

May 12, 2021

SENT VIA EMAIL TO: Daniel.French@vermont.gov

Daniel M. French
Secretary of Education
Vermont Agency of Education
1 National Life Drive, Davis 5
Montpelier, VT



Vermont

Re: Unlawful Use of Public School Medicaid Reinvestment Funds to Subsidize Local Police Departments

Secretary French:

The American Civil Liberties Union of Vermont (ACLU-VT) and the Disability Law Project of Vermont Legal Aid, Inc. (DLP) recently learned that, for at least the last two years, the Agency of Education (AOE) has approved the use of Medicaid Reinvestment Funds (MRF) to pay for police in schools. For example, in the 2019-2020 school year, Maple Run Unified School District and North Country High School in the North Country Supervisory Union were approved to use \$57,000 and \$82,000, respectively, of their MRF to fund school-based police from local departments. Because Vermont law does not allow the funds to be used in this way, we call on AOE to comply with the requirements of Title 16, immediately revoke these authorizations, and not provide such authorization in the future. In addition, we ask that AOE inform all schools receiving MRF, in writing, that such funds cannot be used for school security, surveillance, or policing.

Using Medicaid funds to subsidize local police departments is an unlawful use of MRF.¹ Title 16 limits the use of MRF to “administering the Medicaid claims process” and “prevention and intervention programs in prekindergarten through grade 12.” 16 V.S.A. § 2959a(e). Such programs “shall be designed to facilitate early identification of and intervention with children with disabilities and to ensure all students achieve rigorous and challenging standards approved and adopted by the State Board or locally adopted standards.” *Id.* According to AOE’s “Guiding Questions” document regarding MRF, schools’ use of MRF should aim to “result in fewer students being made eligible for special education.” In their annual written

¹ Neither the federal government in enacting the Medicaid program, nor the General Assembly in encouraging the State to maximize its receipt of Medicaid dollars for medically related services to students who are Medicaid eligible, contemplated using MRF to subsidize police in schools. Indeed, this practice runs counter to the purpose of the Medicaid program, which is to furnish medical assistance on behalf of families with dependent children and individuals who are aged, blind, or disabled, and to provide rehabilitation and other services to families and individuals to attain or retain capability for independence or self-care. *See* 42 U.S.C. §1396.

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justifications, supervisory unions must “show how the funds’ use is expressly linked to those provisions of the supervisory unions’ action plan that directly relate to improving student performance.” *Id.*

There is no link between the presence of police in schools and programs designed to support students with disabilities or student achievement in accordance with education standards.² Moreover, there is no conclusive evidence that police in schools increase student safety.³ On the contrary, studies show that police in schools make students feel less safe and more anxious, have a negative impact on educational achievement, and are associated with high rates of exclusionary discipline and in-school arrest.⁴ According to the U.S. Department of Education’s 2015-16 Civil Rights Data Collection (CRDC), Vermont schools have more security personnel than school psychologists, and only about an equal number of social workers.⁵ A CRDC survey from the same school year showed that approximately 22,000 Vermont students reported being in a school with police presence, but without a psychologist, nurse, social worker, and/or counselor.

Additionally, the presence of police in school results in Black students and students with disabilities, among other marginalized students, being disproportionately arrested and referred to the justice system. The 2015-16 CRDC showed that Vermont’s Black students were nearly six times more likely to be arrested at school than white students. Black students were also arrested or referred to law enforcement at a rate seven times what would be expected based on their population. Vermont’s students with disabilities were three times more likely to be arrested or referred to police.

When in schools, police do what they are trained to do—detain, interrogate, search, handcuff, and arrest. They are not psychologists, mental health or substance abuse counselors, social workers, para-educators, or other support personnel. Vermont schools

² No evidence exists to indicate that police in schools improve students’ mental health, educational outcomes, or their safety— and in many cases they are causing harm to students most at risk in these areas. See ACLU, *Cops and No Counselors, How the Lack of School Mental Health Staff is Harming Students* 6 (2019), <https://www.aclu.org/report/cops-and-no-counselors>. In addition, two recent studies showed that the presence of school-based police is linked to lower graduation rates, test scores, and college enrollment. See *New Studies Point to a Big Downside for Schools Bringing in More Police*, Chalkbeat, Feb. 14, 2019, <https://www.chalkbeat.org/2019/2/14/21121037/new-studies-point-to-a-big-downside-for-schools-bringing-in-more-police>.

³ See *Cops and No Counselors*, *supra* n. 2, at 4.

⁴ See *supra*, n.3. In contrast, schools that employ more school-based mental health providers see improved attendance rates, lower rates of suspension and other discipline incidents, improved safety, higher academic achievement, and improved graduation rates. See Lapan, R., Whitcomb, S., & Aleman, N., *Connecticut professional school counselors: College and career counseling services and smaller ratios benefit students*, 16(2) *Professional School Counseling* 117-124 (2012).

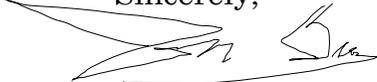
⁵ The 2015-16 CRDC also showed that Vermont’s student-to-social-worker ratio was five times higher than recommended by the School Social Work Association of American. See *Cops and No Counselors*, *supra* n. 2, at 12-13. Vermont’s student-to-school-psychologist ratio was more than double what is recommended by the National Association of School Psychologists. *Id.* at 13-14.

should be encouraged to use MRF in accordance with the statute to support and improve student achievement, not to subsidize policing.⁶

ACLU-VT and DLP call on the AOE to immediately halt this practice, revoke any such existing authorizations, and notify supervisory unions in writing that using MRF to subsidize police in schools is impermissible and counter to both the spirit and letter of the law.

Thank you for your consideration. Please do not hesitate to contact us with any questions via email at jdiaz@acluvt.org and mmahusky@vtlegalaid.org.

Sincerely,



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Cc: Kathryn Webb, Chair, House Education Committee
Brian Campion, Chair, Senate Education Committee
T.J. Donovan, Vermont Attorney General
Nilda Gonnella French, Chair, MRUSD Board
Dr. Keven Dirth, Superintendent, MRUSD
John A. Castle, Superintendent, NCSU
Steve Mason, Chair, NCSU Board

⁶ Given the higher-than-average rate of identified disability in Vermont students and the increased mental health needs of Vermont's youth, it is particularly important that MRF not be misused to subsidize local police instead of providing for trained professionals, such as school psychologists, mental health counselors, or social workers, who can meet students' varied needs in an equitable and supportive manner.