



Act 173 Advisory Group February 7, 2022, 9:00 a.m. – 11:45 a.m.

Draft Meeting Minutes

Microsoft Teams Virtual Meeting

Call In: 1-802-828-7667

Conference ID: 555 865 581#

Purpose of the Advisory Group per [Act 173 of 2018](#): To consider and make recommendations on the implementation of a census-based model of funding for students who require additional support.

Present:

Advisory Group (AG) Members: Meagan Roy, Chair, Vermont Council of Special Education Administrators (VCSEA); Disability Law Project (DLP); Rachel Seelig, Disability Law Project (DLP); Jeff Fannon, Vermont-National Education Association (VT-NEA); Jeff Francis, Vermont Superintendents Association (VSA); Peter Garrecht, Vermont Council of Special Education Administrators-selected special educator; Alison Krompf, (joined at 9:59 a.m.) Agency of Human Services, Department of Mental Health (DMH); Karen Price, Vermont Coalition for Disability Rights; Jay Nichols, Vermont Principals' Association, (VPA); Mill Moore, Vermont Independent Schools Association (VISA); Lisa Bisbee, VT-NEA-selected practitioner; Sue Ceglowski, Vermont School Boards Association; Mat Forest, Council of Independent School (CIS); Brenda Fleming, VT Association of School Business Officials (VASBO).

AOE: Meg Porcella; Emily Simmons, Bill Bates, Jennifer Perry, Chris Case, Tracy Watterson, Dan French, Maureen Gaidys.

Others: Susan Aranoff, Marilyn Mahusky, Kimberly Gleason

Call to Order, Roll Call/Introductions/Amendments to Agenda

Chair Roy called the meeting to order at 9:04 a.m. There were no amendments to the agenda.

Review and Approve Minutes from January 3, 2022 Meeting

Nichols moved to accept minutes from the January 3, 2022 meeting; Francis seconded. There was no discussion. Chair Roy called the vote. Yeas: Fleming, French, Nichols, Fannon, Francis, Price, Bisbee, Forest, Moore, Garrecht, Seelig, Ceglowski. Nays: none. The minutes were approved.

Opportunity for Public to be Heard

There were no members of the public to be heard.

Discussion: Act 173 Delay

Chair Roy explained that the Act 173 delay was discussed last month, and different options were outlined. The AOE was still gathering information for an opinion. Secretary French spoke about two criteria: 1) timing the Act 173 implementation with education recovery work and 2) funding pieces coming together between the block grant, modeling, and the Weighting Study. He said that he supports not delaying any further and that we are well-poised to move forward. The financial modeling is ongoing and ensuring that financial pieces are in place and districts have what they need to move forward. He has not put any formal recommendations in writing but has testified to the Legislature that he does not support any further delay of Act 173 implementation.

There was conversation on having a discussion or making a formal decision. Chair Roy shared VCSEA's position that Act 173 should go into effect on July 1, but the implementation of the rule series 2360 changes (Specific Learning Disabilities (SLD) identification and adverse effect), should be delayed by a year so that districts can work more closely with the AOE on supporting that implementation. Seelig shared that the DLP does not want to see any delay in whole or any part of implementation; materials that are being produced will be helpful in implementation. Vermont Family Network (VFN) has testified to the House Education Committee that no delay in rule series 2360 is supported. VASBO doesn't have a formal statement, but most of VASBO does not support a delay. Their concern is that the census-based block grant is based on a long-term Average Daily Membership (ADM), and they would like to see it connected to the Weighting Study. The VASBO majority wants to move forward and put their energy into the weighting formula. The VPA is worried about the extra burden/stress on teachers related to adverse effect and Nichols said it might be more palatable if implemented with a partial delay and would allow more students to be served under multi-tiered systems of support (MTSS); VPA membership is split on an opinion regarding delay of implementation.

Chair Roy reminded the group that the intent of the law is to provide support and services to more students who struggle without needing to identify these students, which is why the law and funding flexibility should go into place as that buys some time to implement changes. There will be less than four months to implement these changes, which for some districts are significant. There was discussion on MTSS, shifting focus, not serving students who are struggling, reimbursement model, and flexibility with the block model. Francis observed that there is agreement that the law itself should go into effect on July 1, and that the deliberation is with the adverse effect and SLD rules. He suggested a conversation about how this would work in districts that are ready and those that are not, including what access parents would have to legal recourse. There was discussion on districts already struggling, if AOE can provide intensive supports to such districts, equal protection-type argument, small number of districts who are ready and large number of districts that are not, guidance documents require a lot of support to be functionally helpful, assessing districts' readiness, challenges of supporting teachers and Tier 1, staffing issues, increase in students with disabilities (SWD) due to the pandemic, less need for numerous independent evaluations with rules in place, and difference in readiness levels between special and general educators.

Case spoke about another needs assessment in March which will be a combination of LEA-to-LEA needs and what is needed in a second round of technical assistance provision of rule changes. He drew a distinction between content specific needs assessment (supporting rule change) and more systemic needs assessments around systems levers. He said a contract was recently signed with Flip Turn Consultants for SLD evaluation guideline development; hopefully this will be released by July 1 2022. There was discussion on the varied fidelity of MTSS across the state, setting this law up for failure, using a hybrid approach and letting those who are ready proceed and supporting others to become ready, and readiness of independent schools (IS) and relationships with special education administrators.

Chair Roy summarized options: 1) that a motion could be made to vote on a position and added that she didn't think there would be consensus agreement (and advice-seeking entities prefer consensus), and 2) a motion to delay just the rules and allow Act 173 to proceed. There was discussion on de-coupling Act 173 and rules, confidence that AOE will support districts through this process, conversations in the General Assembly about supporting districts, more discussion needed on de-coupling Act 173 and rules, shortening

the delay to 6 months as a compromise, reporting on different perspectives and feeling far from consensus, impact of evaluation and testing of students, too many subtleties to work towards a motion that reflects the conversation, any extra time is better than no extra time, nothing will happen without a deadline, uncertainty on the benefit of an extension, some districts will not use the extra time, and mid-year implementation will be very challenging for practitioners. There was no interest in proceeding with a motion. Chair Roy said if asked by the Legislature, she would convey a summary of this discussion.

Chair Roy called a recess at 10:06 a.m. and reconvened at 10:15 a.m.

Action Item: Approve recommended changes to 2200 Series

Chair Roy clarified that Mahusky and Moore were asked to draft language to address open enrollment and the action would be to entertain a motion to approve that language and then open it for discussion. The objective was to look at the public comment specifically directed to the AG, related to open enrollment and vote on consensus language that Moore and Mahusky worked together on. The motion would be for option 2 (Draft Rule 2229.4 as Proposed by Act 173 Subgroup Members) in [Simmons' Memo to the SBE Rule 2200 Subcommittee and Act 173 Advisory Group](#). Simmons offered that SBE rule series 2200 subcommittee members would urge the AG if/when they have consensus on option 3 to share that with them. Chair Roy asked for a motion to approve or recommend the changes outlined in option 2 in Simmons' memo. Seelig moved and French seconded. Mill expressed objection for being put in the position of not having enough time to adequately review the information provided on Friday and apologized that it might slow down the process as he saw a few things that were disagreeable to him. Mahusky shared [a side-by-side comparison of rule series 2200 and proposed changes in language](#) that she created and walked the group through these changes.

Moore said he was mistaken about his objection raised earlier, asked for a copy of the side-by side comparison, and said he still objected and is disadvantaged and not able to adequately represent VISA without having time to prepare. There was discussion on why they were acting on option 2, receiving this information last month (sent 1/31/22), concern about "all publicly-funded students," first-come-first-served, no forcing of enrollment in IS where needs cannot be met, not wanting exclusion on an arbitrary basis, objections being mostly misunderstandings of terminology, problem with obligation of an IS to enroll students who do not match the needs of the IS, ensuring that public dollars are not used to discriminate, "other requirements of schools' enrollment policies," setting minimum requirements of an enrollment policy, enrollment being blind to disability, as an advisory group there is a responsibility to advise the Legislature, language in subparagraph 2 is acceptable in that an IS still has discretion, striking section 504 from these rules as that is specific to general education (vs. special education), needing stronger language in subparagraph 2, have signaled that future issues for statutory changes will be addressed at future AG meetings, subcommittee ongoing that is continuing to address many of these issues, adding "provided" to the language in subsection 1(a), needing reassurance that disability status is not considered prior to enrollment, relevance between "all publicly funded" being changed and how that folds back into other enrollment policies, needing more time to offer due diligence for this conversation, enrollment policies discriminating against students with disabilities (SWD), struggling with not having a clean copy of the rules but instead multiple versions of the rule and needing that for consensus, and addressing capacity in enrollment policy. Discussion ensued on tabling the motion, withdrawing the motion, and a Doodle poll for a special meeting prior to the next SBE meeting. Seelig moved to table the motion by DLP; Nichols seconded. Chair Roy called a roll call vote. Yeas: Nichols, Fleming, Fannon, Francis, Bisbee, Seelig, Forest,

Moore, Garrecht, Ceglowski, and Roy. Nays: none. Not present: Krompf, Price, French. The motion passed unanimously.

Chair Roy said she will report this to the SBE subcommittee meeting on Wednesday, February 9, 2022 and she will also check with Chair Olsen and Vice Chair Samuelson to schedule a meeting between now and the next AG meeting so that the SBE can have quicker actions with the desire that the AG will act on an actual draft, to be created after these conversations.

Action Item: Nominations for Vice Chair

Chair Roy said she will entertain a nomination for vice chair, to replace Mahusky, at the next meeting.

Discussion: Act 173 Professional Development

Case gave background on this topic and said that AOE will be assessing Local Education Agencies (LEAs) for needs associated with systems needed to support Act 173 implementation (MTSS). Case walked the AG through the document, "[DRAFT: Using AOE Tools and Resources to Support Local-level Resources to Act 173 | Agency of Education \(vermont.gov\)](#)." He explained that this document is for a standardized process but can be accessed at any point in the process. Case said AOE is considering different LEA-to-LEA needs assessment conversations. He asked for input from AG members once they have had time to digest this information, and for any feedback to be sent to Porcella (Meg.Porcella@vermont.gov) in the next week or two, so they can be considered and incorporated into Education Recovery work at the AOE. Chair Roy said this topic likely needs more in-depth discussion at an upcoming meeting. Case said he would like AG input on draft language and how best to message the completed resource. Porcella shared a link to the [AOE Act 173 webpage](#) where the Act 173 guidance documents are located and the [special education rule changes web page](#). There was discussion on rule implementation and Act 173 implementation being separate but related, immediacy of rules implementation requires faster support, AOE is identifying 2 needs assessments (systems and rule change content), and that needs assessments can be fast tracked but systems change cannot be fast tracked.

Roy recapped that there would be a Doodle poll forthcoming, that the SBE Rule 2200 Committee would be meeting February 9, 2022 and that there might be a need to adjust meetings to be a longer duration.

Adjourn

Chair Roy adjourned the meeting at 11:57 a.m.