

May 1, 2014

To: Sen. Phil Baruth

From: Mill Moore

Re: Dual Enrollment Background: Entitlement to Public Funds & Constitutional Questions about Private-Pay Students Attending Religious Schools



Vermont Independent  
Schools Association

Under the dual enrollment program, high school juniors and seniors may receive public funds to enroll in one college-level class per term and receive credit toward both high school and college graduation. The funds provided are approximately \$670 per course, with that cost being shared equally between the Education Fund and the Next Generation Fund from within the General Fund.

The dual enrollment program has existed for several years, during which it was open to all Vermont resident students. Last year however, adoption of 16 V.S.A. Section 944, blocked eligibility for students who attend approved independent schools on a private-pay basis. That left two-groups of students without eligibility: those attending independent non-sectarian (or non-religious) schools on a private pay basis and those attending any of the approved religious high schools in the state, schools such as Rice Memorial High School in Burlington or Grace Christian School in Bennington all of whom are attending on a private pay basis.

The Vermont Independent Schools Association has argued that every Vermont resident student is entitled to public education funds. Decisions on where a student goes to school do not affect the student's public education entitlement. Testimony from a Vermont Law School constitutional law professor makes clear there is no constitutional bar to supporting dual enrollment for students attending religious high schools, because no money goes to the sectarian schools nor does it support religious instruction when it goes to sectarian colleges.

The Education Committee has agreed, though it has chosen not to take funds from the Education Fund to support these students' dual enrollment fees. Instead, the Next Generation Fund is authorized and the independent schools will be responsible for the other half.

***Excerpt from testimony by Peter Teachout (an expert on U.S. and Vermont constitutional law and a professor at Vermont law school):***

The question I have been asked to address in my testimony is whether either the Establishment Clause of the U. S. Constitution or Article 3 of Chapter I [the so-called "Compelled Support" Clause] of the Vermont Constitution requires exclusion of students attending the religious

high schools from eligibility for state-funded dual enrollment support. *I conclude that neither the Establishment Clause of the U.S. Constitution nor the Compelled-Support Clause of the Vermont Constitution require the exclusion of students attending private religious high schools in the state from eligibility for publically funded dual enrollment support.*

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