LYNN, LYNN, BLACKMAN
& MANITSKY, P.C.

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Ron Wild
Committee Staff
House Committee on General, Housing and Military Affairs
Room 44
Office of Legislative Council

To Whom It May Concern:

Our firm represents many Vermont school districts. My focus in connection with the firm's education law practice is in employment and labor law matters. I frequently advise and train our clients on issues having to do with hiring, discipline and termination of teachers. I also defend districts in litigated matters in the state and federal courts and in arbitration under collectively bargained grievance procedures.

I reviewed the proposed changes to 16 V.S.A. section 1752 contained in H805. I wish to comment on the proposed changes contained in subsections (a) and (f).

Subsection (a) precludes "interference" with the right to be interviewed for, be offered, and accept a new teaching position. It makes "interference" the possible subject of a licensing action. The term "interference" is undefined.

It is not clear to me why the change is desired. In my experience, teachers are always free to interview and accept jobs elsewhere. The only restriction is that most collective bargaining agreements, negotiated by teachers, require that if a teacher wishes to return for another year of employment with a school district, the teacher must return a signed contract before a specific date, typically in April or May. The teacher is then bound to the district for the upcoming year.

Further, the language of the amendment does not define what constitutes interference. It is unclear whether that means advising another district that the teacher is under contract already, providing a poor reference or some other action. The ambiguity of the provision is concerning. For example, it is important that school districts be able to communicate to one another if an employee is already under contract. Otherwise, teachers could easily breach their contractual commitment to a district, leaving the schools unable to find suitable replacements.

Subsection (f) seems reasonable on its face. It is hard to imagine that a teacher's testimony would ever be grounds for discipline. However, there are some instances where it should be. If a teacher intentionally engaged in bad faith testimony that was false, defamatory, racist or constituted hate speech, it would be reasonable for there to be disciplinary consequences for the teacher. For example, I would expect that there would be consequences for a teacher who made racist statements to the State Board of Education.

Any concerns that school districts would discipline employees for making truthful and good faith statements to State Board of Education or the legislature is wholly unfounded. Under the collective bargaining agreements for Vermont teachers, teachers are entitled to arbitration of any disciplinary action against them. There is no arbitrator who would ever uphold discipline for truthful and good faith testimony by a teacher.

I hope that my statements are helpful to the Committee.

Thank you.

Very truly yours,

LYNN, LYNN, BLACKMAN & MANITSKY, P.C.

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