

March 11, 2016

Senate Committee on Education
Senator Ann Cummings, Chair
115 State Street
Montpelier, VT 05633

Dear Senator Cummings,

A letter written by Barbara Crippen of Campaign for Vermont dated March 9, 2016 has come to my attention ([see attached](#)).¹ My understanding is that you are also aware of Ms. Crippen's letter, and that you commented about it (in passing) yesterday during an unrelated committee hearing. Due to the serious nature of the inaccurate messaging contained within this letter we feel it is important to address the matter swiftly, and set the record straight.

Ms. Crippen claims that the Vermont Standards Board for Professional Educators (VSBPE) and AOE is acting "illegally" because the VSBPE has "created endorsements (for educator licensure) outside of Vermont's statutory requirements for rule making."

This statement is absurd and false. There is a longstanding administrative rule of the VSBPE, which was approved by the Legislature (through LCAR), and is filed with the Secretary of State. This rule states as follows,

Rule 5444 Endorsement Standards

The Standards Board shall establish and amend as needed the standards necessary to obtain an endorsement in a specific field of practice.

VSBPE Rule 5444 is aligned with the statutory powers and duties of the Standards Board. [See e.g. 16 V.S.A. § 1694:](#)

The Standards Board shall "establish standards, including endorsements, according to which individuals may obtain a license or have one renewed or reinstated."

¹ Barbara Crippen served as staff counsel for the Vermont Department/Agency of Education from 2000-2014. Her primary duties included providing legal services to the Licensing Office of the DOE/AOE and assisting in the implementation of the laws and rules related to educator licensing which she has now characterized as "unlawful." Her letter omits this background information.



For historical context, the VSBPE became a freestanding public board, in 2007, subsequent to the passage of Act 214 of 2006. Act 214 contained a transition provision at Sec. 13, as follows:

TRANSITION; EFFECTIVE DATE

(b) Regulations and standards adopted by the state board of education which relate to the areas under the authority of the Vermont standards board for professional educators pursuant to this act shall remain in effect upon passage of this act until the standards board officially changes them.

It is worth noting that the above referenced rule of the VSBPE existed, in sum and substance, as it does now, prior to the passage of Act 214 of 2006. In other words, the legislature already spoke on this issue and has approved VSBPE Rule 5444, and its related practice, and even the existing endorsements at the time.

To address a few other points in Ms. Crippen's letter regarding endorsements, we have the following to say:

- To sweepingly say that an educator endorsement "requires specialists and prohibits generalists" is irresponsible. All teachers share some knowledge that is transferable; but different age groups and subjects have different requirements. In elementary school, a single teacher is able to teach all grades and most subjects. However, by secondary school, teachers begin teaching by subject and may not be qualified to teach all subjects simply because they can teach one. This would be akin to saying that we need not differentiate between cardiac surgeons and podiatrists and simply refer to them as doctors. Obviously, some medical knowledge is shared; but much is specialized.
- In addition, as the education field increases its knowledge, new specializations emerge that were previously unknown. For example, we previously had licenses for teachers of the physically disabled; today, we have endorsements for special education teachers, consulting teachers, teachers of the deaf and hard of hearing, and teachers of the blind and visually impaired. This is because the skill set to provide the instruction in each of these fields is unique and being qualified to teach in one area no longer makes one qualified to teach in the other field(s). We would not expect a cardiac surgeon to have sufficient knowledge to treat feet; nor a podiatrist to perform a quadruple bypass.
- Our job and our goal as a state education agency is to oversee the provision of equitable, quality education for all of Vermont's students and prepare them for future careers and college readiness. Ensuring that Vermont educators are prepared to fulfill those demands is our responsibility.
- Regarding the cost of educator endorsements for our hard working Vermont educators, regardless of how many endorsements, the fee to renew the license is paid only once. To



address professional development hours, many of these hours can be applied across all endorsements. And while every time an endorsement is renewed educators need to provide a portion of 15 hours of professional development (1 credit) related to their area of expertise for each year under renewal, these can be accomplished through thirteen different mechanisms and most do not require any expenditure on the part of educators (http://education.vermont.gov/documents/EDU-Professional_Learning_Qualified_Activities.pdf). Asking a math teacher to spend a total of 15 hours over three years to stay current in mathematics is a relatively small requirement. In addition, we feel it is important. We know strong subject matter mastery is associated with better student outcomes, and this continuous investment in learning pays off in terms of better educated teachers and better student outcomes.

- Regarding the cost of the Agency's licensing team; we have fewer licensing staff than two years ago, largely because we have moved to an online licensing platform. We only have 2.5 licensing specialists and three support staff processing the licenses for approximately 17,000 educators. On an annual basis, our specialists process approximately 3,400 license renewals and about 750 first time teachers in Vermont. This is in addition to supporting a number of other teacher quality and reporting initiatives. The new process and online system is what enabled us to increase our efficiency and reduce wait times, even as we have reduced staffing through attrition to two and a half licensing specialists and three support staff. The valuable contributions of these dedicated state employees to system and process improvements has made it possible for us to operate without larger numbers, including temporary employees.
- It is very curious that Ms. Crippen believes there is a serious problem with the licensing process, yet she never addressed or raised these concerns during her 14 year tenure at the Agency of Education as staff counsel to the Licensing Office.

Another important fact not addressed in the letter relates to federal funding and the governance of Vermont's education system. Endorsements, specifically, are vital in recognizing the education and experience of our amazing Vermont teachers. Endorsements are also imperative in determining the quality of service afforded to Title I students, as required by federal funding, and will play a role in ensuring high quality teaching under the recently enacted Every Student Succeeds Act. This new federal law makes frequent reference to the State's ability to monitor teacher licensing. Vermont meets this by matching teachers' subjects/courses and their licensing endorsements. This serves as a primary signal of the State's commitment to ensuring access to high quality learning opportunities for students.

The fact is that the (nearly) 17,000 Vermont educators deserve to have their hard work represented accurately by their educator license. And the (over) 85,000 Vermont students deserve to have access to the best, high-quality teachers and administrators possible to help




Ann Cummings, State Senator

guide them to career and college readiness. We are striving each and every day to embody these fine ideals in our administration of this important policy goal.

I would be happy to appear before your committee if you or your fellow members have any questions or concerns about these issues.

Sincerely,



Rebecca Holcombe

Secretary of Education

cc: Rep. David Sharpe, Chair, House Committee on Education
Senator Jeanette White, Chair, Senate Committee on Government Operations
Rep. Donna Sweaney, Chair, House Committee on Government Operations
Steven John, Chair, Vermont Standards Board for Professional Educators
Stephan Morse, Chair, Vermont State Board of Education
Jim Condos, Vermont Secretary of State
Martha Allen, Vermont NEA
Joel Cook, Vermont NEA
Louise McCarren, Chair, Campaign for Vermont
Justin Johnson, Secretary of the Administration



Subject:

FW: UNDER THE RADAR: THE AGENCY OF EDUCATION GETS BUSTED FOR UNLAWFUL
TEACHER LICENSING REQUIREMENTS

From: Campaign for Vermont <info@campaignforvermont.org>

Date: March 9, 2016 at 7:51:05 PM EST

**Subject: UNDER THE RADAR: THE AGENCY OF EDUCATION GETS BUSTED FOR UNLAWFUL
TEACHER LICENSING REQUIREMENTS**



**UNDER THE RADAR: THE AGENCY OF EDUCATION GETS
BUSTED FOR UNLAWFUL TEACHER LICENSING
REQUIREMENTS**

Legislative hearings on a sleeper of a bill, S. 217, have had the unintended consequence of exposing the Agency of Education's long-standing unlawful teacher licensing process, as explained below, with important financial implications for taxpayers generally and even more serious legal and financial implications for teachers, schools and the Agency itself.

First of all, the unlawful system drives up both property taxes and income taxes. By statute, a person cannot be employed as a "teacher" in a public school without a valid license. 16 V.S.A. § 1692. However, the Agency of Education, and the Vermont Standards Board for Professional[1] (a lay body with a teacher majority membership) have created a licensing process that requires every general teacher's license to carry a specific "endorsement." [2] There are now 44 different endorsements (six for administrators and the rest for various categories of teachers). Dividing up the duties of teacher in this way, while prohibiting schools from employing teachers in areas outside of their endorsement area [3], contributes to overstaffing in schools. The system requires specialists and prohibits generalists. More teachers means more local staff cost for schools paid for by property taxes. It also means more members of the teachers' retirement fund, a big chunk of the general fund, which is largely supported by the income tax.

The second problem is that the unlawful system is expensive for teachers. To be eligible for a particular endorsement a teacher must meet very specific requirements for education and experience and

demonstrate competency in certain skill areas. Separate ongoing professional development requirements for renewing a license apply to each endorsement. If a teacher has more than one endorsement the cost of meeting initial licensure and professional development requirements is increased.

Finally, the unlawful system has created more state employees. The Agency of Education has an entire licensing division devoted to determining whether teachers meet endorsement requirements. Licensing fees primarily fund the positions but the retirement costs are yet another general fund expenditure.

So why is the teacher licensing system unlawful? As recently discovered and exposed by the Vermont Secretary of State's Office, AOE and the Standards Board have created these endorsements completely outside of Vermont's statutory requirements for rule making.[4] This came to light because over the years AOE has expanded its' endorsement turf to capture professions, like speech language pathologists and psychologists, already regulated by the Secretary of State's office. S. 217 is intended to put an end to dual licensure and require a study of statewide licensure with an eye towards consolidation. As the hearings became contentious and turfey the Secretary of State made good on its commitment to transparency by taking a close look at the endorsement requirements. Here's what the Deputy Secretary of State had had to say:

"Endorsements are promulgated by the VSBPE (Standards Board) outside of the APA (Administrative Procedure Act) process.... It is well established and self evident that "when an agency adopts policy or procedure it should not supplant or avoid the adoption of rules." See 3 V.S.A. § 800(4).

He goes on to point out a very specific APA rulemaking provision designed to control education costs:

"If a rule affects or provides for the regulation of public education and public schools, the agency proposing the rule shall evaluate the cost implications to local school districts and school taxpayers, clearly state the associated costs, and report them in a local school cost impact statement to be filed with the economic impact statement on the rule required by subsection 838(c) of this title. An agency proposing a rule affecting school districts shall also consider and include in the local school cost impact statement an evaluation of alternatives to the rule, including no rule on the subject which would reduce or ameliorate costs to local school districts while achieving the objectives or purposes of the proposed rule. The legislative committee on administrative rules may object to any proposed rule if a local school cost impact statement is not filed with the proposed rule, or the committee finds the statement to be inadequate, in the same manner

in which the committee may object to an economic impact statement under section 842 of this title. 3 V.S.A. § 832(b).”

Senate Government Operations S.217

By ignoring the rule-making process both the Agency of Education and the Standards Board have avoided public input, cost analysis and legislative oversight. Then there’s the issue of enforcing “rules” that arguably don’t have the force and effect of law. [5]The implications here are staggering. How this gets sorted out is the responsibility of the Governor’s office and quite possibly the courts. Now that the Governor has direct supervisory authority over the Secretary of Education he needs to exercise it by insisting that teacher endorsements are subject to immediate rulemaking. The legislature in turn should take this as a lesson in why professional licensure should be housed entirely within an agency that understands and respects its’ legal obligations and its’ responsibility to the public.

We believe Campaign for Vermont offers substantive insight, information and advocacy on a non-partisan basis relative to Vermont’s affordability crisis. We hope you have found value in the above presentation. A contribution of \$50 dollars, \$100 dollars or more would be greatly appreciated and well used to keep us working hard for you. We do recognize that not all of our supporters can afford this so a donation in any amount is highly valued. **Please renew that support with a donation.**

And visit us on [Facebook](#) or [Twitter](#) too!

Best,

Barbara Crippen
Policy Coordinator

[1] Regulatory authority over licensing was transferred from the State Board of Education to the Vermont Standards Board. The Agency of Education has a full time staff issuing licenses, a Deputy Secretary for Educator Quality and attorneys and investigators performing functions related to educator misconduct and/or incompetence complaints.

[2] Rules 5220.2 and 5440, *Licensing of Educators and Preparation of Education Professionals*.

[3] Rule 5220.7

[4] 3 V.S.A. Chpt. 25.

[5] See *Parker v. Gorczyk*, 170 Vt. 263 (1999).

Campaign for Vermont · PO Box 4224, Burlington, VT 05406, United States
This email was sent to [REDACTED]. To stop receiving emails, [click here](#).

You can also keep up with Campaign for Vermont on [Twitter](#) or [Facebook](#).

Created with [NationBuilder](#), software for leaders.