



Vermont Independent
Schools Association

July 28, 2016

Stephan Morse, Chair
Vermont State Board of Education
via email & personal delivery

Dear Chairman Morse:

I request the Board not move to a vote at the Board's July 29 meeting on Item J, the independent school rule proposals prepared by the Agency of Education. I make this request for two reasons: evidence of likely rule implementation problems and questions about the enforceability of the proposals.

Several difficult implementation issues already have been brought to my attention. Several more likely will be discovered as we further study the proposals. An example of a simple issue is the proposed exclusion of the religious independent schools from gaining approved status. A much more complex issue involves how very small schools or very specialized schools can comply with the special education proposals within their limited financial means and their educational missions.

Our legal advisors are concerned about whether the proposed rules can be enforced within the scope of federal and state law. Vermont Title 16 is quite clear about the sorts of conditions the Education Board may establish for independent school approval. Federal law and federal court precedent raise serious questions about whether the state may make any special education requirements for independent schools. These concerns should be thoroughly addressed ahead of an Education Board vote.

Because of these problems and concerns, I respectfully request the Vermont State Board of Education to defer action until all interested parties are fully prepared. We also request the Board set a process for the Agency of Education, the State Board and the independent schools community to have a dialogue

about policy goals and implementation procedures. The issues at hand are not yet ready to be brought to the public hearings portion of the rulemaking process.

Sincerely yours,

Mill Moore, Executive Director

Copies: Education Secretary Rebecca Holcombe
CIS Co-chair Michael Livingston
CIS Co-chair Mark Tashjian