



March 8, 2023

Rep. Bob Lynn
Chair, House Judiciary Committee

Mr. Chairman and Honorable members of the House Judiciary Committee,

My name is Megan Tuttle, and I am President of NEA-NH. We represent over 17,000 NH Educators in our K-12 public schools and in higher education. I am here to testify in opposition to the non-germane amendment to HB 533. It is our understanding in speaking others that in lieu of passing the original HB 533 that the DOE and the DOJ have or are working out a referral agreement with respect to complaints received that could violate for example the banned concepts act, for which enforcement lies under the DOJ and the Human Rights Commission, because of the concerns organizations including the DOJ raised at the original hearing on HB 533.

We believe that the story of this bill should have ended there and that the amendment before you is unnecessary and unwarranted.

To begin with, we are not aware of any material that the DOE has asked for in the course of an official investigation under the Code of Conduct that they have not received so in asking for this added power it is important for them to concretely articulate why it is they need this new ability. To date we have not heard this justified but perhaps we will in this hearing. The legislature should be cautious on why agencies beyond law enforcement should hold such a power. If the Department at some point needs to issue a subpoena there is no reason they cannot go to the DOJ. If truly needed to access some type of material, the Department always has access to 91-A at its disposal, which is very broad in its application of what are public documents.

My second point is that we are very concerned that this amendment would apply to the preliminary stage of an investigation rather than when a formal complaint is launched under RSA 354-A which, operationally, has been conducted by the Human Rights Commission or the DOJ. The ability to have subpoena power this early in a process has us concerned that this tool would be used for a fishing expedition for Banned Concepts issues. As recent as this Sunday on Close Up, when asked whether the DOE should have subpoena power, State Board of Education member Ryan Terrell, cited reasons of curriculum concerns as to why this is needed, which gives

us added concern as to the Commissioner's motivation for asking for such power. This is yet another reason to require the DOE to ask the DOJ for a subpoena should they need it.

Finally, you may have already heard that this is similar language afforded to the Office of Professional Licensure and so why not have it for the DOE. We don't believe the 2 agencies are similar bodies simply because they both supervise licenses. The DOE handles and has laws that applies to it that are far different, more public and frankly political than the Boards under that umbrella agency. The DOE has a Commissioner who is a political appointee and of the Governor and the qualification for the state board of education do not require, as many of the OPLC boards do, that its members be educators within the profession.

We thank you for your time to hear our opposition to this legislation and ask that you not adopt this unnecessary and unwarranted non-germane amendment for subpoena power to the NH DOE and find the underlying bill, HB 533, Inexpedient to Legislate.

Respectfully submitted,



Megan Tuttle
President