



TO: Members of the Senate Education Committee
FROM: Allen Gilbert, executive director, ACLU-Vermont
DATE: April 26, 2010
SUBJECT: School merger incentives

I understand that the committee is continuing its exploration of the proposal made by John Nelson of the Vermont School Boards Association regarding merger incentives based on school tax rate adjustments. I understand also that you have discussed the ACLU's concerns, and have invited someone from the Attorney General's office to speak with you about the merits of a constitutional challenge should the proposal be enacted into law.

I don't want to pre-judge what the representative from the Attorney General's office might say. The proposal, if enacted, may or may not withstand a challenge. But in a sense the more important issue is the precedent of intentionally deviating from the equity of the current funding system.

Vermont has the fairest school funding system in the country. That is not an accident, and it is not an accident that the funding system has remained largely intact since passage in 1997. It has remained intact because the equity of the funding system puts everyone on an equal footing. There is balance among all towns.

"Carve-outs" diminish that balance. And once one carve-out is made, it's easier to make more. As is true with many issues regarding equal treatment, trimming a corner here leads to trimming a corner there. "What's the harm?" you ask. Each individual step doesn't seem so bad. The cost of an individual carve-out may be minimal.

But the effect over time is pernicious. Harm results because before you know it, equal treatment is reduced to a goal that you're always trying to return to but keep slipping further away from. Because the equitable system is of benefit to fewer and fewer parties, support for it wanes. We end up with inequity. And we scratch our heads wondering how we got there.

I wish to stress that the ACLU has no position on school mergers per se. We also have no position on merger incentives per se. But we are opposed to incentives that carve into the basic equity of our current school funding system. We believe strongly that such incentive plans are not wise -- especially when there are alternative plans for funding the incentives. There is no need to upset the equity balance in the current funding system to encourage mergers.