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Agency of Education

September 13, 2022

Dear Superintendents:

This letter provides guidance regarding payments of tuition to approved independent schools and independent schools meeting educational quality standards pursuant to 16 V.S.A. §§ 821 and 822.

Recently, the U.S. Supreme Court issued a decision in the case *Carson v. Makin*, 142 S. Ct. 1987 (2022). *Carson v. Makin* related to Maine's program for providing education to students who live in districts that do not operate secondary schools. Similar to Vermont, Maine provides for tuition assistance to the public school or approved private school of the parent's choice. To be approved for tuition purposes, Maine's law required a school to be a "nonsectarian school in accordance with the First Amendment of the United States Constitution." The Supreme Court held that Maine's "nonsectarian" requirement violated the Free Exercise Clause of the First Amendment.

In light of the U.S. Supreme Court's decision in *Carson v. Makin*, we are writing to advise you of the following: School districts may not deny tuition payments to religious approved independent schools or religious independent schools that meet educational quality standards based on the Vermont Constitution's Compelled Support Clause, Vermont Constitution Chapter I, Article 3. Requests for tuition payments for resident students to approved independent religious schools or religious independent schools that meet educational quality standards must be treated the same as requests for tuition payments to secular approved independent schools or secular independent schools that meet educational quality standards. Tuition payment to approved independent schools must follow 16 V.S.A. §§ 821-828 and must be paid without regard to any tuition assistance that schools provide to students whose tuition is privately paid.

Please note that tuition can *only* be paid to a public school, an approved independent school, an independent school meeting education quality standards, a tutorial program approved by the State Board, an approved education program, or an independent school in another state or country approved under the laws of that state or country. 16 V.S.A. § 828.

A directory of independent schools—specifying whether the program is an approved independent school, recognized independent school, or another type of



program—is available at the [Agency of Education’s Independent Schools webpage](#).

If you have any questions or concerns, please email Emily Simmons at [Emily.Simmons@vermont.gov](mailto:Emily.Simmons@vermont.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read "Dan M French".

Daniel M. French, Ed.D.  
Secretary of Education

