



Act 173 Advisory Group
March 3, 2022, 3:00 p.m. – 4:00 p.m.

Special Meeting Draft Minutes

Microsoft Teams Virtual Meeting

Call In: 1-802-828-7667

Conference ID: 620 348 294#

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); 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; 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) joined at 3:24 p.m.; Brenda Fleming, VT Association of School Business Officials (VASBO); Dan French, Agency of Education.
AOE: Meg Porcella; Emily Simmons, Chris Case, Maureen Gaidys.

Others:

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

Chair Roy called the meeting to order at 3:03 p.m. There were no amendments to the agenda.

Vote on Advisory Group Vice Chair

Francis nominated Seelig as Vice Chair; Nichols seconded. There were no other nominations. Seelig accepted the nomination. There was no discussion. Chair Roy called the vote. Yeas: Ceglowski, French, Garrecht, Moore, Price, Bisbee, Francis, Seelig, Fleming, Nichols, and Fannon. The vote passed.

Opportunity for Public to be Heard

There were no members of the public to be heard.

Discussion/Action on 2200 Rules Series

Chair Roy explained that the AG is charged with giving the SBE input and there have been many conversations on language changes and there were two documents sent to AG members. The first was sent with the agenda and agreed to by the subcommittee and the goal for this meeting is to endorse it, not endorse it or endorse it with changes. She said she would invite each member to share their perspective, including any changes that might be recommended. Another document was forwarded late last night with the hope that members would have time to read it in advance; distribution of this was not intended to change the item that will be acted upon today. Chair Roy said she has spoken with Samuelson, Vice Chair of the State Board of Education, and said that if consensus cannot be reached by the AG, then an explanation of the areas of difference would be appreciated.

Ceglowski went through her changes identified in green in the [document revised by she, Francis, Nichols and Fannon](#) that was shared the day prior. She said it includes some small changes and one substantive change that would improve the rule from a stand of equity.

Secretary French appreciated the process for this meeting and said this work is very complex, recent comments are appreciated, applauded the groups work, but need to move forward on this work and implement this important policy.

Fannon agrees with Ceglowski and her changes; believes that these are important changes and hopes the rest of the group will adopt those changes.

Garrecht said every draft makes it clearer and more concise and is an improvement.

Moore said that leaving out Ceglowski's suggestions makes this a consensus package from the subcommittee. 95% of what was thought to be disagreement by the subcommittee turned out to be misunderstanding of terms. He cannot support the most recent draft from education partners based on insufficient time to review it.

Price asked why "in need of" was used in place of "eligible or potentially eligible" in Ceglowski's revision. She made the operational observation of if the LEA can provide services at a public school operated by the LEA at another public school, that could be hard on the student moving from place to place. And she asked what happens to the placement of the child during a due process situation. Ceglowski didn't know why the word "need" was chosen and said the latest draft came to her with that language. Chair Roy said she thought the rules were silent on placement during due process and refreshed the group on the timeline for convening Individualized Education Program (IEP) meetings.

Seelig spoke to the placement during due process and said she believes that the Individuals with Disabilities Education Act (IDEA) already answers that question, and the student remains where placed until due process is settled. Her comment on the draft revisions is that the changes presented by Ceglowski are not substantive but are reorganizational and that is not a bad thing. She is comfortable moving forward with what was presented to the whole group with the changes offered by Ceglowski except for the removal of the special considerations or requirements section.

Fleming acknowledged the good work of this group. She agrees with the reorganizational additions in the latest draft. She appreciated the transparency/availability and agrees with the changes to satisfy "other special conditions" – agrees with eliminating that as it is clear in the former sections that there is no discrimination, so not sure that it is necessary and not sure that makes it better for students, which is the goal.

Bisbee appreciated the work that went into the later draft and said that clarity is getting better, and she agrees with the later draft. She said language should be "eligible" and not "need."

Nichols thanked the subcommittee (Moore, Mahusky and Seelig) and spoke about the importance of having the whole AG weigh in on this, that was an important piece. The changes in the recent draft add clarity and

make it easier for students and offers more protection for students. There is no such thing as language coming too late; this additional language is consistent with the goals of Act 173 and the work of this group.

Francis said he supports the language proposed by Ceglowski.

Forest said he is returning from vacation and not able to comment on the latest proposal.

Chair Roy echoed acknowledgement of the great work and the process and said she supports the changes offered by Ceglowski because the recommended changes add clarity. Simmons identified a difference between the two drafts that is not highlighted in green – section 2229.4(f). In the middle of the paragraph that starts with, “If there is a dispute...” - it says, “...the LEA shall initiate a hearing...” The phrase, “due process” should be struck and in Ceglowski’s revision it is not. Ceglowski said this was not intentional.

There was discussion on the precise meaning of due process, stay put clause, parents’ rights to IDEA because there is a new and separate dispute resolution process, last agreed placement might be one grade below, agreement to using “need” or “is eligible,” adding “could be” to either “need” or “eligible,” and language reviewed by SBE committee and taken from one of VSBA’s model policies.

Chair Roy said she didn’t want to continue this conversation beyond the end time since some members needed to leave. She summarized that the AG’s task was to come here with the original draft rules and give input and changes. Chair Roy asked if there was disagreement to adding “eligible and potentially eligible.” Garrecht suggested using a more defined term than “potential,” such as “undergoing active comprehensive evaluation process.” There was general agreement on this language.

Chair Roy offered some language for a motion – to approve the draft rules with the following changes – eligibility and undergoing evaluation and the items highlighted in green. Nichols moved to accept the 2229 rules as presented by the subcommittee with the additional changes made in green presented by Ceglowski, and further change in the language at the bottom (section 2 of 2229.1(2)) changed to “eligible for or undergoing the comprehensive evaluation process for special education.” Fannon seconded.

Chair Roy called the vote. Yeas: Nichols, Fleming, French, Fannon, Francis, Price, Bisbee, Forest, Garrecht, Seelig, Ceglowski. Nays: Moore. Absent: Krompf. The motion passed with 11 in favor and one opposed.

Chair Roy said she will share these results with the SBE and will capture the general tenor if this conversation and will identify the unresolved the issue of what happens with a student when a dispute resolution is pursued.

Adjourn

Chair Roy adjourned the meeting at 4:00 p.m.