

TESTIMONY PROVIDED TO: House Education Committee

BY: Mark Tucker, Superintendent, Caledonia Central Supervisory Union

TOPIC: **House Bill Related to Private School Equity, Transparency and Accountability**

Date: March 16, 2023

Thank you for the opportunity to testify today. I am Mark Tucker, Superintendent for the Caledonia Central Supervisory Union (CCSU). CCSU comprises five districts operating seven schools. Three are PK-12 schools, three are PK-8 schools, and one is a PK-6 school. For the schools that tuition above grade 7, we primarily send students to four area private schools.

Generally, I like the direction of this draft because it gets to the heart of my concerns about equity, non-discrimination and transparency in and by private schools.

Strengths include:

- The required conformance with public accommodations and non-discrimination laws in VT. This is a fundamental issue in this State, even absent the pressure imparted by the Carson v. Makin decision;
- The requirement that such schools be approved or accredited;
- The elimination of the designation approach, which was problematic for my two districts that tuition students to private schools.

Concerns remain:

- We need consistent rules that describe how a private school may charge for special education services. One of the private schools to which my SU currently pays tuition utilizes a flat rate charge for students on IEPs, in an amount that is almost exactly a 50% premium of the general tuition rate, regardless of the degree of need; a student needing 2 hours of reading support each week costs the same as a student who needs to be in specialized "Life Skills" classes all day long. The correct approach is to follow the public school "Excess Cost" approach, which means we pay for what each student needs as prescribed in their IEP. H.258 had better language addressing this issue than does the House Ed draft I am looking at today.

- This draft makes a valiant attempt to introduce accountability into the relationships we have with our private schools. I think there is more to be done. In addition to the items outlined, I am concerned about the ongoing practice of *dismissing* or *unenrolling* students by private schools - which is their euphemistic language that avoids the use of the word "*expulsion*." This practice occurs without notice to the LEA, leaving the student and the family, who often do not know their rights and my responsibilities, to fend for themselves. I have experienced this in CCSU, and while I am not empowered to speak for my regional colleagues, I know that mine is not an isolated situation. In fact, some of my colleagues report higher numbers of unannounced dismissals than I have experienced. As an LEA responsible for a five-district Supervisory Union, I am very sensitive to my responsibility to ALL of the resident students in my districts. That sensitivity is informed by both moral and legal precepts. Public schools are not allowed to dismiss or unenroll a student. Private schools eligible to receive public tuition should be required to follow the same suspension and expulsion laws as public schools.
- In testimony from the private schools on the committee bill, whenever there was a requirement, they would say "you should make the public schools do it or attest to it." I already do a great deal of attestation about the operation of the public schools that I serve, based on information that I have at hand because I am accountable for the running of these schools. If the committee would like to see an example of the annual "Superintendent's Assurances" that I submit to the Agency, I am happy to provide that following today's hearing. It is a useful model for the private schools to follow because it already exists and its distribution is as easy as adding a few emails to a distribution list maintained by the Agency.
- Finally, I listened to Secretary French's testimony to this committee on the 14th, and I will respectfully disagree that accountability of the private schools to their public fund providers is best handled by a contract. We have contracts with the private schools that provide special education services, specifically addressing the conditions and costs of them providing those services, but we do not have a contract for general education students. Parents who choose to send their kids to one of these schools tell us that is their choice, they sign a tuition voucher, and we pay the bill. Suggesting that this is a contract issue and not a regulatory issue puts the

onus on me to negotiate a contract with each school, and potentially creates the situation where my contract would conflict in some ways with the terms of contracts negotiated by different LEAs. Furthermore, I have to ask what incentive I can provide to one of these schools to sit down at the table for a contract discussion in the first place.

It would make more sense - both from a consistency of expectation perspective and an ease of effort perspective - to have the transparency expectations outlined in statute, or through some negotiated process that is guided by clear minimal expectations contained in statute. Even more to the point, even if I could negotiate a contract, if there is no enforcement mechanism built into the State Board Rule 2200 framework, then how am I supposed to hold a private school accountable to our contract? I can't simply withdraw a student that is attending by way of parental choice. Do I sue them for non-compliance, spending money on attorney's fees that I would rather spend on kids?

Secretary French made reference to the Agency's work on Quality Assurance Review (QAR) guidelines and disclosed that the Agency will have an enforcement mechanism, but then went on to say that QAR will not apply to the private schools. But if those guidelines are enforced against public schools, and public schools represent 96% of the students in Vermont, I don't see it as a big stretch to have the same accountability measures applied to the remaining 4% who are served by private schools. In all of my accountability responsibilities, if I was willing to forgo accountability to and for 4% of anything - students, dollars, employees, facilities - or if I was to create lesser standards by which I exercised responsibility for that 4%, I think my approach could be called into question.

Thank you,

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