

Cornell-Brown, Rowan

From: Cornell-Brown, Rowan
Sent: Tuesday, October 23, 2018 4:20 PM
To: 'ecorwin@vpr.net'
Cc: Clark, Charity
Subject: Datapath Public Records Requests - Response
Attachments: 2018 10 23 Clark Public Records Response.pdf

Dear Ms. Corwin,

Attached please find a letter from Charity Clark responding to your recent public records requests.

Best Regards,

Rowan Cornell-Brown
Paralegal
Consumer Protection & Antitrust Units
Office of the Vermont Attorney General
109 State Street
Montpelier, Vermont 05609
802-828-5507

THOMAS J. DONOVAN, JR.
ATTORNEY GENERAL

JOSHUA R. DIAMOND
DEPUTY ATTORNEY GENERAL

WILLIAM E. GRIFFIN
CHIEF ASST. ATTORNEY
GENERAL



STATE OF VERMONT
OFFICE OF THE ATTORNEY GENERAL
PUBLIC PROTECTION DIVISION
TEL: (802) 656-3183
FAX: (802) 304-1014
OUTSIDE CHITTENDEN COUNTY
1-800-649-2424

ADDRESS REPLY TO:
CONSUMER ASSISTANCE PROGRAM
109 State Street
Montpelier, VT 05609
www.uvm.edu/consumer
e-mail: ago.cap@vermont.gov

October 23, 2018

Emily Corwin (via email to: ecorwin@vpr.net)
Vermont Public Radio
365 Troy Avenue
Colchester, VT 05446

Re: Public Records Request

Dear Emily,

I write in response to three public records act requests dated October 18, 2018, in which you requested:

1. *"All complaints to the AGO regarding the company known as datapath and/or the healthcare reimbursements offered to Vermont educators through the Vermont Education Health Initiative (VEHI);"*
2. *"An accounting of all complaints to the AGO made in 2018 regarding the company known as datapath, and/or the healthcare reimbursements offered to Vermont educators through the Vermont Education Health Initiative (VEHI), including the date each complaint was made. This could be a count of complaints by date, or a list of all complaints including a date and unique identifier;"* and
3. *"All communications to and from the AGO regarding the company known as datapath and/or the healthcare reimbursements offered to Vermont educators through the Vermont Education Health Initiative (VEHI)."*

Attached please find 19 pages of documents responsive to your request. Personal contact information has been redacted pursuant to 1 V.S.A. § 317(c)(7). In addition, the name of a student was redacted pursuant to the Family Education Rights and Privacy Act (FERPA).

To the extent you feel information has been withheld in error, you may appeal to the Deputy Attorney General, Joshua Diamond. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Charity R. Clark".

Charity R. Clark
Chief of Staff

From: AGO CAP <ago.cap@vermont.gov>
Sent: Monday, October 8, 2018 12:31 PM
To: AGO - CAP
Subject: CAP Complaint

Categories: Referral

The following CAP complaint was submitted:

Your First Name	[consumer information redacted]
Your Last Name	[consumer information redacted]
Confirmation Number	WB18-01022
Your E-Mail Address	[consumer information redacted]
Your Daytime Phone	[consumer information redacted]
Daytime Phone Type	Mobile
Your Mailing Address	[consumer information redacted]
Your City	[consumer information redacted]
Your State	[consumer information redacted]
Your Zip Code	[consumer information redacted]
Is your complaint about:	Some other type of business
Business Name or Person's First Name	Burlington School District & DataPath
Person's Last Name	Obeng
Business Phone (1)	802-864-8474
Phone (1)	Office

Type	
Business Phone (2)	8028642159
Phone (2) Type	Office
Business Address	150 Colchester Avenue
Business City	Burlington
Business State	VT
Business Zip Code	05401
Business Website/URL	www.bsdt.org
Description	<p>The Burlington School District canceled employee paid debit cards to cover \$800 of the required \$5,000 deduction. They have issued no reimbursement to employees and I have made several attempts to contact Data Path to inquire about my refunds and have not had any follow up from them. The Burlington School District has also not provided any support. I have medical bills going into collections and am at the point where I, and many other employees, hesitate to go to the doctor because we know we will not have any kind of financial support from the health insurance we are paying for. Here is the most recent email for your information.</p> <p>Dear VEHI,</p> <p>We have some exciting news to share with you! DataPath Administrative Services has found over \$675,000 in unpaid claims for VEHI participants.</p> <p>This sum reflects the number of missing claims found and processed after we transferred the data to a new environment and reimported a full claims file from BCBSVT.</p> <p>But we're not done yet! We'll continue to review and manually process each claim until every one of them is complete. We want to ensure your claims are correctly paid out so that you get your healthcare benefit dollars.</p> <p>Thank you for choosing DataPath Administrative Services. It is our pleasure to serve you.</p> <p>Sincerely, Ben Robbins</p>
Amount of loss:	1,000.00
How would	I would like my reimbursements issued by either DataPath or according to my contract, the Burlington School

**you like this
matter to be
resolved?**

District.

From: Clark, Brenda
Sent: Monday, October 8, 2018 2:28 PM
To: Facos, Shelley; AGO - CAP
Subject: RE: CAP Complaint

Hello Shelley and Kathryn,

Unfortunately this does not fall under our jurisdiction either as school districts are self-funded. We have received many calls over the past six months and the recent information about the "problem" is on the following site:

<https://vehi.org/assets/DataPath-page/9790c8b0ec/DataPath-Communication-8.22.18.pdf>

I believe people are starting to reach out to the AGs office as they do not know who to turn to for help.

Kathryn you may want to reach out to the Vermont Education Health Initiative at 802 223-5040 to inquire as to who should be addressing these concerns.

Sorry I cannot be of more help.

Brenda Clark, AINS, CIIP, CISR, PIR | Consumer Services Administrator | Vermont Department of Financial Regulation
89 Main St. | Montpelier, VT 05620-3301 | (802) 828-4886 | brenda.clark@vermont.gov
www.dfr.vermont.gov

From: Facos, Shelley
Sent: Monday, October 8, 2018 1:30 PM.
To: Clark, Brenda <Brenda.Clark@vermont.gov>
Subject: FW: CAP Complaint

Hi Brenda

This does not fall under our jurisdiction. Would this be something that might fall in yours?
I spoke with Kathryn and told her I was sending to insurance to review.

Best,
Shelley

Shelley Facos
Consumer Services Analyst

From: AGO - CAP
Sent: Monday, October 8, 2018 1:09 PM
To: DFR - BNK Consumer <DFR.BNKConsumer@vermont.gov>
Subject: FW: CAP Complaint

Hi DFR Banking,

We received a complaint that may need to be handled by your office. Please let CAP know how to proceed. I left you a voicemail at 1:07pm. Thank you.

Best,

Kathryn Pfefferle
Consumer Advisor

State of Vermont
Office of the Attorney General
Consumer Assistance Program
109 State Street
Montpelier, VT 05609-1001

Website: consumer.vermont.gov
Email: ago.cap@vermont.gov
Phone: (800) 649-2424

From: [AGO - CAP](#)
To: vtsupport@datapathadmin.com
Subject: [REDACTED] (DataPath) CAP 2018-07995
Date: Monday, October 15, 2018 2:42:00 PM
Attachments: [101518 \[REDACTED\].htm](#)

Re: Complaint 2018-07995

Dear Sir/Madam:

We received the enclosed consumer complaint with respect to a transaction with your business. Although at this point our office has made no determination as to the validity of the complaint, we do ask that you contact the consumer directly within 7 days so that you and the consumer can resolve this matter without further involvement of this office.

We also ask that you notify this office, indicating the steps you have taken to resolve the complaint. Please respond using the [Complaint Response Form](#) located on our website. Please include the above complaint number in your response.

We have also requested the consumer to update us regarding the complaint status after 14 days. The consumer's response, the enclosed complaint, and your response will remain on file in this office for six years.

Complaint files are public records and, as such, are open to the public for inspection. Information about complaints, including the number of complaints recorded in the last six years and their status, is provided to consumers who inquire about your business. Complaint information is also used to determine when investigations should be initiated.

We thank you for giving this matter your immediate attention.

Sincerely,

[Redacted pursuant to FERPA]
Complaint Specialist

State of Vermont
Office of the Attorney General
Consumer Assistance Program
109 State Street
Montpelier, VT 05609-1001

Website: consumer.vermont.gov
Email: ago.cap@vermont.gov
Phone: (800) 649-2424

Re: Complaint <Insert Complaint Number>

Dear <Insert Consumer First Name> <Consumer Last Name>:

Thank you for contacting us with your complaint. We have sent a copy to the business asking it to contact you within 7 days to resolve this problem. We have also asked the business to notify us of the action it takes. Your complaint and the business response will become part of our public record for six years. It is our experience that two of every three complaints are successfully resolved through this procedure.

In 14 days, please update us on the complaint status by using the [Complaint Response Form](#) located on our website. Please note, upon receipt of your update we may do one of the following:

1. If you indicate that your complaint was resolved, we will close the file accordingly.
2. If you indicate that the business has not contacted you, we will contact the business again on your behalf.
3. If you indicate that the business contacted you but your complaint remains unresolved, the action we take will depend in great part on the business response. If the response is unsatisfactory, we may pursue this matter further. If your complaint is not appropriate for further action on our part, we may refer you to small claims court or suggest that you consult a private attorney.

Thank you for bringing your complaint to our attention.

Sincerely,

[Insert Your Name]

Consumer Advisor

State of Vermont
Office of the Attorney General
Consumer Assistance Program
109 State Street
Montpelier, VT 05609-1001

Website: consumer.vermont.gov

Email: ago.cap@vermont.gov

Phone: (800) 649-2424 (toll free from VT phone) or (802) 656-3183

2018-07995 Complaint Correspondence

File Notebooks Reports Tools Help Logout Search

New Save / New Showing 1 of 1 records

Matter Name Matter Name IS %datapath

New Save / New Showing 2 of 2 records

	Date	Title	Type	Filename	File URL	Merge Document	Create/Open Document
1	10/15/2018	CAP Complaint To Business	Email	c:\LawManager7\lm7i...	http://159.105.77.18/docs/Compl...	CAP Complaint To Business	Create/Open Document
2	10/15/2018	CAP Complaint Copy To Person	Email	c:\LawManager7\lm7i...	http://159.105.77.18/docs/Compl...	CAP Complaint Copy To Pe...	Create/Open Document

None | Personnel | M-Files | Related Parties | Consumer Types | Practice Codes | Calendar | Notes | **Template Docs** | Legal Issues | Related Matters | Case Outcomes | Related Intakes

Matter Name	Matter #	Division	Opened Date	Trade Code	Subtrade Code	Received Date	Matter Summary	Status	Claimed Losse	Process Code	Status Code
[consumer information redacted] (DataPath) CAP	2018-07995	CAP	10/15/2018	22 - Banking, Credit and Finance	22K - Payment Processor	10/8/2018	Consumer reports business canceled paid debit cards and have not issued reimbursements. Consumer claims \$1,000 lost, and wants refund from the business.	Open	\$1,000.00	REG - Complaint sent to business for a response	PEN - Pending

From: Diamond, Joshua
Sent: Friday, March 16, 2018 11:48 AM
To: [REDACTED]
Subject: Future Planning Assc

Laura,

Jeff Fannon suggested that I reach out to you regarding Future Planning Associates.

Could you call my cell at [REDACTED]?

Thanks. Josh

Joshua R. Diamond, Deputy Attorney General
Vermont Attorney General's Office
109 State Street
Montpelier, Vermont 05609
802-828-3175
joshua.diamond@vermont.gov

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From: Laura Soares <[REDACTED]>
Sent: Friday, March 16, 2018 12:54 PM
To: Diamond, Joshua
Subject: Re: Future Planning Assc

I did and no answer. Call my cell [REDACTED]

Laura Soares
President VSBIT/VEHI
[REDACTED]

On Mar 16, 2018, at 11:47 AM, Diamond, Joshua <Joshua.Diamond@vermont.gov> wrote:

Laura,

Jeff Fannon suggested that I reach out to you regarding Future Planning Associates.

Could you call my cell at [REDACTED]?

Thanks. Josh

Joshua R. Diamond, Deputy Attorney General
Vermont Attorney General's Office
109 State Street
Montpelier, Vermont 05609
802-828-3175
joshua.diamond@vermont.gov

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From: Laura Soares <[REDACTED]>
Sent: Friday, March 16, 2018 2:02 PM
To: Diamond, Joshua
Subject: Future Planning Associates Follow Up
Attachments: FPA Caf School Serv Info 16.docx

FYI as a follow up to our call.

From: Dave Davis [REDACTED]
Sent: Tuesday, October 18, 2016 9:58 AM
To: Laura Soares [REDACTED]
Subject:

Laura,

Attached is the summary of our services that we will be sending to all of our mutual Cafeteria/HRA clients. This version is the one for Schools that we provide administration services. Other summaries for document only and non-school clients is the same except for the introduction.

Please contact me with any questions or concerns.

I am working on your HSA question and will get back to you as soon as I have an answer. Often times, Vermont follows the Federal laws but I haven't found that in print so far.

I will be back in the office later this afternoon.

Dave

Dave Davis
Senior Vice President, Consultant
Future Planning Associates, Inc.

[REDACTED]

phone: [REDACTED]
direct line: [REDACTED]
fax: [REDACTED]
www.futureplanningassoc.com



This e-mail and the files transmitted with it are confidential and solely for the use of the addressee(s). Disclosure, forwarding, copying, printing or distribution of the contents of this transmission is strictly prohibited without permission of the sender. If you have received this e-mail in error, please notify us by calling [REDACTED]. Thank you.

FUTURE PLANNING ASSOCIATES, INC.

We have enjoyed a twenty plus year relationship with many Vermont public and private schools providing Section 125 Cafeteria Plan and Health Reimbursement Arrangement (HRA) plan document and administration services.

We know that there are many new benefit opportunities on the horizon and have been asked if we will continue to offer the services that we have been providing. The answer is yes and as some know, we will be expanding our level of services to all school and non-school clients.

We will continue to provide all services to implement Plans from documents to administration.

EXPANDED BENEFIT PAYMENT OPTIONS FOR HRAs AND FSAs:

Employees may be reimbursed for eligible expenses each week. Payment options include:

NEW

- HRA payments only: FPA can pay the provider directly; FPA receives an online report each week from Blue Cross Blue Shield of Vermont, instead of paying the participant and the participant paying the provider, FPA can pay the provider with a report e-mailed to the participant confirming the payment each week.

ON-GOING

- Checks and/or ACH direct deposits payable to the participant
- Debit Cards for participants to pay the provider at the point of service or payment of an invoice
- Payment reports to the Plan Sponsor, the Plan Sponsor pays the participant

NEW

HEALTH SAVINGS ACCOUNT (HSA)

HSAs are individual savings accounts, similar to an IRA, which can be used to pay for qualified health care expenses with tax-free dollars. HSAs may be funded by the employer, the employee or both. HSA account balances roll over from year to year (no use-it-or-lose-it provisions) and remains with the participant after retirement. Account balances in excess of \$1,000 may be invested; earnings on investments may be used for future health care expenses.

Our HSA services include consulting for the employer and employees as questions arise as well as a website for participants to check on contributions and withdrawals.

HSA Debit Cards are provided that may be used to pay for health related expenses at any provider who accepts MasterCard. For services that cannot be paid with a debit card, participants may go on-line and request a cash withdrawal.

ON-GOING

HEALTH REIMBURSEMENT ARRANGEMENT (HRA) HRAs are an employer funded account based benefit paired with higher deductible group health insurance plans to help employees pay for their out-of-pocket expenses such as deductibles, co-insurance and/or co-pays.

FLEXIBLE SPENDING ACCOUNTS (FSA) under a Section 125 Cafeteria Plan to pay for out-of-pocket health care and dependent day care expenses as well as premium expenses with tax free dollars.

Questions: contact your Plan Admin or Dave Davis: [REDACTED] or [REDACTED]

From: Jeff Fannon <[REDACTED]>
Sent: Wednesday, October 3, 2018 10:29 AM
To: Curtis, Christopher; Diamond, Joshua
Cc: Colin Robinson; Mark Hage
Subject: RE: Help Needed!

Great. Let's go with **Thursday, October 11 at 11:30**; we'll come to your office. Thank you!
Jeff

From: Curtis, Christopher <Christopher.Curtis@vermont.gov>
Sent: Wednesday, October 3, 2018 10:11 AM
To: Diamond, Joshua <Joshua.Diamond@vermont.gov>
Cc: Jeff Fannon <[REDACTED]>; Colin Robinson <[REDACTED]>; Mark Hage <[REDACTED]>
Subject: Re: Help Needed!

Those work for me as well.

Sent from my iPhone

On Oct 3, 2018, at 10:07 AM, Diamond, Joshua <Joshua.Diamond@vermont.gov> wrote:

Jeff,

I'm free in the morning on the Oct. 10th before 11 and have a window between 11:30 and 1 on Oct. 11.

Josh

Joshua R. Diamond, Deputy Attorney General
Vermont Attorney General's Office
109 State Street
Montpelier, Vermont 05609
802-828-3175
joshua.diamond@vermont.gov

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From: Jeff Fannon <[REDACTED]>
Sent: Wednesday, October 3, 2018 10:05 AM
To: Diamond, Joshua <Joshua.Diamond@vermont.gov>
Cc: Curtis, Christopher <Christopher.Curtis@vermont.gov>; Colin Robinson <[REDACTED]>;
Mark Hage <[REDACTED]>
Subject: RE: Help Needed!

Josh & Chris,
Thanks for chatting briefly yesterday, Chris. I'm including my colleagues Colin and Mark who will be joining us. Here are some dates we all can meet next week.

- Tuesday, Oct. 9 any time after 11
- Wednesday, Oct. 10 in the morning only
- Thursday, Oct. 11 any time after 10:30

I hope something works on your end.
Jeff

From: Diamond, Joshua <Joshua.Diamond@vermont.gov>
Sent: Monday, October 1, 2018 6:21 PM
To: Jeff Fannon <[REDACTED]>
Cc: Curtis, Christopher <Christopher.Curtis@vermont.gov>
Subject: RE: Help Needed!

Jeff,

Let's find some time to touch base next week.

Josh

Joshua R. Diamond, Deputy Attorney General
Vermont Attorney General's Office
109 State Street
Montpelier, Vermont 05609
802-828-3175
joshua.diamond@vermont.gov

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From: Jeff Fannon <[REDACTED]>
Sent: Monday, October 1, 2018 1:56 PM

To: Curtis, Christopher <Christopher.Curtis@vermont.gov>; Diamond, Joshua <Joshua.Diamond@vermont.gov>

Cc: Donald Tinney <[REDACTED]>; Colin Robinson <[REDACTED]>; Wanda Otero-Weaver <[REDACTED]>; Allen, Darren <[REDACTED]>

Subject: Help Needed!

Christopher and Josh,

I am writing to follow-up on a discussion we had in the spring about the health care issues facing my members, specifically the issue of Future Planning & Associates' ("FPA") disastrous 3-4 months of providing third party administrator ("TPA") services to approximately 80% of the schools in Vermont. As you may recall, in March, FPA announced it was pulling out entirely from the school-based TPA health care business no later than the end of May 2018. This after having been in the business of providing these services to schools and educators since January 2018, i.e., only 3 months.

Perhaps some background might help you, and I will be kindly brief as there is a lot of background. In 2015 the Vermont Educators Health Initiative ("VEHI") decided to close its then current plans and move entirely to high deductible plans on one date, January 2018. As you may know, these new plans work with either an HSA ("health savings account") or an HRA ("health reimbursement arrangement") to cover the employees' out-of-pocket expenses ("OOPs"). Through local bargaining with school employers, our union members had various OOPs arrangements. For example, some employees pay the first \$400 of the OOPs with the school paying the remainder and some other schools pay the first dollars and the employee pays the last \$400, and, frankly, most everything in between. It is complicated but locally negotiated. FPA said they could handle all of these different arrangements so the bulk of school districts contracted with FPA, whereas about 20% of schools contracted with Health Equity who was much more rigid in its administrative services. Schools that contracted with Health Equity, have had very little problems and are not part of this discussion.

FPA, however, started having administrative issues almost immediately. Later we learned that it was manually inputting approximately 18,000 medical claims a week. Needless to say, FPA could not keep up and claims and reimbursements started not being paid. Because of that claims processing administrative inability, FPA announced to VEHI and schools that it was pulling out of the TPA school-based market entirely effective no later than the end of May 2018. This left schools, school employees, and VEHI in a precarious position. VEHI reached out to DataPath, a TPA based in Arkansas, to determine whether it was interested and capable of doing the TPA work starting in May. That transition was not easy for schools or employees, and it was not without costs. Indeed, in an effort to ease the transition, VEHI waived any deductibles for prescriptions for a three week period in May to facilitate the transition to Data Path, and this waiver cost VEHI in excess of \$200,000 in OOPs that it paid not schools and employees.

I believe much of this may be known to you both but I thought the refresher might be helpful. Now to the reason I am writing to you. The below email is from Christopher Hood who is the president of one of our local unions, the Champlain Valley Education Association. I have his permission to share with you his email. Unfortunately, the situation some of his colleagues find themselves is not at all unique to CVEA members, as it is a problem that is present in almost every school that contracted with FPA. The problem is affecting thousands of my members, they are extremely upset with the transition to these new health plans given many find themselves in similar circumstances as Christopher Hood points out below, and the issue involves millions of dollars. Indeed, it is reached the point where DataPath is now re-submitting every claim starting in January through July in an effort to clean up the data mess it was handed by FPA. (We all later learned that FPA's data was incomplete and inaccurate so Data Path, in September, decided to start from scratch in hopes of beginning to unravel the data integrity issues. The jury is still out on the effectiveness of that effort.) Finally and sadly, some members have even been denied medical care because of the failures to pay medical claims.

At present, many Vermont-NEA members report to us that they are being sent to collections because of nonpayment of their OOPs by FPA and now DataPath. The below email is but one example of the tip of the iceberg. What we have learned during this process is that TPAs are not regulated by Vermont. I do not know if any state regulates TPAs. The financial and health impact coupled with frustration and anger about this issue is significant, and while TPAs are not regulated, we do believe that regulation could be helpful to protect consumers in the future. Towards that end, the Office of the Vermont Attorney General may want to consider holding a forum for these critical stories to be heard so that we, as a state, can figure out how to avoid these problems going forward. I would appreciate finding a time for us to discuss this idea.

Thank you for your time and attention.
Jeff

Jeff Fannon
Executive Director
Vermont-NEA



From: Christopher Hood <[redacted]>
Sent: Friday, September 21, 2018 2:39 PM
To: Jeff Fannon <[redacted]>; Colin Robinson <[redacted]>; Mark Hage <[redacted]>; Donald Tinney <[redacted]>
Subject: Help needed!

Hello VTNEA team.

This will not be news to you, but I'm writing to let you know that many of our members are facing dire circumstances with our health care system. To be clear- I am not assigning any blame on the shoulders of VTNEA as I know you all worked tirelessly to counteract the power of the VEHI board.

Many of our members are facing serious health concerns personally, or with family members, and the stress of dealing with providers, BC/BS, Data Path, and our own district business managers is pushing many to the brink.

Through no fault of their own, many teachers in my district are now getting collection notices for the first time in their lives. This is incredibly unsettling to anyone in this situation, and the effects and impacts of these collection efforts in not yet fully know.

What is the impact on credit scores? How could this effect an upcoming home purchase?

Problems are multiplied when dealing with serious health problems (cancer, etc.) under this system.

I have included a message I received today as an example of what local leaders are hearing on a daily basis. This was the third conversation/email I was involved with just today (Friday, Sept. 21):

Hi Chris and Emily.

Some of the worst case scenarios with regards to our health care situation are coming to fruition. I understand that some bills are being sent to collection agencies and people's credit scores are being impacted, which creates a host of issues.

People are being denied services by providers if they don't pay out of pocket. Many people don't have the means to pay up front. Ironically, our health care benefit is resulting in detrimental impacts on our emotional and physical well being.

I am wondering if Bernie Sanders or other legislators have been contacted to get involved with remedying this situation.

Maybe we can talk after school today or on Monday?

Thanks for all that you do on our behalf.

I am frustrated that there seems to be nothing that I can do to help these members. I have my own health care fiasco's that I'm dealing with. This is a complete disaster and we are all losing our patience.

This is an issue that would get people to the Statehouse steps....

Thanks for listening. I think we need a statewide plan, and many are looking to our union for support on this issue. Any advice or ideas will be greatly appreciated.

Christopher Hood
President- Champlain Valley Education Association