

# Written Submission to the Vermont House Committee on Commerce and Economic Development

Re: H.650 (Draft 2.1), Relating to Educational Technology Products

February 26, 2026

Travis Gilly, Executive Director, Real Safety AI Foundation

## Introduction and Points of Agreement

Chair Marcotte, Vice Chair Greening, and members of the committee, thank you for the opportunity to testify on February 26, 2026 and to submit this written supplement. I want to begin by stating clearly where I agree with this committee, with the witnesses who preceded me, and with the intent of H.650.

I agree that data privacy in educational technology is a serious and largely unaddressed problem. Mr. Liddell's testimony confirmed that the edtech industry has distorted COPPA and FERPA to avoid meaningful consent and disclosure requirements. Under current practice, companies assert that under COPPA, companies are schools, and under FERPA, schools are parents, eliminating the need for parental consent before data collection begins. This is a loophole, not a safeguard. I support closing it.

I agree that unstructured personal device use during instructional time is a distraction. I agree that social media platforms have design features that exploit attention. I agree that content filtering failures on school devices expose students to serious harm, including the predatory contact and inappropriate content Mr. Liddell described.

I agree that students deserve a transparent, accountable system for vetting the technology used in their classrooms. Multiple witnesses on February 26 demonstrated that robust district-level processes for this already exist in Vermont. Ms. Agner, Technology Director at Rutland City Public Schools, described a multi-layered vetting process involving data privacy agreements through the Student Data Privacy Consortium, active blocking of non-compliant software, and collaborative review across teachers, department heads, curriculum specialists, principals, and assistant superintendents. Ms. Bedeau, Director of Curriculum, Instruction and Assessment for Central Vermont Supervisory Union, described a functionally identical process: security and privacy review first, then educational value assessment using established evidence clearinghouses, followed by structured pilot programs with data analysis, formal training, and ongoing professional development.

These are not isolated examples. Two different districts in different parts of the state, serving different populations, described the same professional standard of practice. The infrastructure for accountable software vetting exists. It needs to be standardized, not replaced. Draft 2.1's shift from immediate certification to registration and a study is a meaningful structural improvement that creates space for that standardization.

Where I part company with some of the testimony this committee has heard is not on whether these problems are real. They are. It is on whether the study criteria in Section 2 of Draft 2.1, if carried forward into certification, will inadvertently harm students with

disabilities. I believe several of them will, and I want to explain why and offer specific alternatives.

## Concerns with Study Criteria in Section 2

### 1. Nondigital Comparison Criterion

The study criteria include evaluating "advantages of using the product compared with nondigital methods." For neurotypical students, a physical textbook may work as well as a digital one. For a child with cerebral palsy, there is no nondigital equivalent. For a nonverbal child, there is no nondigital AAC device. For a student with dyslexia, there is no nondigital text-to-speech. This criterion, if carried into certification, structurally disadvantages assistive technology by framing digital tools as optional alternatives rather than necessities with no analog equivalent.

The committee's own exchange with Ms. Bedeau revealed an instructive asymmetry. When asked whether books go through a similar vetting process, Ms. Bedeau confirmed that individual books are not vetted through anyone, while software goes through a multi-step compliance process. Software is already held to a higher standard than physical instructional materials. The bill's framing assumes the opposite.

*Recommendation: Add language requiring the study to account for tools that have no nondigital equivalent, particularly assistive technology mandated by IEPs and 504 plans.*

### 2. "Features That Would Lead to Compulsive Use"

The study criteria flag "features that would lead to compulsive use" as a design concern. For an ADHD student, gamification is a dopamine delivery mechanism. ADHD is, at its neurological core, a dopamine regulation disorder. Gamification increases dopamine and serotonin release. It does for attention what a ramp does for a wheelchair.

The FDA has authorized a video game as a prescription treatment for ADHD: EndeavorRx (De Novo authorization DEN200026, June 2020) and EndeavorOTC (510(k) clearance, 2024), published in *The Lancet Digital Health*. The same prior testimony that criticized gamification cited 504 plans and IEPs as existing safeguards. Those IEPs prescribe gamified tools. Those two positions cannot both be right.

Two witnesses on February 26 offered practical context that further complicates the addiction framing. Ms. Agner stated: "Just because something is gamified doesn't mean that they want to do the job. Students tend not to ask for time in gamified content software. They're doing additional practice in an area where they may already be struggling." Ms. Bedeau described applications that "serve varied instructional purposes," providing "additional practice for students who need reinforcement of prior grade level skills" and "enrichment opportunities for students ready to extend beyond grade level standards." Neither witness described students exhibiting compulsive use of educational software. The addiction framing does not match the classroom reality these professionals reported.

Recommendation: *Define "compulsive use" in a way that distinguishes between exploitative engagement mechanics (infinite scroll, variable reward schedules tied to advertising) and therapeutic engagement for neurodivergent students (structured gamification, adaptive pacing, progress-based rewards tied to educational objectives).*

### 3. "Use of Artificial Intelligence" as a Design Concern

The study criteria flag "use of artificial intelligence" as a design feature requiring evaluation. Ms. Levasseur's testimony reinforced this concern, noting that "artificial intelligence is a buzzword" and "a marketing phrase" that "really needs a much, much more precise breakdown" into "concrete software behaviors that can be measured."

AI is not inherently a risk category in educational technology, though it absolutely is in other contexts such as public infrastructure, surveillance, and autonomous systems. In edtech, AI powers text-to-speech, speech-to-text, adaptive learning platforms, and communication devices for nonverbal students. AI also powers behavioral profiling, targeted advertising, and data brokering. Flagging the word "AI" without distinguishing between these uses will produce certification criteria that sweep assistive technology into the same bucket as exploitative data practices.

Ms. Agner noted that as students progress through school, technology becomes more specialized, including music composition software, CAD software, engineering tools, and CTE industry-standard applications. Many of these tools now incorporate AI functionality. Ms. Bedeau described adaptive math software that identifies student gaps and provides individualized support. Both are describing AI-powered educational tools that serve clear instructional purposes. Treating AI as a blanket concern rather than evaluating specific behaviors would jeopardize these applications.

Recommendation: *Replace "use of artificial intelligence" with specific, measurable software behaviors: adaptive content delivery, behavioral profiling, data brokering, predictive analytics for advertising purposes, and automated decision-making affecting student access. Evaluate each based on its function and impact, not on whether the underlying technology uses AI.*

### 4. "Personalized Recommendation Systems"

Personalized recommendation systems are how adaptive learning works. The software adjusts content based on how the student interacts with it: where they struggle, what pace works, what interventions help. For a student with an IEP, personalized recommendations are not a design concern; they are the accommodation. If the study treats personalization as inherently suspect, it will produce certification criteria that conflict with how IEP-mandated adaptive tools function.

Ms. Bedeau described this exact dynamic in her testimony. Her district's math program includes "an online portion that is adaptive to each individual student based on the assessment that they take three times a year." The assessment "identifies areas of need that the student has, gaps that they need filled, and it gives them individualized support to get those gaps filled." She expressed direct concern that if the online portion is not approved under whatever system Vermont builds, "our teachers would be left without

those resources" and "our students, in a time where we're focusing more than ever on improved student outcomes, could actually potentially lose those supports."

There is a critical distinction between a system that recommends the next math problem based on a student's demonstrated skill level and a system that recommends the next YouTube video based on maximizing watch time. Both are "personalized recommendation systems." One is an accommodation. The other is exploitation.

Recommendation: *Distinguish between educational personalization (content adaptation based on demonstrated learning needs) and commercial personalization (content recommendation based on engagement maximization or advertising objectives).*

## What the Committee Did Not Hear on February 6

No disability rights organizations testified on February 6. No special education experts. No students. No parents of students with disabilities. The National Disability Rights Network's managing attorney has publicly stated that device and technology bans "stop an IEP team from considering a full range of options." That perspective was absent from the committee's initial hearing.

On February 23, 2026, the Council of Europe Commissioner for Human Rights, Michael O'Flaherty, issued a statement titled "Regulate Platforms, Not Children." He stated that "banning children's access to social media shifts the responsibility for safety from the platforms that create the environment to the children who navigate it." He urged governments to "pause and exercise caution" and to "consult with experts, civil society, and children" before passing restrictions. He also stated that "the source of harm is rooted in the design and incentives of the platforms. That should be the primary focus of regulation."

I would ask that the study mandated by Section 2 be required to include consultation with disability rights organizations, special education professionals, and families of students with disabilities. If disability is not at the table when the study is conducted, it will not be in the recommendations. And if it is not in the recommendations, the certification system Vermont builds will reproduce the problems I have described.

## Existing Infrastructure for a Procurement Standard

The February 26 testimony revealed that Vermont already possesses the infrastructure for a standardized procurement approach. Multiple districts described using the Student Data Privacy Consortium for legal protection, Clever or ClassLink for single sign-on security, GoGuardian or Securely for content filtering and classroom monitoring, and established evidence clearinghouses for educational effectiveness review.

Ms. Bedeau identified four specific evidence clearinghouses her district uses when evaluating new applications: Evidence for ESSA, ERIC at the Institute of Education Sciences, the Best Evidence Encyclopedia, and the National Center on Intensive

Intervention. These are the same sources the AOE recommends. The evaluation infrastructure is not hypothetical; it is in active daily use.

Ms. Agner proposed a "district-based standardized education software lifecycle" covering pre-acquisition vetting, procurement and implementation, and post-implementation review, developed collaboratively between the AOE and a multi-district committee. This is a procurement standard. It leverages existing expertise, maintains district-level nimbleness, and addresses the committee's consumer protection concerns without creating a centralized bottleneck.

Both Ms. Agner and Ms. Bedeau independently raised the same concern about centralization: that a state-level office cannot move fast enough for the diverse and specialized needs of Vermont schools. Ms. Agner asked, "Would we need to stop using" hundreds of products, and noted that "textbooks aren't readily available like they were 20 years ago." Ms. Bedeau noted that her district is "making contracts now with companies for next year" and that delays could leave teachers and students without critical resources. The study should consider a model that standardizes existing district processes rather than replacing them with a centralized office that both technology directors and curriculum directors have identified as a risk.

## The CART Accommodation and the Committee's Own Logic

When I registered to testify, I was offered CART (Communication Access Realtime Translation) as an accommodation. CART is a screen-based assistive technology. It was not certified. Nobody asked whether it had been evaluated against nondigital alternatives. Nobody questioned whether it collects behavioral or interactional data. This committee offered it because it is an accommodation, and when someone needs it, you provide it. That instinct is correct.

I ask the committee to extend that same instinct to the seven-year-old deaf student in a Vermont classroom whose version of that same tool would need to clear whatever certification process this study recommends. If the committee's own accommodation practices would not survive the criteria it is asking the study to evaluate, the criteria need revision.

## The Addiction Paradox and ADA Implications

Prior testimony described children as addicted to technology. This committee should consider the legal implications of that framing. Addiction is a recognized disability under the ADA. The ADA defines disability as a physical or mental impairment that substantially limits one or more major life activities. The Department of Justice has confirmed that addiction qualifies. The current-use exclusion in the ADA applies only to substances scheduled under the Controlled Substances Act. Technology use is not a controlled substance. There is no statutory exclusion for behavioral addictions related to technology. The WHO classified Gaming Disorder in 2022.

If these children are addicted, then by the committee's own framing, they are disabled. If they are disabled, removing the device without clinical intervention raises ADA compliance questions. The clinical consensus on addiction treatment is that abrupt removal without intervention is not evidence-based. The moment the word "addiction" is invoked, the ADA applies. The appropriate response is to regulate the companies that designed the addictive features, not to remove devices from students who may be clinically affected by them.

## Terms of Service and Cognitive Disability

Ms. Levasseur noted that terms of service for contract-free products constitute contracts between the user and the manufacturer, but that they "need to be tested in a court of law" because "there are several criteria about being informed that are impossible to meet." I would add that for students with intellectual or cognitive disabilities, meaningful consent to a terms of service agreement is functionally impossible. A student with an intellectual disability cannot read, comprehend, or meaningfully agree to a multi-page legal document. Treating ToS attestation as a safeguard for these students is a legal fiction. Any registration or certification system should account for this.

## The Evidence Base for Educational Technology Methodologies

This committee has heard that over 95 percent of edtech products lack an evidence base. That statistic measures whether individual products have conducted their own randomized controlled trials. Most have not. But the methodologies those products implement have been studied exhaustively:

Computer-supported collaborative learning: 425 studies, over 11,000 participants, effect sizes ranging from 0.42 to 0.89 (Chen, Wang, Kirschner & Tsai, 2018, Review of Educational Research 88(6), DOI: 10.3102/0034654318791584)

Gamification in K-12: Hedges'  $g = 0.782$ , nearly double that of most pharmaceutical interventions (Zeng et al., 2024, British Journal of Educational Technology)

Universal Design for Learning: 20 studies showing benefits for all learners, not just disabled students (Capp, 2017, Remedial and Special Education 38(4), DOI: 10.1177/0741932517700038)

UDL implementation fidelity: 34 percent reduction in the achievement gap between marginalized and non-marginalized students under high-fidelity implementation (Lowrey et al., 2025)

Ms. Bedeau's testimony demonstrated that districts already use these evidence clearinghouses. Her district consults Evidence for ESSA, ERIC, the Best Evidence Encyclopedia, and the National Center on Intensive Intervention before adopting any new application. The evidence exists and is already being applied. It lives at the methodology level, not the product level. The appropriate response is a procurement

standard that requires companies to demonstrate their methodology aligns with the existing evidence base, and to meet privacy and safety compliance as a condition of sale.

## A Note on the NAEP Correlation

The NAEP score decline in Vermont following Act 77 in 2014 is real. But correlation does not establish causation. Multiple factors changed in Vermont education around 2014, including Common Core adoption. Additionally, PISA systematically excludes approximately five percent of students with disabilities from testing. The students who benefit most from educational technology are not represented in that dataset.

## Technology as Supplement, Not Replacement

A consistent theme across the February 26 testimony was that educational technology supplements instruction rather than replacing it. Ms. Bedeau stated directly: "None of these tools replace core instruction delivered by certified teachers, nor are they used for prolonged unsupervised instructional periods." Ms. Agner described a "developmentally appropriate philosophy, prioritizing human connection and scaling tech usage for maturity." She personally stated she does not support technology in kindergarten, a position she said many educators share.

This is important context for the study. The narrative that schools are replacing teachers with screens does not match the testimony of the professionals who manage these systems. Mr. Liddell's examples of harm, including predatory contact through Roblox and open internet access on school Chromebooks, are content filtering and platform safety failures, not failures of educational software. The study criteria should reflect that distinction.

## Registration Fee Impact on Small Assistive Technology Providers

The \$500 registration fee is negligible for large edtech companies. For a small company that builds a specialized AAC app used by a few hundred nonverbal students nationwide, \$500 per state adds up quickly. Small assistive technology providers operate on thin margins because their market is small by definition. A flat fee structure that is invisible to Google is a barrier to the company that builds the tool a nonverbal child uses to communicate. I would encourage the committee to consider a tiered fee structure based on company revenue or number of users.

## Specific Recommendations for Draft 2.1

1. Require the Section 2 study to include consultation with disability rights organizations, special education professionals, and families of students with disabilities.
2. Add language to the nondigital comparison criterion requiring the study to account for tools that have no nondigital equivalent, particularly assistive technology mandated by IEPs and 504 plans.

3. Define "features that would lead to compulsive use" to distinguish between exploitative engagement mechanics and therapeutic engagement for neurodivergent students.
4. Replace "use of artificial intelligence" with specific, measurable software behaviors. Evaluate AI based on what it does, not on whether it is present.
5. Distinguish between educational personalization (content adaptation for learning) and commercial personalization (engagement maximization for advertising).
6. Consider a tiered registration fee structure to avoid disproportionate burden on small assistive technology providers.
7. If the study recommends certification, include an express pathway for assistive technology and IEP-mandated tools with a mandated review timeline and a deemed-certified default if not reviewed within that window.
8. If the study recommends data collection restrictions, exempt adaptive learning data required for IEP and 504 compliance. Require that such data be COPPA-compliant, FERPA-compliant, used exclusively for the educational purpose stated in the student's plan, and disclosed to parents in plain language.
9. Consider Ms. Agner's proposal for a district-based standardized education software lifecycle, developed collaboratively between the AOE and a multi-district committee, as an alternative to centralized certification. This model leverages existing expertise, maintains district-level responsiveness, and addresses consumer protection concerns without creating the bottleneck that multiple witnesses identified as a risk.

## Closing

I support the intent of H.650. Students deserve protection from exploitative data practices and unsafe technology. Draft 2.1's registration system and study framework are reasonable first steps. My concern is that several of the study criteria, as currently written, will produce certification recommendations that inadvertently harm the students who depend most on educational technology: students with disabilities.

The February 26 hearing demonstrated that Vermont's education professionals are not the problem H.650 is trying to solve. They are already vetting software, monitoring usage, protecting privacy, and making evidence-based decisions. The problem is that exploitative platform design, data brokering, and inadequate federal law have created risks that district-level processes alone cannot fully address. The study should focus its recommendations on closing those gaps without creating new ones for the students and educators who are already doing the work.

The study is where the real decisions will be made. Getting the criteria right now costs nothing. Getting them wrong will be written into whatever certification system Vermont builds next.

Respectfully submitted,

Travis Gilly  
Executive Director, Real Safety AI Foundation  
t.gilly@ai-literacy-labs.org