sent both of our sons to school there. I have served as an auditor for the School, and currently serve as the Chair of the Shaftsbury Selectboard. My wife has served as a member of the North Bennington Graded School Prudential Committee.

Section 166 of Title 16 empowers the Board of Education to conduct a hearing on the application of an independent school and requires the Board to make findings of fact that the application meets all requirements. The Board is not a rubber stamp for the department, but must make its own findings that the proposed school satisfies the legal requirements to be approved. Section 166 states:

> the **state board shall approve an independent school** which offers elementary or secondary education **if it finds, after opportunity for hearing**, that the school provides a minimum course of study and that it **substantially complies with the board's rules** for approved independent schools. Except as provided in subdivision (6) of this subsection, the **board's rules must at minimum require that the school has the resources required to meet its stated objectives, including financial capacity**, faculty who are qualified by training and experience in the areas in which they are assigned, and physical facilities **and special services that are in accordance with any state or federal law or regulation**. Approval may be granted without state board evaluation in the case of any school accredited by a private, state, or regional agency recognized by the state board for accrediting purposes.

Contrary to what members of the North Bennington Prudential Committee and the Village School have said in the press, the State Board must conduct a hearing and make findings. The Department cannot establish regulations that take away the powers and responsibilities State statutes vest in the Board of Education.

The importance of the State Board's public hearing is that provides the Board, the applicant, and the public an opportunity to present information weighing in favor of and against the application. The State Board could be a rubber stamp for the Department's review of the application, but doing so would undermine the role of the Board and eliminate the checks and balances the law provides.

The State Board should not approve the Village School's application.

1. The Village School does not have the financial resources to meet its objectives or expected financial obligations. The Village School Trustees have publicly stated they have not engaged in fundraising or other efforts to capitalize their not-for-profit school. To date, the Village School has no significant financial resources of its own. The Village School has relied upon the North Bennington Graded School District's financial resources to pay its bills. The Chair of the Prudential Committee may assert that no tax dollars have been used to support the Village School, as he did at a recent Prudential Committee meeting. The fact is that the Prudential Committee has used money gifted to the School District many years ago to finance the Village School. The Village School has no assets of its own to support its activities and it is financially dependent on School District resources to support itself.

2. The Village School's proposed budget is based upon unrealistic assumptions, namely that all of the children currently attending the public school will attend the Village School. The Village School's budget should reflect a reasonable estimation of the number of students it will serve and the tuition it intends to charge to cover those costs. The Village School should anticipate that some parents may choose to send their children to other approved private schools or nearby public schools.

3. The Village School is NOT an independent school, but it is an extension of the North Bennington Graded School. The Village School was organized by the NBGS Prudential Committee. The former Chair of the Prudential Committee is now the Chair of the Board of Trustees of the Village School. The principal of NBGS will become the headmaster of the Village School. The Prudential Committee has used NBGS District funds to pay the expenses of the Village School. The Prudential Committee is directly involved with the planning and policy-making of the Village School. The Village School is not independent, but a corporate alter ego of the North Bennington Graded School.

If the Village School were truly an independent school, it would have raised its own funds and used its own resources to create its school. If the Village School were truly an independent school, there would be no overlap between the leadership of the public Graded School and the Village School.

4. Approving the Village School will permit the North Bennington Graded School to do indirectly what it cannot do directly. A public school district is required to follow State law. A public school district cannot create a group, committee or organization to engage in activity that the school is prohibited from engaging in. For example, if the Prudential Committee of the Graded School did not want to be part of its Supervisory Union, or managed by a Superintendent, should it be permitted to form a dummy corporation to step into its place and operate independent of the Superintendent and Supervisory Union? A public school should not be permitted to do through a surrogate, like the Village School, what the law does not permit it to do directly.

5. The Village School will provide only 3 areas of special education services out of the 12 required of public schools. The State Board can conclude that the result of approving the Village School will be to deprive special education students with the educational services they need in their own school district.

The Prudential Committee signed a Memorandum of Understanding stating that only present NBGS students who are currently receiving special education services are guaranteed to receive special education services. The Memorandum of Understanding clearly states that new students and students who are not currently receiving special education services are not guaranteed special education services at the Village School. This means that new children and children needing special education services in one of the 9 areas the Village School does provide will be forced to leave the NBGS District to get their special education services. The Prudential Committee is attempting to circumvent State and Federal law by closing its doors to the students in its district needing special education services. The District will still pay the cost of those special services, but the children will be required to go outside the District to get the services they need.

The Prudential Committee could have conditioned sending students to the Village School upon the Village School getting approved to provide services in all 12 special education areas. The Prudential Committee chose not to do so. The language of the Memorandum makes it clear that this was not an oversight by the Prudential Committee or the Village School.

6. The Prudential Committee and Village School misled the public when trying to persuade the public to support closure of NBGS in favor of tuitioning students to the Village School and other schools. The most egregious of these misstatements are as follows:

a. Matthew Patterson, a Prudential Committee member stated to the public at an informational meeting that NBGS was prohibited from engaging in private fundraising, and without private fundraising, NBGS was unsustainable. The statement was, and is, false. All public schools can engage in private fundraising and NBGS has done so in the past.

b. Ray Mullineaux, Chair of the Prudential Committee, told the public at an informational meeting that the Village School will assess every child's needs and if special education services are needed the Village School will provide them. The statement is false, State law requires an independent school to get State approval prior to providing a particular special education service. The State must also approve in advance the fees the independent school can charge for those special education services. The Village School may assess students, but children needing services in the 9 areas for which the Village School is not approved, will not be able to get services at the Village School.

The application submitted by the Village School is unprecedented in that it is intended to replace a successful and sustainable public elementary school with a private school that is designed to serve some, but not all, of the District's students. I hope the State Board looks closely at the application, the Village School's financial resources and independence, and the effect on children needing special services before acting on the Village School's application.

Thank you for considering my views.

Sincerely, Lon T. McClintock, Esq.

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