



Vermont Independent
Schools Association

Testimony to Vermont Senate Education Committee

Mill Moore, Executive Director — January 13, 2022

Thank you Senator Champion for inviting me to speak today on S.219, a bill that addresses important matters concerning the use of public funds to support Vermont students' education in independent religious schools.

To put things in context, I should mention that Vermont currently has 17 approved religious schools enrolling 1,895 students in this academic year. And, the most recent Agency of Education data shows fourteen students received tuition support in the previous academic year.

S.219 lists three objectives in its statement of purpose, which I will address in turn:

First, it proposes to ensure compliance with the U.S. and Vermont Constitutions with respect to school districts paying tuition to religious schools and specifically mentions the Vermont Constitution's requirement that schools have what are specifically termed "adequate safeguards" to ensure that funds are not used for religious purposes.

My association agrees with this objective. The relevant holdings of the U.S. Supreme Court and the Vermont Supreme Court are clear and well understood.

Additionally, we think it will be quite helpful for legislation to clarify school districts' responsibilities with respect to the "adequate safeguards" requirement. Current procedures across the state have been inconsistent, potentially with multiple differing approaches for tuitions to a single religious school. Schools and districts will both benefit from legislative guidance in this area.

Second, the bill would prohibit payment of public funds to any qualified independent school, whether religious or secular, that does not comply with federal and State non-discrimination laws applicable to public schools.

The Vermont Independent Schools Association's Executive Committee recently affirmed that this association does not support use of public funds in any school with discriminatory enrollment or hiring practices.

In its third objective, the bill would clarify the circumstances in which a school district shall make dual enrollment services available to students attending religious schools.

I think it very unfortunate that dual enrollment has become closely linked to questions about tuition payments to religious schools. There is no reason to link the two. The linkage has caused unnecessary denial of a public benefit to several Vermont high school students.

Dual enrollment for religious school students was on this committee's agenda eight years ago. With my encouragement, the committee then heard testimony from Professor Peter Teachout of Vermont Law School. I have provided a transcript of his testimony among the materials I have provided to your Committee Assistant. I also have provided the text of a memo I wrote to then committee chair Senator Baruth and a position paper on the topic adopted by the Vermont Independent Schools Association.

Professor Teachout concluded that neither the U.S. Constitution nor the Vermont Constitution require excluding students attending religious schools from the dual enrollment program. There's no church versus state linkage because dual enrollment funds are paid to the *provider* of the dual enrollment courses—usually a college or university—not to the religious school.

Additionally, those students cannot be excluded because dual enrollment is part of every Vermont resident student's constitutional entitlement to a publicly-supported education.

A legislative action to permit dual enrollment for religious school students passed both the House and Senate later on. However, the bill containing that provision failed to pass out of a conference committee at the time of adjournment.

I recommend this committee should re-examine the language that it previously endorsed and that fell just one small step short of enactment.

I also recommend this committee take steps to separate the consideration of dual enrollment from consideration of public funds going to religious schools. Commingling the two in legislative work is has been the cause of much unnecessary misunderstanding and delay.

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