



Act 173 Advisory Group  
April 4, 2022, 9:00 a.m. – 11:30 a.m.

## Draft 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, Vermont Council of Special Education Administrators (VCSEA), Chair; Rachel Seelig, Disability Law Project (DLP), Vice Chair; Jeff Francis, Vermont Superintendents Association (VSA); Peter Garrecht, Vermont Council of Special Education Administrators-selected special educator; Nancy Richards (for Karen Price), Vermont Coalition for Disability Rights; Jay Nichols, Vermont Principals' Association, (VPA); Brenda Fleming, VT Association of School Business Officials (VASBO); Lisa Bisbee, Special Education Teacher/VT-NEA; Alyson Krompf, Department of Mental Health (DMH); Mat Forest, Council of Independent School (CIS); Jeff Fannon, Vermont-National Education Association (VT-NEA); and Dan French, Agency of Education.

AOE: Meg Porcella; Chris Case, Jennifer Perry, Bill Bates, Brad James, Maureen Gaidys.

Others: Susan Aranoff

### **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 March 7, 2022 Meeting**

Seelig moved to approve the meeting minutes from the March meeting; Francis seconded. Chair Roy called the vote. Yeas: Fleming, French, Nichols, Francis, Richards, Garrecht, Seelig. Nays; none. Abstentions: Roy, Bisbee. The motion passed 7:0:2.

### **Opportunity for Public to be Heard**

The Chair asked if there were any members of the public to be heard. Aranoff said she is sad about the adverse effect rule and said the spin on it is that it came from pesky parents, and she expressed appreciation that the AG has given a full embrace in the adverse effect rules and not making kids fail before they receive services/interventions. She said it is a very live topic at the legislature. This plays out for people in her community that people have been waiting a very long time and are now going to have to wait longer. She expressed worry that this delay will be rubber stamped without any real idea of the impact on students and families. She asked if there was any way that the AG could add to today's agenda and affirm the implementation of the rules recommended by the AG as a package deal. Chair Roy commented that the AG had a discussion on H.716 in March and that the group centered its comments at that time and that it is not on the agenda for today.

### **Discussion: Input on Time Documentation Technical Manual Draft – Jen Perry/AOE Team**

Perry spoke about a smaller group, consisting of members from the AG and AOE, that started meeting last fall/early winter to discuss current time studies and the implementation of Act 173. The AOE and Local Education Agencies (LEAs) are aware that there needs to be some kind of time recording/reporting to allow the time spent for special education allowable expenditures to be counted/included in the Maintenance of Effort (MOE) requirement. In conversations with this smaller group, five buckets of staff were identified as an allowable special education expense.

From there they took current flexible federal guidelines (time and effort) and disseminated cost objectives for staff members that would allow for meeting the MOE requirement. With Act 173, AOE is required to create two technical manuals. It is important that any published items are of great use to the field. These manuals will be published by July 1, but intent is to revisit every quarter, for at least one year, to get feedback and expand on these technical manuals. The technical manuals are being finalized and will go to the leadership team and legal division this week, then to the AOE Communications Division. By April 2022, the intent is to share out the technical manuals on allowable expenses and meeting the MOE requirement. In May 2022, manuals will be placed on AOE website for 30 days of public comment. By June 2022, manuals will be finalized and then publicized on the AOE website by July 1, 2022. For MOE, AOE will be deploying the Center for IDEA Fiscal Reporting (CIFR's) LEA/MOE calculator that will go out to Business Managers and over the next year, trainings will be provided by AOE on this tool and pre-populated calculators based on the last met MOE. This calculator is referenced in the manual.

Chair Roy said the draft documents of the technical manuals will be available for the May meeting and there will be a lengthier discussion at that time, so that comments/feedback can be provided. She asked members to get input from their respective organizations prior to the May meeting so that could be included in the discussion.

### **Discussion - Act 173 Program Resources – Chris Case and AOE Team**

Chris Case shared a document titled, [“Using AOE Tools and Resources to Support Local-level Responses to Act 173”](#) and discussed the process for existing tools, systems strengths, plan implementation. He shared another document titled [“Local Comprehensive Assessment Systems \(LCAS\): Making Connections with VTmtss”](#) and how to use this document. The AOE is trying to figure the role of these documents in education recovery work. Case asked the AG what their role would be in supporting this roll-out of resources and encouraging the field to use these resources and follow-through with action steps.

There was discussion on training the trainers being more robust, how much training the trainer is being provided, sending information is not sufficient, teams deployed to districts when needed, disconnect between the AOE and the field and what can be provided, form following need for trainings, AOE not having capacity for intensive coaching of each LEA, needs assessment will inform supports, funds available beyond the Elementary and Secondary School Emergency Relief (ESSER) Fund to leverage support, transparency/consistency, needs assessment should include input from families and community, list of recommended providers to provide additional support, [VTMTSS professional learning providers list](#), AOE's thought on the accountability piece of Act 173, Act 173 needing to be coherent and concurrent with education recovery work, oversight is a key support function that should be leveraged, AOE has requested 3 positions to assist with oversight in the proposed budget for the General Assembly, and needs assessment response informing professional development.

Chair Roy segued back to how to support the roll-out of these resources. She spoke about the difference of pushing these resources out vs. endorsing the resources. Case spoke about posting these documents on the website as not being the most effective way to get the field to review them or engage with them. He offered some suggestions: endorsement, making people aware, district level improvement conversations, recommendation for superintendents and principals, etc. There was further discussion on the AG supporting the content of these manuals, having a one-page statement (provided by AOE) that could be further distributed by AG members, needing a final draft of content before offering formal support, importance of context and utility, AG receiving one-page statement and technical manuals to review with their individual organizations.

Case said he will send completed packets to the AG. Members will review before May AG meeting and decide how to further distribute.

### **Discussion/Action - Recommendations for Statutory Changes**

Chair Roy stated that any recommendations need to be made soon. One question was whether the omission of Individual Education Programs (IEPs)/Section 504 was omitted on purpose or not. Seelig spoke about this appearing to be an inadvertent omission and said the AG should ask for that correction to be made, otherwise the AG is supporting discrimination against some kids with disabilities. There was discussion on the responsibilities of Section 504 plans, intent of Act 173 is irrelevant and AG needs to take an affirmative stance as next month will be too late, the two different components of Section 504, shared responsibility between the public and private schools, collaborative partnership between sending district and receiving school is critical, [memo from St. Johnsbury to all Special Education Directors and LEAs](#), and additional recommendation for rules and lack of time to research this.

Seelig offered a motion: that the AG advise the Legislature of the recommendation that the non-discrimination elements of Act 173 include all students with disabilities not only those who are eligible for special education under IDEA and the obligations for a school district or independent school in developing 504 plans needs to be addressed. There was discussion on the mechanism already existing through AOE's approval process, discomfort with a motion, collaborative process is needed, shouldn't dictate that a problem needs to be resolved by this AG or the legislature, conflict with wanting to signal clear support of non-discrimination elements of the intent and needing additional clarity about the relationship between independent schools and LEAs, and making it clear that it is an issue to be resolved.

Seelig offered another motion: that the AG advise the legislature that we recommend that Act 173 be amended so that the current provision prohibiting discrimination for students on IEPs be changed to include all students with disabilities not only those who are eligible for special education under IDEA **and** that the obligations of a public school district and independent school in implementing/developing 504 plans need to be resolved either through legislation or through the independent school approval process of AOE. Fleming seconded the motion. There was discussion on dividing the question, if divided the first part of the motion being clear and the second needing more discussion, the independent school process is a State Board of Education process not AOE, and the topic needing more discussion. Francis made a friendly amendment to divide the motion. There was discussion on the definition of disability under Section 504.

Seelig bifurcated her motion into two parts. Part 1: move to advise the legislature to amend Act 173 regarding non-discrimination elements so that it includes all students with disabilities as defined under either IDEA or Section 504 of the Rehabilitation Act of 1973. Part 2: move that the AG has identified that there are ambiguities with regard to the responsibilities of the various entities receiving federal financial assistance for students who attend independent schools, including the independent school and the school district or supervisory union, and because each entity has responsibilities under Section 504 because of the receipt of federal financial assistance, the roles of these entities in developing and implementing Section 504 plans, needs to be clarified through legislation, the independent school approval process or other agency action. Bisbee seconded the amended motions. There was discussion on the timing of this issue and resolving the ambiguity, if part of this motion would be better formed and discussed further, need to act sooner rather than later the first part of the motion, and voting on the first motion and saving the second motion for the next AG meeting.

Seelig withdrew the part two of the motion. Fleming seconded the first part of motion. There was no further discussion. Chair Roy called the vote. Yeas: Fleming, Nichols, Fannon, Francis, Bisbee, Forest, Richards, Garrecht, Seelig. Abstentions: French. The vote passed 9:0:1. The second motion will be discussed further at the May AG meeting. Chair Roy asked that any additional information be sent to her so that all materials could be forwarded to the AG in one email.

Francis said he appreciated the comments offered by Aranoff and said that H.716 was addressed at the March meeting and action was taken to support H.716 as it passed the House. This was voted on and the vote was divided to support a one-year delay. He wanted to be clear that action was taken, and this was not an open question for the AG.

### **Adjourn**

Chair Roy asked for a motion to adjourn. Fannon moved to adjourn; Nichols seconded. Chair Roy adjourned the meeting at 10:53 a.m.