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**To: Members of the Senate Education Committee**

**Date: 4/20/16**

**RE: Recommendation on possible amendment to H.859**

Our commitment is always to serve our children with disabilities in the most inclusive, least restrictive environment possible, ideally in schools alongside their peers.

The Senate Education Committee is proposing to add § 2958 related to RESIDENTIAL PLACEMENT REVIEW TEAM; RESIDENTIAL PLACEMENTS

The Agency recommends:

- (a) The language should be amended to read not just "supervisory unions" but "supervisory unions or districts."
- (b) With respect to the following language, LEAs already consider home instruction, and in fact are required to do so by federal law.
  - (f) When a residential placement is determined to be necessary in accordance with this section, an appropriate Vermont-based residential program, including an appropriate professionally staffed home or community-based setting, if one exists, shall be considered as a least restrictive environment before an out-of-state placement is considered.

The Agency of Education strongly discourages the committee from recommending any language that is more prescriptive than federal law. This area of services is already regulated by the federal government, which provides substantial fiscal support for services for students with disabilities. In addition, our residential review statute already defers to federal law on this point at 16 VSA 2958(c)(1). See below for current federal language. Note: federal IDEA is up for reauthorization.

**34 CFR, Sec. 300.115 Continuum of alternative placements.**

- (a) Each public agency must ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services.
- (b) The continuum required in paragraph (a) of this section must--
  - (1) Include the alternative placements listed in the definition of special education under Sec. 300.38 (instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions); and
  - (2) Make provision for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with regular class placement.