



Act 173 Advisory Group March 7, 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: Rachel Seelig, Disability Law Project (DLP), Vice Chair; 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; Nancy Richards (for Karen Price), Vermont Coalition for Disability Rights; Jay Nichols, Vermont Principals' Association, (VPA); Mill Moore, (left at 9:37 a.m.) Vermont Independent Schools Association (VISA); Sue Ceglowski, Vermont School Boards Association; Mat Forest, Council of Independent School (CIS); Brenda Fleming, VT Association of School Business Officials (VASBO); Dan French, Agency of Education.
AOE: Meg Porcella; Chris Case, Brad James, Bill Bates, Jennifer Perry, Maureen Gaidys.
Others: Mack Gardner-Morse, Cynthia Gardner-Morse

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

Vice Chair Seelig called the meeting to order at 9:03 a.m. There were no amendments to the agenda.

Review and Approve Minutes from February 7, 2022 and March 3, 2022 Special Meeting

Vice Chair Seelig asked for a motion. Some AG members did not receive the draft minutes for the special meeting; these meeting minutes were resent and Chair Seelig gave members a few minutes to read through the minutes. Fleming moved to approve minutes from the February 7, 2022 regular meeting and March 3, 2022 special meeting. Nichols seconded. A roll call vote was called. Yeas: French, Fleming, Forest, Ceglowski, Moore, Nichols, Garrecht, Francis, Fannon, Seeling. Nays: 0. The motion passed 10:0:0.

Opportunity for Public to be Heard

The Vice Chair recognized Mack Gardner-Morse. He hopes the AG recommends to not delay rule changes. He said other states don't operationalize adverse effect the way we have or use the discrepancy model for identification of specific learning disabilities. Multi-tiered Systems of Support (MTSS) has been in Vermont for over 9 years and rules for Response to Intervention (RtI) have been here for over 12 years. The best time to catch specific learning disabilities is in kindergarten or 1st grade. The profession has had a whole year to get up to speed. Special education in this state is the worse in the nation and we need to do something to improve it – and these rules do that. The changes to adverse effect are small and it's so important. Cynthia Gardner-Morse added that students who are behind in first grade, graduate behind their peers. It takes 4 times as long to remediate a child in 4th grade as it does in 1st grade and this costs more money. She asked the AG to not delay changes of the rules and stop H.716 and having the rules go into effect on July 1, 2022

as that was considered carefully by wise people in the last two years. Mack spoke about how the State Board of Education (SBE) and AOE have testified that they would not support delay in implementation and that training is available.

Discussion [House Bill H.716](#) and Agency of Education Professional Development Updates - Chris Case
Vice Chair Seelig invited Case to address the AG.

Chris Case, AOE spoke about working on two sets of documents based on interest from the AG for AOE to have additional guidance to schools on how to assess Act 173-related needs and how to identify who needs supports. A draft document titled, "[Using AOE Tools and Resources to Support Local-level Responses to Act 173](#)" was shared at the February meeting that outlined a process for engagement with existing MTSS. The other set of documents, that are close to finalization, are translating some existing documents for systems levers to something that will facilitate a quantitative needs assessment for those systems levers. Best practices are broken down into binary statements. The goal is to help clarify needs and take advantage of the resources that are available. AOE hopes to get these out soon. They have heard the AG's thoughts and are doing their best to respond.

There was discussion on requests for support following needs assessment, if AOE is prepared to be overwhelmed, what AOE support might look like and how it might vary, identifying schools that are doing it well, reluctance to identify universal best practice, AOE's support has ramped up over the last few months, about 30 Local Education Agencies (LEAs) have engaged in training the last few years, getting a list of LEAs that have/have not reached out for support, concern around sharing this information, using MTSS to strengthen systems through different initiatives, heavy lift will be for classroom teachers (Tier 1), confines of the school day is a barrier, and a [list of MTSS professional learning providers](#).

Vice Chair Seelig referenced [House Bill H.716](#) which was introduced in the House. The bill adjusts the methodology for computing the first-year special education grant payment under Act 173 and would delay the implementation of 2362 and 2362.2.5 for a year until July 1, 2023.

James said this came out of a conversation he had several weeks ago with House Education and about a question they had about what the effect would be of going to a census block grant from the current reimbursement model. House Education asked what would happen if they moved the average of the census block grant as they transition up one year – from 2018, 2019 and 2020 average to 2019, 2020 and 2021 average. This had different effects on different districts and he said it resulted in an average of \$4.5 million more to school districts.

Nichols clarified that a vote in favor of this bill is a vote to delay implementation of two special education rules (adverse effect and specific learning disability (SLD)). There was discussion on making changes to this bill that didn't effect implementation, voting yes to support this bill would change how the census block grant is determined and delay implementation, voting to not support this means it would be implemented without delay and the census-based block grant would go into effect with the number from James back in November, legislature could go forward with the bill with or without AG support, the AG could say the rules should go into effect July 1 and the funding should stay as originally stated or vice versa or any combination of the two.

Nichols made a motion that the AG support H.716 as written. His rationale for this is that this is what we have heard from the field, and he understands the concerns but feels that the concerns are somewhat alleviated by the census-based block model that would allow schools to use more funding in ways that they have not to provide more resources to kids earlier on – which has been his driving force behind Act 173 since day one. Fannon seconded. Vice Chair Seelig said the Disability Law Project (DLP) will not support H.716 because of the delay in implementing the adverse effect and SLD rules. DLP thinks those are really important to successful implementation of Act 173 and having RtI is key. The flexibility around adverse effect is not complicated to implement. There was discussion on districts that are ready and using the RtI model and if they could go forward if it is delayed, current rule allows either SLD or RtI, only one district using RtI, and nothing stopping schools from using this model now. Chair Seelig said this was identified as a discussion item but that there is a vote on the table. Vice Chair Seelig asked for a roll call vote. Yeas: Fannon, Francis, Garrecht, Nichols, Ceglowski, Fleming. Nays: Seelig, Richards (for Karen Price). Abstentions: French. The vote passed 6:2:1.

Discussion: Recommendations for statutory changes

Vice Chair Seelig said the recommendations for statutory changes came out of Mahusky's work on Rule Series 2200 and refers to students on Individualized Education Programs (IEPs) and not Section 504 plans and that was probably unintentional. She offered a statutory change of making sure that we are inclusive and ensuring that no students with disabilities experience discrimination as part of Act 173. Fannon agreed with Vice Chair Seelig and said it was likely an oversight in the law. He supported the concept of making this correction. She asked if there was desire to take formal action or wait until next month. There was discussion on why this seemingly major oversight might have been left out and if the thought was that the anti-discrimination laws are strong enough and including that adding students with a Section 504 plans would be redundant, meeting with the committees of jurisdiction and discussing this potential inadvertent omission. No motion was offered. Vice Chair Seelig said she or Chair Roy will reach out for a discussion with the committees of jurisdiction and report back to the AG in April.

Adjourn

Vice Chair Seelig asked for a motion. Fannon moved to adjourn; Fleming seconded. Vice Chair Seelig adjourned the meeting at 10:02 a.m.