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LEGAL RESIDENCE OF STUDENTS

Steve Dale, Vermont School Boards Association

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Educational continuity is a big deal. There is lots of data regarding the negative impact of regularly changing schools. Students lose continuity with their courses. They lose continuity of relationships with their teachers and mentors. And they lose their social networks.

Based on that premise, in my previous job, I was directly involved in creating a system to assure that children in the custody of the Commissioner of DCF could be maintained in their original school district even as their living arrangement changed. In that instance, if a social worker or a teacher wanted to make a pitch for continuity, it could be done. If the two superintendents agreed, it would happen. If they disagreed, the decision went to the Commissioner of Education. I worked closely with the Commissioner of Education advocating for the right thing for individual students. In the few instances where local school officials disagreed on the best thing to do, he always made the decision in favor of promoting continuity. These, by definition, were students with disrupted lives who desperately needed individual treatment. Payment was not an issue because it came from the “state placed student” fund. You can get more current information from the Agency on this procedure and its implementation, if you are so inclined.

I am very sympathetic toward this issue when considered from the point of view of a particular individual child in an unstable situation.

I am aware of many school boards in this state that, when faced with requests for students to remain in their schools in the interests of continuity (which they can do now) generally accommodate the situation. In fact, I believe it to be normative.

Although, we support the intent of the bill, we caution you about adopting this bill as proposed. There are three major challenges with the bill that need to be worked through. We urge you to continue to take more testimony to fully understand the dimensions of the problem.

1. We must remember that we have built an entire education system around residency. There is a game called JENGA where you pull sticks out of a building until the building collapses. Fundamentally changing the basic structure of education responsibility, based on a particular situation in a particular community, can be hazardous.

- Our entire arrangement is based on towns, as school districts, each of which is responsible for providing education for the children who are residents of the town. A local school board is responsible for dealing with residency issues, estimating the need for educational capacity, and building budgets. It is accountable to the town for assuring quality education at a reasonable cost. This bill begins to alter that basic structure.
- Our entire taxation formula is built around average cost per equalized pupil. Counting students is key to that process. In smaller communities, the loss of students or gain of students can dramatically change tax rates. I would urge you to take testimony from the Agency of Education and/or Mark Perrault to gauge the potential magnitude of this issue.
- Special education responsibilities are driven by the designation of the LEA (local education agency). The town of residency has a legal obligation to make sure that children with special needs are identified and served. I would urge you to take testimony from experts at the Agency of Education or the Vermont Council of Special Education Administrators. Unlimited flexibility for families from day one of a school year, could have an impact that needs to be understood.

2. I urge the committee to do a thorough analysis of the “legal residency” language. Liberal use of that language could have many unintended consequences for other areas of law that affect municipalities, voting, and any number of other issues. I am not a lawyer, but the liberal use of the term is of potential concern and needs to be analyzed. The bill, on page 3, line 14 and 20, and page 4, line 1—there is discussion of “retaining legal residency”. This could be a very serious problem related to elections or taxation. We would recommend that you seek input from the Secretary of State.

3. If you decide to move forward with some version of this bill, we would urge you to substantially push back the date when a child or family can “self-declare a residency change”. It is hard to make the “continuity case” if a student enrolls on day one and then moves on day two, but decides to stay at that school for the full year. A different date could be chosen as the threshold—it could be the end of the third quarter of the school year (March), or the semester break in January, or the 30th day of school which marks the end of the ADM count period.

Finally, you should give thought to whether the creation of somewhat larger education units will impact this type of issue. When we have so many situations where a three-mile move requires a change of school, we have a chronic issue here. That could change.

In closing, if we are concerned about individual children, we must all be willing to look at individual circumstances and do what is right. We also must be concerned about systems which can be operated well for the good of all children. And we need to be sure when we change laws to respond to a particular situation in a particular location that we are not creating havoc elsewhere. I urge you to continue to hear from key system players to get the legal and financial analysis needed to make decisions about this bill.

